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# Economic Development & Tourism Subcommittee

Wednesday, March 13, 2013  
9:00 AM – 11:00 AM  
12 HOB

## Meeting Packet

**Will Weatherford**  
Speaker

**Carlos Trujillo**  
Chair



**The Florida House of Representatives**  
**Economic Development and Tourism Subcommittee**

**Will Weatherford**  
**Speaker**

**Carlos Trujillo**  
**Chair**

**Meeting Agenda**  
**Wednesday, March 13, 2013**  
**Room 12, House Office Building**  
**9:00 a.m. – 11:00 a.m.**

- I. Call to Order**
- II. Roll Call**
- III. Welcome and Opening Remarks**
- IV. HB 221 – Enterprise Zones/Polk County**
- V. HB 319 – Community Transportation Projects**
- VI. HB 663 – Economic Gardening Technical Assistance Program**
- VII. HB 705 – Targeted Economic Development**
- VIII. HB 921 – Tax Exemptions for Property Used for Affordable Housing**
- IX. HB 975 – Archeological Sites and Specimens**



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 221 Enterprise Zones/Polk County  
**SPONSOR(S):** Albritton and others  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 480

| REFERENCE                                      | ACTION | ANALYST          | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|--|--------|------------------|---------------------------------------|
| 1) Economic Development & Tourism Subcommittee |        | Tecler <i>AT</i> | West <i>RW</i>                        |
| 2) Finance & Tax Subcommittee                  |        |                  |                                       |
| 3) Economic Affairs Committee                  |        |                  |                                       |

**SUMMARY ANALYSIS**

The Florida Enterprise Zone Program was created in 1982 to encourage economic development in economically distressed areas of the state by providing incentives and inducing private investment. Currently, Florida has 65 enterprise zones.

The bill provides authority for the cities of Auburndale, Bartow, Eagle Lake, Fort Meade, Frostproof, Lake Wales, Mulberry, and Polk City to apply to the Department of Economic Opportunity for designation of enterprise zones within Polk County. The cities specified in this bill may apply individually, jointly, and or in concert with the county. The bill authorizes the Department to designate up to eight enterprise zones, consisting of no more than one enterprise zone for each city, either individually or in combination with the county. The Department must establish the initial effective date of each enterprise zone.

The Revenue Estimating Conference (REC) estimated the bill will have a negative impact on state funds as follows: \$100,000 in FY 2013-14, \$300,000 in FY 2014-15 and \$300,000 in FY 2015-16. Further, the REC determined the bill will have an insignificant impact on local government.

The bill provides an effective date of July 1, 2013.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Present Situation**

The Florida Enterprise Zone Program was created in 1982 to encourage economic development in economically distressed areas of the state by providing incentives and inducing private investment. Currently, Florida has 65 enterprise zones.<sup>1</sup>

#### **Designation Process**

Sections 290.001-290.016, F.S., authorize the creation of enterprise zones and establish criteria and goals for the program. Prior to submitting an application for an enterprise zone, a local government body must determine that an area:

- Has chronic extreme and unacceptable levels of poverty, unemployment, physical deterioration, and economic disinvestment,
- Needs rehabilitation or redevelopment for the public health, safety, and welfare of the residents in the county or municipality, and
- Can be revitalized through the inducement of the private sector.

An area nominated by a county or municipality, or a county and one or more municipalities together, for designation as an enterprise zone must meet the following criteria:

- The selected area does not exceed 20 square miles.
- The selected area must have a continuous boundary, or consist of not more than three noncontiguous parcels.
- The selected area does not exceed the following mileage limitation:<sup>2</sup>

| <b>Community Population</b> | <b>Mileage Limit</b> |
|-----------------------------|----------------------|
| 150,000 or more             | 20 sq. mi.           |
| 50,000 - 149,999            | 10 sq. mi.           |
| 20,000 - 49,999             | 5 sq. mi.            |
| 7,500 - 19,999              | 3 sq. mi.            |
| 7,499 or less               | 3 sq. mi.            |

The Department of Economic Opportunity is responsible for approving applications for enterprise zones, and also approves changes in enterprise zone boundaries when authorized by the Florida Legislature. As part of the application process for an enterprise zone, the county or municipality in which the designation will be located also is responsible for creating an Enterprise Zone Development Agency and an enterprise zone development plan.

As outlined in s. 290.0056, F.S., an Enterprise Zone Development Agency is required to have a board of commissioners of at least eight, and no more than 13, members. The agency has the following powers and responsibilities:

- Assisting in the development, implementation and annual review of the zone and updating the strategic plan or measurable goals,

<sup>1</sup> 2013 Fact Sheet, Florida Enterprise Zone Program, The Department of Economic Opportunity, on file with the Economic Development & Tourism Subcommittee.

<sup>2</sup> Section 290.0055(4)(a) and (b), F.S.

- Identifying ways to remove regulatory burdens,
- Promoting the incentives to residents and businesses,
- Recommending boundary changes,
- Working with nonprofit development organizations, and
- Ensuring the enterprise zone coordinator receives annual training and works with Enterprise Florida, Inc.;

Pursuant to s. 290.0057, F.S., an enterprise zone development plan (or strategic plan) must accompany an application. At a minimum this plan must:

- Describe the community's goal in revitalizing the area,
- Describe how the community's social and human resources—transportation, housing, community development, public safety, education, and environmental concerns—will be addressed in a coordinated fashion,
- Identify key community goals and barriers,
- Outline how the community is a full partner in the process of developing and implementing this plan,
- Describe the commitment from the local governing body in enacting and maintaining local fiscal and regulatory incentives,
- Identify the amount of local and private resources available and the private/public partnerships;
- Indicate how local, state, and federal resources will all be utilized,
- Identify funding requested under any state or federal program to support the proposed development, and
- Identify baselines, methods, and benchmarks for measuring success of the plan.

### Available Incentives

Florida's enterprise zones qualify for various incentives from corporate income tax and sales and use tax liabilities. Examples of local incentives include: utility tax abatement, reduction of occupational license fees, reduced building permit fees or land development fees, and local funds for capital projects.

Available state sales tax incentives for enterprise zones include:

- Building Materials Used in the Rehabilitation of Real Property Located in an Enterprise Zone  
Provides a refund for sales taxes paid on the purchase of certain building materials, up to \$5,000 or 97 percent of the tax paid.
- Business Equipment Used in an Enterprise Zone  
Provides a refund for sales taxes paid on the purchase of certain equipment, up to \$5,000 or 97 percent of the tax paid.
- Rural Enterprise Zone Jobs Credit against Sales Tax  
Provides a sales and use tax credit for 30 or 45 percent of wages paid to new employees who live within a rural county.
- Urban Enterprise Zone Jobs Credit against Sales Tax  
Provides a sales and use tax credit for 20 or 30 percent of wages paid to new employees who live within the enterprise zone.

- Business Property Used in an Enterprise Zone  
Provides a refund for sales taxes paid on the purchase of certain business property, up to \$5,000 or 97 percent of the tax paid per parcel of property, which is used exclusively in an enterprise zone for at least 3 years.
- Community Contribution Tax Credit  
Provides 50 percent sales tax refund for donations made to local community development projects.
- Electrical Energy Used in an Enterprise Zone  
Provides 50 percent sales tax exemption to qualified businesses located within an enterprise zone on the purchase of electrical energy.

Available state corporate income tax incentives for enterprise zones include:

- Rural Enterprise Zone Jobs Credit against Corporate Income Tax  
Provides a corporate income tax credit for 30 or 45 percent of wages paid to new employees who live within a rural county.
- Urban Enterprise Zone Jobs Credit against Corporate Income Tax  
Provides a corporate income tax credit for 20 or 30 percent of wages paid to new employees who live within the enterprise zone.
- Enterprise Zone Property Tax Credit  
Provides a credit against Florida corporate income tax equal to 96 percent of ad valorem taxes paid on the new or improved property.
- Community Contribution Tax Credit  
Provides a 50-percent credit on Florida corporate income tax or insurance premium tax, or a sales tax refund, for donations made to local community development projects.

### **Effect of Proposed Changes**

The bill provides authority for the cities of Auburndale, Bartow, Eagle Lake, Fort Meade, Frostproof, Lake Wales, Mulberry, and Polk City to apply to the Department of Economic Opportunity for designation of enterprise zones within Polk County. The cities specified in this bill may apply individually, jointly, and or in concert with Polk County. The bill does not provide an application deadline.

The bill authorizes the Department to designate up to eight enterprise zones, consisting of no more than one enterprise zone for each city, either individually or in combination with the county. The Department must establish the initial effective date of each enterprise zone.

The bill provides an effective date of July 1, 2013.

### **B. SECTION DIRECTORY:**

**Section 1:** Creates s. 290.0079, F.S., authorizing the cities of Auburndale, Bartow, Eagle Lake, Fort Meade, Frostproof, Lake Wales, Mulberry, and Polk City to apply to the Department of Economic Opportunity for designation of an enterprise zone.

**Section 2:** Provides an effective date of July 1, 2013.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The Revenue Estimating Conference estimated the bill will have a negative impact of \$100,000 on state funds in FY 2013-14, \$300,000 in FY 2014-15 and \$300,000 in FY 2015-16.

#### 2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

Revenue Estimating Conference determined the bill will have an insignificant impact on local government.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill has the potential to positively impact the economy of the designated area through job growth and capital investment.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not require a reduction of the percentage of state tax shared with municipalities or counties.

#### 2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES



1                   A bill to be entitled  
 2           An act relating to enterprise zones; creating s.  
 3           290.0079, F.S.; authorizing Polk County, the City of  
 4           Auburndale, the City of Bartow, the City of Eagle  
 5           Lake, the City of Fort Meade, the City of Frostproof,  
 6           the City of Lake Wales, the City of Mulberry, and the  
 7           City of Polk City to apply, individually or jointly,  
 8           to the Department of Economic Opportunity for  
 9           designation of a specified number of enterprise zones;  
 10          providing application requirements; requiring the  
 11          department to establish the effective dates of the  
 12          enterprise zones; providing an effective date.

13  
 14   Be It Enacted by the Legislature of the State of Florida:

15  
 16           Section 1. Section 290.0079, Florida Statutes, is created  
 17   to read:

18           290.0079 Enterprise zone designations for Polk County, the  
 19   City of Auburndale, the City of Bartow, the City of Eagle Lake,  
 20   the City of Fort Meade, the City of Frostproof, the City of Lake  
 21   Wales, the City of Mulberry, and the City of Polk City.—The City  
 22   of Auburndale, the City of Bartow, the City of Eagle Lake, the  
 23   City of Fort Meade, the City of Frostproof, the City of Lake  
 24   Wales, the City of Mulberry, and the City of Polk City may  
 25   apply, individually, jointly with Polk County, or in any  
 26   combination, to the department for designation of enterprise  
 27   zones within Polk County. The applications must comply with the  
 28   requirements of s. 290.0055. The department may designate up to

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2013

29 eight enterprise zones, consisting of no more than one  
 30 enterprise zone for each city, either individually or in  
 31 combination with the county, notwithstanding s. 290.0065  
 32 limiting the total number of enterprise zones designated and the  
 33 number of enterprise zones within a population category. The  
 34 department shall establish the initial effective date of the  
 35 enterprise zones under this section.

36 Section 2. This act shall take effect July 1, 2013.

HB 319

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 319 Community Transportation Projects

**SPONSOR(S):** Ray

**TIED BILLS:** IDEN./SIM. BILLS: 972

| REFERENCE                                       | ACTION | ANALYST    | STAFF DIRECTOR or<br>BUDGET/POLICY CHIEF |
|---|--------|------------|--|
| 1) Economic Development & Tourism Subcommittee  |        | Flegiel MF | West PW                                  |
| 2) Transportation & Highway Safety Subcommittee |        |            |  |
| 3) Economic Affairs Committee                   |        |            |  |

### SUMMARY ANALYSIS

Imposing transportation concurrency requirements for new developments is optional for local governments in Florida. Local governments that choose to implement transportation concurrency are required to follow the guidelines set forth in s. 163.3180, F.S. The guidelines dictate the standards local governments must follow when setting level of service (LOS) standards and the proportionate share contributions.

Local governments in Florida may implement development regulations similar to transportation concurrency, such as mobility plans. By implementing these similar, but not identical regulations, local governments have chosen to opt out of the transportation concurrency provided for in s. 163.3180, F.S.

This bill requires any local government implementing a mobility plan or LOS scheme to follow the same guidelines as local governments implementing transportation concurrency as already set forth in s. 163.3180, F.S.

The bill provides a definition for "mobility plan," provides for when a local government may not prohibit a development based on LOS standards, modifies proportionate share calculations, prohibits local governments from requiring contribution for mass transit operation or transit, extends the power of transportation development authorities to implement transportation projects beyond their jurisdiction, and sets out requirements for the election of board members for transit-oriented developments.

This bill does not appear to have a fiscal impact on state or local funds.

The bill will take effect upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### Transportation Concurrency

Transportation concurrency is a growth management strategy aimed at ensuring that transportation facilities and services are available 'concurrent' with the impacts of development. To carry out concurrency, local governments must define what constitutes an adequate LOS for the transportation system and measure whether the service needs of a new development exceed existing capacity and scheduled improvements for that period. If adequate capacity is not available, then the developer must provide the necessary improvements, provide monetary contribution toward the improvements, or wait until government provides the necessary improvements.<sup>1</sup>

##### Level of Service

Level of service (LOS) is a technical measure of the quality of service provided by a roadway. LOS is graded on an A through F scale based on the average arterial speed of a roadway. An uncongested roadway with a high average arterial speed will receive an A, while a congested roadway with a low average arterial speed will receive an F.<sup>2</sup> Local governments, in conjunction with the Florida Department of Transportation (FDOT), are responsible for setting LOS standards for roadways.<sup>3</sup>

##### Proportionate Share

Proportionate share is the amount of money a developer must contribute to mitigate the transportation impacts of a new development. Proportionate share contributions are triggered when a new development will cause a decrease in the LOS grade below a set standard. When a proportionate share contribution is triggered, a developer must, at minimum, contribute money toward one or several mobility improvements. However, developers are only required to contribute toward deficiencies they create, and are not required to correct existing deficiencies.<sup>4</sup>

##### *Transportation Concurrency in Florida*

Florida adopted the concept of transportation concurrency with the passage of the 1985 Growth Management Act. Since adoption, the legislature has frequently revisited the concept of transportation concurrency, most recently making substantial changes to s. 163.3180, F.S., in 2005, 2007, 2009 and 2011.<sup>5</sup>

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<sup>1</sup> Fla. Dep't of Comty. Affairs, *Transportation Concurrency: Best Practices Guide* pg. 5 (2007), retrieved from [www.cutr.usf.edu/pdf/DCA\\_TCBP%20Guide.pdf](http://www.cutr.usf.edu/pdf/DCA_TCBP%20Guide.pdf) (3/11/2013).

<sup>2</sup> *Id.* at 53.

<sup>3</sup> Fl. Stat. 163.3180(5)(b) (2012).

<sup>4</sup> Fl. Stat. 163.3180(5)(h) (2012).

<sup>5</sup> See L.O.F. s. 5, ch. 2005-290 (Providing requirements for proportionate share mitigation), s. 11, ch. 2007-196 (Authorizing study on multimodal districts, providing for concurrency backlog an satisfaction of concurrency requirements), s. 3, ch. 2007-204 (provides exception from concurrency for airports and urban service area, revises transportation concurrency exceptions for multiuse DRIs, Revises proportionate share, provides requirements for proportionate share mitigation and fair-share), s. 5, ch. 2009-85 (provides definition for backlog, provides legislative findings and declarations on backlog, adds provisions on debt incurred from transportation concurrency backlog projects, requires funding of backlog trust funds), s. 4, ch. 2009-96 (revises concurrency requirements, deletes requirements for concurrency exception areas, requires OPPAGA to submit report to legislature concerning the effects of transportation exception areas, revises requirements for impact fees), s. 4, ch. 2011-14 (reenacts s. 163.3180(5), (10), (13)(b) and (e), relating to concurrency requirements for transportation facilities), s. 15, ch. 2011-139 (revises and provides provisions related to concurrency, revises application and findings, revises local government requirements, provides for urban infill, redevelopment, downtown revitalization, provides for DRIs, revises provisions relating to transportation deficiency plans).

Transportation concurrency in urban areas is often more costly and functionally difficult than in non-urban areas.<sup>6</sup> As a result, transportation concurrency can result in urban sprawl and the discouragement of development in urban areas, in direct conflict with the general goals and policies of part II, ch. 163, F.S. Also, transportation concurrency can prevent the implementation of viable forms of alternative transit.<sup>7</sup>

Additionally, the frequent changes to transportation concurrency requirements have affected local governments in different ways. In some cases, the changes have provided more flexibility, less state oversight and created more planning tools for local governments, but in other cases, the changes created solutions that were inflexible and unworkable for all but a few local governments, with many local governments having difficulty implementing a transportation concurrency mechanism or local governments implementing highly inconsistent policies.<sup>8</sup>

The recent legislative changes to transportation concurrency have sought to address these problems. Most recently, in 2011, the legislature overhauled transportation concurrency, making it optional for local governments.<sup>9</sup>

Under current law, local governments choosing to implement transportation concurrency must still follow established guidelines related to LOS standards and proportionate share contributions.<sup>10</sup> However, local governments that implement programs similar to concurrency, but not under the auspices of s. 163.3180, F.S., are not required to follow the LOS and proportionate share guidelines established by s. 163.3180, F.S.

### **Effect of Proposed Changes**

HB 319 extends LOS and proportionate share guidelines to any local government implementing a transportation mobility plan, or LOS standard or schedule scheme. Presently these guidelines apply only to local governments implementing a concurrency scheme. Any local government implementing a mobility plan or LOS standard must follow the guidelines set out in s. 163.3180, F.S., while setting their LOS standards. Also, these local governments must follow the proportionate share guidelines in s. 163.3180, F.S.

Also, HB 319:

- Defines mobility plans.
- Provides that a local government may not delay a development based on failing to meet LOS standards if the developer has already paid for its proportionate share.
- Prohibits local governments from considering mass transit operation or maintenance costs in proportionate share calculations.
- Extends the authority of transportation development authorities to undertake projects beyond their jurisdiction that will help relieve deficiencies within its jurisdiction.
- Revises requirements for replacement of appointed members by election and provides requirements for replacement by election of board members for certain transit-oriented developments.

The bill will take effect upon becoming law.

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<sup>6</sup>*Transportation Concurrency: Best Practices Guide* at 11.

<sup>7</sup>*Id.* at 10.

<sup>8</sup>*Id.* at 10-12.

<sup>9</sup>L.O.F. s. 15, ch. 2011-139, "The 2011 Community Planning Act."

<sup>10</sup>Fl. Stat. s. 163.3180(5) (2012).

**B. SECTION DIRECTORY:**

**Section 1:** Adds definition of "Mobility Plan" to s. 163.3164, Florida Statutes.

**Section 2:** Amends s. 163.3180, F.S., to extend obligations currently imposed on local governments implementing transportation concurrency to local governments implementing mobility plans and LOS standards; prohibits local governments from delaying an applicant's project based on certain LOS failures if the developer has paid for its measurable transportation impacts; prohibits local governments from requiring contribution for mass transit operation or maintenance.

**Section 3:** Amends s. 163.3182, F.S., to extend the power of transportation development authorities to implement transportation projects beyond their jurisdiction.

**Section 4:** Amends s. 190.006, F.S., to change the requirements for the election of board members for transit-oriented developments.

**Section 5:** Provides that the bill will take effect upon becoming law.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

May reduce required contributions from developers for new developments in certain local government jurisdictions. May reduce delays for developer projects.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

**2. Other:**

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**



1                                   A bill to be entitled  
2       An act relating to community transportation projects;  
3       amending s. 163.3164, F.S.; defining the term  
4       "mobility plan" for purposes of the Community Planning  
5       Act; amending s. 163.3180, F.S.; providing that  
6       certain development projects may not be delayed or  
7       prohibited by the local government due to failure of  
8       an adopted transportation level-of-service standard or  
9       the local government's adopted schedule and plan if  
10      the applicant has provided full payment for the  
11      applicant's measurable transportation impacts;  
12      requiring the local government to calculate  
13      proportionate share contributions based only on the  
14      capital improvements necessary to mitigate the  
15      applicant's impacts; amending s. 163.3182, F.S.,  
16      relating to transportation development authorities;  
17      providing that transportation projects to relieve  
18      transportation deficiencies may include projects  
19      within and outside the designated deficiency area and  
20      mass transit improvements may extend beyond a  
21      deficiency area under certain circumstances; amending  
22      s. 190.006, F.S., relating to community development  
23      districts; revising requirements for replacement of  
24      appointed members by election; providing requirements  
25      for replacement by election of board members for  
26      certain transit-oriented developments; providing an  
27      effective date.  
28

29 Be It Enacted by the Legislature of the State of Florida:

30

31 Section 1. Subsections (31) through (51) of section  
 32 163.3164, Florida Statutes, are renumbered as subsections (32)  
 33 through (52), respectively, and a new subsection (31) is added  
 34 to that section to read:

35 163.3164 Community Planning Act; definitions.—As used in  
 36 this act:

37 (31) "Mobility plan" means an integrated land use and  
 38 transportation plan adopted into a comprehensive plan that  
 39 promotes compact, mixed-use, and interconnected development  
 40 served by a multimodal transportation system that includes  
 41 identified measurable standards for roads, pedestrian and  
 42 bicycle facilities, and, where feasible and appropriate,  
 43 frequent transit and rail service to provide individuals with  
 44 viable transportation options other than a motor vehicle. A  
 45 mobility fee adopted as part of a mobility plan must include  
 46 standards for transportation impacts for bicycle, pedestrian,  
 47 and transit mobility and may not include transportation  
 48 deficiency costs as identified in s. 163.3180(5).

49 Section 2. Paragraph (h) of subsection (5) of section  
 50 163.3180, Florida Statutes, is amended to read:

51 163.3180 Concurrency; transportation mobility plans; level  
 52 of service.—

53 (5)

54 (h) Local governments that implement transportation  
 55 concurrency, transportation mobility plans, or level-of-service  
 56 standards or schedules for public facility construction must:

57 | 1. Consult with the Department of Transportation when  
 58 | proposed plan amendments affect facilities on the strategic  
 59 | intermodal system.

60 | 2. Exempt public transit facilities from concurrency. For  
 61 | the purposes of this subparagraph, public transit facilities  
 62 | include transit stations and terminals; transit station parking;  
 63 | park-and-ride lots; intermodal public transit connection or  
 64 | transfer facilities; fixed bus, guideway, and rail stations; and  
 65 | airport passenger terminals and concourses, air cargo  
 66 | facilities, and hangars for the assembly, manufacture,  
 67 | maintenance, or storage of aircraft. As used in this  
 68 | subparagraph, the terms "terminals" and "transit facilities" do  
 69 | not include seaports or commercial or residential development  
 70 | constructed in conjunction with a public transit facility.

71 | 3. Allow an applicant for a development-of-regional-impact  
 72 | development order, a rezoning, or other land use development  
 73 | permit to satisfy the transportation concurrency requirements of  
 74 | the local comprehensive plan, the local government's concurrency  
 75 | management system, and s. 380.06, when applicable, if:

76 | a. The applicant enters into a binding agreement to pay  
 77 | for or construct its proportionate share of required  
 78 | improvements.

79 | b. The proportionate-share contribution or construction is  
 80 | sufficient to accomplish one or more mobility improvements that  
 81 | will benefit a regionally significant transportation facility.

82 | c.(I) The local government has provided a means by which  
 83 | the landowner will be assessed a proportionate share of the cost  
 84 | of providing the transportation facilities necessary to serve

85 | the proposed development. An applicant shall not be held  
 86 | responsible for the additional cost of reducing or eliminating  
 87 | deficiencies.

88 |       (II) When an applicant contributes or constructs its  
 89 | proportionate share pursuant to this subparagraph, a local  
 90 | government may not require payment or construction of  
 91 | transportation facilities whose costs would be greater than a  
 92 | development's proportionate share of the improvements necessary  
 93 | to mitigate the development's impacts.

94 |       (A) The proportionate-share contribution shall be  
 95 | calculated based upon the number of trips from the proposed  
 96 | development expected to reach roadways during the peak hour from  
 97 | the stage or phase being approved, divided by the change in the  
 98 | peak hour maximum service volume of roadways resulting from  
 99 | construction of an improvement necessary to maintain or achieve  
 100 | the adopted level of service, multiplied by the construction  
 101 | cost, at the time of development payment, of the improvement  
 102 | necessary to maintain or achieve the adopted level of service.

103 |       (B) In using the proportionate-share formula provided in  
 104 | this subparagraph, the applicant, in its traffic analysis, shall  
 105 | identify those roads or facilities that have a transportation  
 106 | deficiency in accordance with the transportation deficiency as  
 107 | defined in sub-subparagraph e. The proportionate-share formula  
 108 | provided in this subparagraph shall be applied only to those  
 109 | facilities that are determined to be significantly impacted by  
 110 | the project traffic under review. If any road is determined to  
 111 | be transportation deficient without the project traffic under  
 112 | review, the costs of correcting that deficiency shall be removed

113 | from the project's proportionate-share calculation and the  
 114 | necessary transportation improvements to correct that deficiency  
 115 | shall be considered to be in place for purposes of the  
 116 | proportionate-share calculation. The improvement necessary to  
 117 | correct the transportation deficiency is the funding  
 118 | responsibility of the entity that has maintenance responsibility  
 119 | for the facility. The development's proportionate share shall be  
 120 | calculated only for the needed transportation improvements that  
 121 | are greater than the identified deficiency.

122 |       (C) When the provisions of this subparagraph have been  
 123 | satisfied for a particular stage or phase of development, all  
 124 | transportation impacts from that stage or phase for which  
 125 | mitigation was required and provided shall be deemed fully  
 126 | mitigated in any transportation analysis for a subsequent stage  
 127 | or phase of development. Trips from a previous stage or phase  
 128 | that did not result in impacts for which mitigation was required  
 129 | or provided may be cumulatively analyzed with trips from a  
 130 | subsequent stage or phase to determine whether an impact  
 131 | requires mitigation for the subsequent stage or phase.

132 |       (D) In projecting the number of trips to be generated by  
 133 | the development under review, any trips assigned to a toll-  
 134 | financed facility shall be eliminated from the analysis.

135 |       (E) The applicant shall receive a credit on a dollar-for-  
 136 | dollar basis for impact fees, mobility fees, and other  
 137 | transportation concurrency mitigation requirements paid or  
 138 | payable in the future for the project. The credit shall be  
 139 | reduced up to 20 percent by the percentage share that the  
 140 | project's traffic represents of the added capacity of the

141 selected improvement, or by the amount specified by local  
 142 ordinance, whichever yields the greater credit.

143 d. This subsection does not require a local government to  
 144 approve a development that is not otherwise qualified for  
 145 approval pursuant to the applicable local comprehensive plan and  
 146 land development regulations.

147 e. As used in this subsection, the term "transportation  
 148 deficiency" means a facility or facilities on which the adopted  
 149 level-of-service standard is exceeded by the existing,  
 150 committed, and vested trips, plus additional projected  
 151 background trips from any source other than the development  
 152 project under review, and trips that are forecast by established  
 153 traffic standards, including traffic modeling, consistent with  
 154 the University of Florida's Bureau of Economic and Business  
 155 Research medium population projections. Additional projected  
 156 background trips are to be coincident with the particular stage  
 157 or phase of development under review.

158 4. Not prohibit or delay an applicant's project due to  
 159 failure of an adopted transportation level-of-service standard  
 160 or the local government's adopted schedule and plan for adequate  
 161 public facility construction if the applicant has provided full  
 162 payment for the applicant's measurable transportation impacts.

163 5. Calculate proportionate share contributions based only  
 164 on the capital improvements necessary to mitigate the  
 165 applicant's impacts and may not include any other costs,  
 166 including costs associated with mass transit operation or  
 167 maintenance.

168 Section 3. Paragraph (b) of subsection (3) of section

169 163.3182, Florida Statutes, is amended to read:

170 163.3182 Transportation deficiencies.—

171 (3) POWERS OF A TRANSPORTATION DEVELOPMENT AUTHORITY.—Each  
 172 transportation development authority created pursuant to this  
 173 section has the powers necessary or convenient to carry out the  
 174 purposes of this section, including the following powers in  
 175 addition to others granted in this section:

176 (b) To undertake and carry out transportation projects for  
 177 transportation facilities designed to relieve transportation  
 178 deficiencies within the authority's jurisdiction. Transportation  
 179 projects may include transportation facilities that provide for  
 180 alternative modes of travel including sidewalks, bikeways, and  
 181 mass transit which are related to a deficient transportation  
 182 facility. Transportation projects may also include projects  
 183 within and outside the designated deficiency area to relieve  
 184 deficiencies identified by the transportation sufficiency plan.  
 185 Mass transit improvements and service may extend outside a  
 186 deficiency area to an existing or planned logical terminus of a  
 187 selected improvement.

188 Section 4. Paragraph (a) of subsection (3) of section  
 189 190.006, Florida Statutes, is amended to read:

190 190.006 Board of supervisors; members and meetings.—

191 (3)(a)1. If the board proposes to exercise the ad valorem  
 192 taxing power authorized by s. 190.021, the district board shall  
 193 call an election at which the members of the board of  
 194 supervisors will be elected. Such election shall be held in  
 195 conjunction with a primary or general election unless the  
 196 district bears the cost of a special election. Each member shall

197 | be elected by the qualified electors of the district for a term  
 198 | of 4 years, except that, at the first such election, three  
 199 | members shall be elected for a period of 4 years and two members  
 200 | shall be elected for a period of 2 years. All elected board  
 201 | members must be qualified electors of the district.

202 |       2.a. Regardless of whether a district has proposed to levy  
 203 | ad valorem taxes, commencing 6 years after the initial  
 204 | appointment of members or, for a district exceeding 5,000 acres  
 205 | in area or for a compact, urban, mixed-use district or a  
 206 | transit-oriented development pursuant to s. 163.3164(47)  
 207 | exceeding 25 acres in area, 10 years after the initial  
 208 | appointment of members, the position of each member whose term  
 209 | has expired shall be filled by a qualified elector of the  
 210 | district, elected by the qualified electors of the district.  
 211 | However, for those districts established after June 21, 1991,  
 212 | and for those existing districts established after December 31,  
 213 | 1983, which have less than 50 qualified electors on June 21,  
 214 | 1991, sub-subparagraphs b. and d. shall apply. If, in the 6th  
 215 | year after the initial appointment of members, or 10 years after  
 216 | such initial appointment for districts exceeding 5,000 acres in  
 217 | area or for a compact, urban, mixed-use district or a transit-  
 218 | oriented development pursuant to s. 163.3164(47) exceeding 25  
 219 | acres in area, there are not at least 250 qualified electors in  
 220 | the district, or for a district exceeding 5,000 acres or for a  
 221 | compact, urban, mixed-use district or a transit-oriented  
 222 | development pursuant to s. 163.3164(47) exceeding 25 acres in  
 223 | area, there are not at least 500 qualified electors, members of  
 224 | the board shall continue to be elected by landowners.



225           b. After the 6th or 10th year, once a district reaches 250  
 226 or 500 qualified electors, respectively, then the positions of  
 227 two board members whose terms are expiring shall be filled by  
 228 qualified electors of the district, elected by the qualified  
 229 electors of the district for 4-year terms. The remaining board  
 230 member whose term is expiring shall be elected for a 4-year term  
 231 by the landowners and is not required to be a qualified elector.  
 232 Thereafter, as terms expire, board members shall be qualified  
 233 electors elected by qualified electors of the district for a  
 234 term of 4 years.

235           c. Once a district qualifies to have any of its board  
 236 members elected by the qualified electors of the district, the  
 237 initial and all subsequent elections by the qualified electors  
 238 of the district shall be held at the general election in  
 239 November. The board shall adopt a resolution if necessary to  
 240 implement this requirement when the board determines the number  
 241 of qualified electors as required by sub-subparagraph d., to  
 242 extend or reduce the terms of current board members.

243           d. On or before June 1 of each year, the board shall  
 244 determine the number of qualified electors in the district as of  
 245 the immediately preceding April 15. The board shall use and rely  
 246 upon the official records maintained by the supervisor of  
 247 elections and property appraiser or tax collector in each county  
 248 in making this determination. Such determination shall be made  
 249 at a properly noticed meeting of the board and shall become a  
 250 part of the official minutes of the district.

251           Section 5. This act shall take effect upon becoming a law.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 319 (2013)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
WITHDRAWN \_\_\_\_\_ (Y/N)  
OTHER \_\_\_\_\_

1 Committee/Subcommittee hearing bill: Economic Development &  
2 Tourism Subcommittee

3 Representative Ray offered the following:

4  
5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsection (5)(h) of section 163.3180, Florida  
8 Statutes, is amended to read:

9 163.3180 Concurrency.—

10 (5)

11 (h) Local governments that continue to implement a  
12 transportation concurrency system, whether in the form adopted  
13 into the comprehensive plan prior to the effective date of the  
14 Community Planning Act, Chapter 2011-139, Laws of Florida, or as  
15 subsequently modified, must:

16 1. Consult with the Department of Transportation when  
17 proposed plan amendments affect facilities on the strategic  
18 intermodal system.

19 2. Exempt public transit facilities from concurrency. For  
20 the purposes of this subparagraph, public transit facilities

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21 include transit stations and terminals; transit station parking;  
22 park-and-ride lots; intermodal public transit connection or  
23 transfer facilities; fixed bus, guideway, and rail stations; and  
24 airport passenger terminals and concourses, air cargo  
25 facilities, and hangars for the assembly, manufacture,  
26 maintenance, or storage of aircraft. As used in this  
27 subparagraph, the terms "terminals" and "transit facilities" do  
28 not include seaports or commercial or residential development  
29 constructed in conjunction with a public transit facility.

30 3. Allow an applicant for a development-of-regional-impact  
31 development order, development agreement, a rezoning, or other  
32 land use development permit to satisfy the transportation  
33 concurrency requirements of the local comprehensive plan, the  
34 local government's concurrency management system, and s. 380.06,  
35 when applicable, if:

36 a. The applicant in good faith offers to enter into a  
37 binding agreement to pay for or construct its proportionate  
38 share of required improvements in a manner consistent with this  
39 subsection.

40 b. The proportionate-share contribution or construction is  
41 sufficient to accomplish one or more mobility improvements that  
42 will benefit a regionally significant transportation facility.  
43 A local government may accept contributions from multiple  
44 applicants for a planned improvement if it maintains  
45 contributions in a separate account designated for that purpose.

46 ~~e. (I) 4. The local government has p~~rovided the basis upon a  
47 ~~means by~~ which the landowners will be assessed a proportionate  
48 share of the cost of addressing the transportation impacts

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49 resulting from a providing the transportation facilities  
50 necessary to serve the proposed development.

51 5. An applicant shall not be held responsible for the  
52 additional cost of reducing or eliminating deficiencies.

53 ~~(II)~~ When an applicant contributes or constructs its  
54 proportionate share pursuant to this subparagraph, a local  
55 government may not require payment or construction of  
56 transportation facilities whose costs would be greater than a  
57 development's proportionate share of the improvements necessary  
58 to mitigate the development's impacts.

59 (a) The proportionate-share contribution shall be  
60 calculated based upon the number of trips from the proposed  
61 development expected to reach roadways during the peak hour from  
62 the stage or phase being approved, divided by the change in the  
63 peak hour maximum service volume of roadways resulting from  
64 construction of an improvement necessary to maintain or achieve  
65 the adopted level of service, multiplied by the construction  
66 cost, at the time of development payment, of the improvement  
67 necessary to maintain or achieve the adopted level of service.

68 (b) In using the proportionate-share formula provided in  
69 this subparagraph, the applicant, in its traffic analysis, shall  
70 identify those roads or facilities that have a transportation  
71 deficiency in accordance with the transportation deficiency as  
72 defined in sub-subparagraph e. The proportionate-share formula  
73 provided in this subparagraph shall be applied only to those  
74 facilities that are determined to be significantly impacted by  
75 the project traffic under review. If any road is determined to  
76 be transportation deficient without the project traffic under

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77 review, the costs of correcting that deficiency shall be removed  
78 from the project's proportionate-share calculation and the  
79 necessary transportation improvements to correct that deficiency  
80 shall be considered to be in place for purposes of the  
81 proportionate-share calculation. The improvement necessary to  
82 correct the transportation deficiency is the funding  
83 responsibility of the entity that has maintenance responsibility  
84 for the facility. The development's proportionate share shall be  
85 calculated only for the needed transportation improvements that  
86 are greater than the identified deficiency.

87 (c) When the provisions of this subparagraph have been  
88 satisfied for a particular stage or phase of development, all  
89 transportation impacts from that stage or phase for which  
90 mitigation was required and provided shall be deemed fully  
91 mitigated in any transportation analysis for a subsequent stage  
92 or phase of development. Trips from a previous stage or phase  
93 that did not result in impacts for which mitigation was required  
94 or provided may be cumulatively analyzed with trips from a  
95 subsequent stage or phase to determine whether an impact  
96 requires mitigation for the subsequent stage or phase.

97 (d) In projecting the number of trips to be generated by  
98 the development under review, any trips assigned to a toll-  
99 financed facility shall be eliminated from the analysis.

100 (e) The applicant shall receive a credit on a dollar-for-  
101 dollar basis for impact fees, mobility fees, and other  
102 transportation concurrency mitigation requirements paid or  
103 payable in the future for the project. The credit shall be  
104 reduced up to 20 percent by the percentage share that the

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105 project's traffic represents of the added capacity of the  
106 selected improvement, or by the amount specified by local  
107 ordinance, whichever yields the greater credit.

108 ~~e.~~ 6. This subsection does not require a local government  
109 to approve a development that is not ~~otherwise~~ qualified for  
110 approval pursuant to the applicable local comprehensive plan and  
111 land development regulations for reasons other than  
112 transportation impacts.

113 ~~e.~~ 7. As used in this subsection, the term "transportation  
114 deficiency" means a facility or facilities on which the adopted  
115 level-of-service standard is exceeded by the existing,  
116 committed, and vested trips, plus additional projected  
117 background trips from any source other than the development  
118 project under review, and trips that are forecast by established  
119 traffic standards, including traffic modeling, consistent with  
120 the University of Florida's Bureau of Economic and Business  
121 Research medium population projections. Additional projected  
122 background trips are to be coincident with the particular stage  
123 or phase of development under review.

124 (i) If a local government elects to repeal transportation  
125 concurrency, it is encouraged to adopt an alternative mobility  
126 funding system that utilizes one or more of the tools and  
127 techniques identified in s. 163.3180(5)(f). Any alternative  
128 system adopted shall not be utilized to deny, time or phase an  
129 application for site plan, plat approval, final subdivision  
130 approval, building permits or the functional equivalent of such  
131 approvals so long as the developer agrees to pay for the  
132 development's identified transportation impacts via the funding

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133 mechanism implemented by the local government. The revenue from  
134 the funding mechanism utilized in the alternative system must be  
135 used to implement the needs of the local government's plan which  
136 serves as the basis for the fee imposed. A mobility fee based  
137 funding system must comply with the dual rational nexus test  
138 applicable to impact fees. An alternative system which is not  
139 mobility fee based shall not be applied in a manner which  
140 imposes upon new development any responsibility for funding  
141 existing transportation deficiencies as that term is defined in  
142 s.163.3180(5)(h)7.

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**T I T L E   A M E N D M E N T**

147 Remove everything before the enacting clause and insert:  
148 An act relating to community transportation projects;  
149 amending s. 163.3180, F.S.; providing for development  
150 agreements; providing s. 163.3180(h), F.S., applies only to  
151 local governments that continue to implement a  
152 transportation concurrency plan; allowing applicants to  
153 satisfy concurrency requirements by making a good faith  
154 offer to enter into a binding agreement to construct a  
155 proportionate share of improvements; allowing local  
156 governments to accept contributions from multiple  
157 applicants; requiring local governments to provide the  
158 basis upon which landowners will be assessed certain costs;  
159 encouraging local governments without transportation  
160

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161 concurrency to adopt an alternative funding system;  
162 prohibiting alternative systems from denying, timing, or  
163 phasing a development application process if the developer  
164 agrees to pay for identified transportation impacts;  
165 requiring mobility fees to comply with the dual rational  
166 nexus test; prohibiting alternative systems from holding  
167 new developments responsible for existing impacts.





**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 663 Economic Gardening Technical Assistance Program  
**SPONSOR(S):** Hudson  
**TIED BILLS:** IDEN./SIM. BILLS: SB 1012

| REFERENCE  | ACTION | ANALYST           | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|--|--------|-------------------|---------------------------------------|
| 1) Economic Development & Tourism Subcommittee                       |        | Duncan <i>pdd</i> | West <i>rw</i>                        |
| 2) Transportation & Economic Development Appropriations Subcommittee |        |                   |                                       |
| 3) Economic Affairs Committee  |        |                   |                                       |

**SUMMARY ANALYSIS**

The bill amends the Economic Gardening Technical Assistance Pilot Program to remove the word "Pilot," thus making the Technical Assistance Program permanent, rather than temporary; direct the Department of Economic Opportunity to contract with the University of Central Florida's Institute of Economic Gardening to implement the Technical Assistance Program; and revise the business eligibility requirements.

The bill also defines the terms "NAICS" and "NAICS Qualifying Code" and conforms the cross-references under the Technical Assistance Program and the Economic Gardening Business Loan Pilot Program.

The bill appropriates \$2 million in recurring funds from the General Revenue Fund to the University of Central Florida to fund the Economic Gardening Technical Assistance Program and to implement the Act during FY 2013-2014.

The bill provides an effective date of July 1, 2013.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### Economic Gardening

Economic gardening is a long-term, economic development strategy designed to grow jobs by encouraging entrepreneurial activity in a community, region, or state. In contrast to traditional “economic hunting” strategies aimed at recruiting businesses from outside the community, economic gardening focuses on the job creation potential of small local businesses that already exist in the community. According to an expert in the implementation of economic gardening, “economic gardening is not a quick fix – it is not a silver bullet. It is a long term strategy. It is not a fad diet; it is a lifestyle change. It takes a while to put the infrastructure in place and to get to a scale large enough to make a difference. It also takes a while for a company to start to grow and add jobs. However, with patience and commitment it has proven to be a viable alternative to the traditional practices of economic development.”<sup>1</sup>

The concept of economic gardening was pioneered in 1987 by the City of Littleton, Colorado, during a statewide recession. It is based on research by M.I.T. and Federal Reserve Bank of Kansas City economists, which shows that the vast majority of new jobs in a local economy are produced by the community’s small local businesses, specifically a small group of high-growth businesses called “gazelles,” which are second stage businesses employing between ten and 99 employees.<sup>2</sup> These second stage businesses usually generate between \$1 million and \$50 million in annual revenue, depending on the industry. Second stage companies are significant job creators and often have global or national markets, meaning these businesses bring outside dollars into the community. At this stage of the business cycle, businesses are focused on developing new markets, refining business models, and accessing competitive intelligence.<sup>3</sup>

Economic gardening focuses on three main elements:<sup>4</sup>

- **Information:** The survival and growth of small businesses depends on access to critical information. Access to free or affordable information and consulting services is thus extremely valuable. Programs can provide access to information on markets, customers, and competitors, such as business databases, GIS (geographic information system), and search engine marketing.
- **Infrastructure:** This element focuses on building and supporting the development of community assets essential to commerce and overall quality of life. In addition to basic physical infrastructure, this element includes quality of life infrastructure (e.g., parks, open spaces, and historical preservation) and intellectual infrastructure that provide educational opportunities to help keep companies competitive.
- **Connections:** Entrepreneurs benefit significantly from interaction and exchange among business owners and resource providers, such as trade associations, think tanks, and academic institutions. Examples of strategies that improve connectivity include business roundtables,

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<sup>1</sup> Christian Gibbons, The IEDC Economic Development Journal, *Economic Gardening*, Vol. 9, No. 3, Summer 2010, at 11, on file with the staff of the House Economic Development & Tourism Subcommittee.

<sup>2</sup> Federal Reserve Bank of Atlanta, Community Development, *Economic Gardening Helps Communities Grow Their Own Jobs*, Vol. 18, No. 1, 2008, at 2, [http://www.frbatlanta.org/pubs/partners/partners-no\\_1\\_2008-economic\\_gardening\\_helps\\_communities\\_grow\\_their\\_own\\_jobs.cfm](http://www.frbatlanta.org/pubs/partners/partners-no_1_2008-economic_gardening_helps_communities_grow_their_own_jobs.cfm) (last visited February 27, 2013).

<sup>3</sup> Edward Lowe Foundation, *Economic Gardening – An entrepreneur-oriented approach to economic prosperity*, available at <http://edwardlowe.org/edlowenetwp/wp-content/themes/implementprogram/downloads/infosheets/EconomicGardening.pdf>.

<sup>4</sup> See supra note 1.

peer-to-peer learning sessions, and mentoring programs that partner new business owners with accomplished businesses in their industry.

### Florida's Economic Gardening Initiatives

In 2009, the Legislature created a two-pronged economic gardening initiative.<sup>5</sup> The first component is the Economic Gardening Business Loan Pilot Program<sup>6</sup> which provides low-interest short-term loans to eligible businesses to assist them with their infrastructure, networking, and mentoring needs. For eligibility in the loan program, businesses must meet the following criteria:<sup>7</sup>

- It must be a for-profit, privately held, investment-grade business that employs between 10 and 50 persons.
- The business has been in existence in Florida for a period of at least two years.
- The business generates between \$1 million and \$25 million in annual revenue.
- The business is eligible for the Qualified Targeted Industry (QTI) tax refund program pursuant to s. 288.106, F.S. A key requirement of the QTI program is that businesses must pay an annual average wage of at least 115 percent of the average private sector wage in the area where the business is located or the statewide private sector average wage.<sup>8</sup>
- During three of the last five years, the company has experienced steady growth in its gross revenues and employment.

The second component of the economic gardening initiative is the Economic Gardening Technical Assistance Pilot Program,<sup>9</sup> the purpose of which is to stimulate investment in the state's economy by providing technical assistance for eligible businesses. The eligibility requirements for a business seeking technical assistance are the same as those under the Economic Gardening Business Loan Pilot Program.<sup>10</sup>

The Department of Economic Opportunity (DEO) is directed to select by competitive bid a third-party contractor to implement the pilot program. Selection criteria for the contractor must include the ability to implement such a program on a statewide basis; the capability to provide counseling services, access to technology and information, marketing services and advice, business management support, and similar services; and whether the contractor qualifies for matching funds to provide the technical assistance.<sup>11</sup> The law also authorizes the third-party contractor to promote the general business or industrial interests of the state.<sup>12</sup>

Twice a year, DEO must review the third-party contractor's progress and determine if it is meeting its contractual requirements. If not, DEO may terminate the contract and re-bid.<sup>13</sup>

The technical assistance provided by the pilot program, includes, but is not limited to:<sup>14</sup>

- Access to free or affordable information and consulting services, including information on markets, customers, and competitors, such as databases, geographic information systems, and search engine marketing.

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<sup>5</sup> Chapter 2009-13, L.O.F., *codified at* ss. 288.1081 and 288.1082, F.S.

<sup>6</sup> Section 288.1081, F.S.

<sup>7</sup> See ss. 288.1081(3)(a), F.S., and 288.1082(4)(a), F.S.

<sup>8</sup> See s. 288.106(4)(b), F.S.

<sup>9</sup> Section 288.1082, F.S.

<sup>10</sup> Section 288.1082(4), F.S.

<sup>11</sup> Section 288.1082(2), F.S.

<sup>12</sup> Section 288.1082(6), F.S.

<sup>13</sup> Section 288.1082(7), F.S.

<sup>14</sup> Section 288.1082(3), F.S.

- Development of business connections, including interaction and exchange between business owners and resource providers, which may include trade associations, academic institutions, business roundtables, peer-to-peer learning sessions, and mentoring programs.

The third-party contractor is directed to select eligible businesses in more than one industry cluster and, where possible, in different regions of the state.<sup>15</sup> Any business receiving the technical assistance must sign an agreement with the third-party contractor committing to the following minimum conditions, on a basis determined by the contractor:<sup>16</sup>

- Attending a minimum number of meetings with the third-party contractor.
- Reporting job-creation data.
- Providing financial data.

DEO is required to, by December 31, submit to the President of the Senate, the Speaker of the House and the Governor an annual report detailing the progress of the technical assistance pilot program. This annual report must, at a minimum, include the number of businesses receiving assistance, the type and location of businesses assisted, and the number and wages of jobs created as a result of the business assistance provided, if any.<sup>17</sup>

#### University of Central Florida – Economic Gardening Institute (GrowFL)

In 2009, the Executive Office of the Governor’s Office of Tourism, Trade, and Economic Development<sup>18</sup> contracted with the University of Central Florida (UCF) to implement the Economic Gardening Technical Assistance Pilot Program. UCF then established the Florida Economic Gardening Institute (GrowFL) in 2009.

The GrowFL Program has provided services for second stage companies, which include, but are not limited to economic gardening technical assistance, CEO Roundtables, CEO Forums, human resource webinars, workshops, and the “Florida Companies to Watch” recognition event. These activities are targeted to support the second stage CEOs with operational and revenue-increasing strategies to improve business performance. Technical assistance was delivered through a centrally managed technical assistance team with access to various market research databases and tools to facilitate strategy, market research, web strategy and search engine optimization. A typical technical assistance consultation was 40 hours and was provided at no charge to the client. Work was handled virtually with clients via conference calls and the use of an on-line collaboration system.<sup>19</sup>

Overall GrowFL Program Performance as of December 31, 2012<sup>20</sup>

- 606 Strategic Research/Technical Assistance Engagements for 506 Companies
- 17 CEO Roundtable Groups established throughout Florida
- Numerous Special Events Including CEO Forums, Webinars, and Kauffman Workshops
- Held two Florida Companies to Watch events over the last two years and recognized 100 companies– averaged 450 attendees

<sup>15</sup> Section 288.1082(4)(b), F.S.

<sup>16</sup> Section 288.1082(5)(a), F.S.

<sup>17</sup> Section 288.1082(8), F.S.

<sup>18</sup> In 2011, the Legislature merged the Office of Tourism, Trade, and Economic Development into the newly created Department of Economic Opportunity. See s.4, ch. 2011-142, L.O.F.

<sup>19</sup> Florida Economic Gardening Institute at the University of Central Florida, *GrowFL Program Summary, November 2009 through September 1, 2011*, at 4, available at <http://www.growfl.com/downloads/GrowFL-Final-Report-Summary-09-11.pdf>.

<sup>20</sup> Florida Economic Gardening Institute at the University of Central Florida, *GrowFL Fact Sheet, December 2012*, available at, <http://www.growfl.com/downloads/GrowFL-facts2013.pdf>.

## Department of Economic Opportunity - Mid-Year Program Report

In December 2012, DEO submitted a Mid-Year Program Report to the Legislature and the Governor to which covers the period of July 1, 2012 through October 31, 2012. The report provided the following information:<sup>21</sup>

Since July 1, 2012, 99 second stage companies submitted applications to receive technical assistance. A total of 90 companies within 19 counties were accepted, and applications from nine companies were being processed. The industries represented are classified by North American Industry Classification System as follows:

| <b>NAICS Description</b>                        | <b>NAICS Code</b> | <b>Number of Companies</b> |
|---|-------------------|----------------------------|
| Administrative and Support Services             | 56                | 3                          |
| Finance and Insurance Services                  | 52                | 5                          |
| Information Industries                          | 51                | 8                          |
| Management of Companies                         | 55                | 4                          |
| Manufacturing                                   | 31                | 29                         |
| Professional, Scientific and Technical Services | 54                | 36                         |
| Wholesale Trade                                 | 42                | 5                          |
| <b>Total</b>                                    |                   | <b>90</b>                  |

## Office of Program Policy Analysis and Government Accountability - Evaluation of the Florida Economic Gardening Technical Assistance Pilot Program

In 2009, the Legislature directed the Office of Program Policy Analysis and Government Accountability (OPPAGA), by December 31, 2012, to review the technical assistance pilot program and its effectiveness in expanding targeted businesses, and provide a report to the President of the Senate, the Speaker of the House of Representatives, and the Governor.<sup>22</sup> In December 2012, OPPAGA published its report which in summary stated:<sup>23</sup>

- GrowFL experienced several implementation obstacles, including difficulty attracting participants and assessing companies' eligibility. Consequently, the program served a significant number of ineligible companies and was unable to determine eligibility for many others.
- Our analysis found that companies that received multiple services were more likely to grow after pilot program participation, and most of our survey respondents found GrowFL services helpful. We also found that eligible companies were more likely to increase employees and wages than those that did not meet the program's statutory eligibility requirements. In addition, our statistical modeling showed that eligible program participants had greater than predicted employment growth in one of three quarters in 2011, with no statistically significant difference in the other two quarters.
- During the course of our review, GrowFL took several steps to address our concerns about program implementation and eligibility determination. However, we recommend that future contracts with the Economic Gardening Institute include additional provisions to improve program reporting and assessment.

<sup>21</sup> Florida Department of Economic Opportunity, *Economic Gardening Technical Assistance Pilot Program (Mid-Year) Report*, December 18, 2012, at 3, on file with the staff of the House Economic Development & Tourism Subcommittee.

<sup>22</sup> Section 4, ch. 2009-13, L.O.F.

<sup>23</sup> The Florida Legislature, Office of Program Policy Analysis and Government Accountability, *GrowFL Participants that Received Multiple Services and Met Eligibility Requirements Experienced Higher Growth*, Report No. 12-14, December 2012, at 1, available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1214rpt.pdf>.

### Economic Gardening Funding History

In 2009, the Legislature appropriated up to \$1.5 million to implement the Economic Gardening Technical Assistance Pilot Program during FY 2009-2010.<sup>24</sup> In 2010, the Legislature appropriated \$2 million for FY 2010-2011.

In 2011, the Legislature also appropriated \$2 million for FY 2011-2012, however, the Governor vetoed the appropriation.<sup>25</sup> In 2012, the Legislature appropriated \$2 million from the State Economic Enhancement and Development Trust Fund for the Economic Gardening Technical Assistance Program for FY 2012-2013.<sup>26</sup>

### Effect of Proposed Changes

The bill removes the word “pilot” from the title of the “Economic Gardening Technical Assistance Pilot Program,” effectively making the Technical Assistance Program permanent, rather than temporary. The Department of Economic Opportunity is directed to contract with the University of Central Florida’s Institute of Economic Gardening to implement the Economic Gardening Technical Assistance Program (Technical Assistance Program). The Economic Gardening Business Loan Pilot Program remains a temporary program.

As required in current law, to be eligible to participate in the Technical Assistance Program a business must be a for-profit, privately held, investment-grade business. The bill modifies other eligibility requirements as follows:

- The business must have employed at least 10 persons but no more than 99 persons at the end of the preceding fiscal year. Current law caps the number of employees at 50 persons. The bill removes the requirement that the business has maintained its principal place of business in state for at least the previous two years.
- The business must have generated at least \$1 million but not more than \$50 million in annual revenue during the preceding fiscal year. Current law caps the generated amount of revenue at \$25 million. The bill removes the requirement that the business qualifies for a tax refund for qualified target industry businesses under s. 288.106, F.S.
- During 2, rather than 3, of the previous 5, rather than 6, years the business must have increased *either* its number of full-time equivalent employees in Florida *or* its gross revenue. Current law requires a business to have increased *both* its number of full-time equivalent employees in this state *and* its gross revenue.

An additional eligibility requirement is added to require that a business generate a minimum of 51 percent of its revenue outside Florida, be located in a rural community as defined in s. 288.0656, F.S., or be classified within a qualifying NAICS code.

The bill defines NAICS as those classifications contained in the North American Industry Classification System, as published in 2012 by the Office of Management and Budget, Executive Office of the President. The term “qualifying NAICS code” means any NAICS code within any of the following NAICS sectors:

- 31-33, Manufacturing;
- 42, Wholesale Trade;
- 51, Information;
- 52, Finance and Insurance;
- 54, Professional, Scientific, and Technical Services;

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<sup>24</sup> Section 3, ch. 2009-13, L.O.F.

<sup>25</sup> See *supra* note 23 at 3.

<sup>26</sup> Specific Appropriation 2280B, s.6, ch. 2012-188, L.O.F. (proviso language).

- 55, Management of Companies and Enterprises; or
- 56, Administrative and Support and Waste Management and Remediation Services.

According to GrowFL, the industries identified as a qualified target industry under s. 288.106, F.S., are captured under the NAICS codes listed above.<sup>27</sup>

The bill appropriates \$2 million in recurring funds from the General Revenue Fund to the University of Central Florida to fund the Economic Gardening Technical Assistance Program and to implement the Act during FY 2013-2014.

**B. SECTION DIRECTORY:**

**Section 1:** Amends s. 288.1082, F.S., relating to the Economic Gardening Technical Assistance Pilot Program, to make the Economic Gardening Technical Assistance Pilot Program permanent, rather than temporary; direct the Department of Economic Opportunity to contract with the University of Central Florida's Institute of Economic Gardening to implement the Program; revise the business eligibility requirements; define terms; and conform cross-references.

**Section 2:** Amends s. 288.1081(3), F.S., relating to the Economic Gardening Business Loan Program, to conform cross-references.

**Section 3:** Appropriates \$2 million in recurring funds from the General Revenue Fund to the University of Central Florida to fund the Economic Gardening Technical Assistance Program and to implement the Act during FY 2013-2014.

**Section 4:** Provides an effective date of July 1, 2013.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

The bill appropriates \$2 million in recurring funds from General Revenue to the University of Central Florida to fund the Economic Gardening Technical Assistance Program and to implement the Act during FY 2013-2014.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

To the extent that more businesses meet the eligibility requirements to receive technical assistance, the private sector will benefit.

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<sup>27</sup> See *supra* note 21.  
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 DATE: 2/26/2013



**D. FISCAL COMMENTS:**

The bill appropriates \$2 million in recurring funds from the General Revenue Fund to the University of Central Florida to fund the Economic Gardening Technical Assistance Program and to implement the Act during FY 2013-2014.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

**2. Other:**

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

N/A.

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A bill to be entitled  
 An act relating to the Economic Gardening Technical Assistance Program; amending s. 288.1082, F.S.; expanding the Economic Gardening Technical Assistance Pilot Program into a statewide program; requiring the Department of Economic Opportunity to contract with the Florida Economic Gardening Institute at the University of Central Florida to administer the program; revising and providing eligibility requirements for the program; providing definitions; amending s. 288.1081, F.S.; conforming references to the Economic Gardening Technical Assistance Pilot Program to changes made by the act; providing an appropriation; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 288.1082, Florida Statutes, is amended to read:

288.1082 Economic Gardening Technical Assistance ~~Pilot~~ Program.—

(1) There is created within the department the Economic Gardening Technical Assistance ~~Pilot~~ Program. The purpose of the ~~pilot~~ program is to stimulate investment in Florida's economy by providing technical assistance for expanding businesses in the state.

(2) The department shall contract with the Florida Economic Gardening Institute at the University of Central

29 Florida ~~one or more entities~~ to administer the pilot program  
 30 under this section. ~~The department shall award each contract in~~  
 31 ~~accordance with the competitive bidding requirements in s.~~  
 32 ~~287.057 to an entity that demonstrates the ability to implement~~  
 33 ~~the pilot program on a statewide basis, has an outreach plan,~~  
 34 ~~and has the ability to provide counseling services, access to~~  
 35 ~~technology and information, marketing services and advice,~~  
 36 ~~business management support, and other similar services. In~~  
 37 ~~selecting these entities, the department also must consider~~  
 38 ~~whether the entities will qualify for matching funds to provide~~  
 39 ~~the technical assistance.~~

40 (3) The Florida Economic Gardening Institute ~~A contracted~~  
 41 ~~entity administering the pilot program~~ shall provide technical  
 42 assistance for eligible businesses which includes, but is not  
 43 limited to:

44 (a) Access to free or affordable information services and  
 45 consulting services, including information on markets,  
 46 customers, and competitors, such as business databases,  
 47 geographic information systems, and search engine marketing.

48 (b) Development of business connections, including  
 49 interaction and exchange among business owners and resource  
 50 providers, such as trade associations, think tanks, academic  
 51 institutions, business roundtables, peer-to-peer learning  
 52 sessions, and mentoring programs.

53 (4)(a) To be eligible for assistance under the pilot  
 54 program, a business must:

55 1. Be a for-profit, privately held, investment-grade  
 56 business. ~~that~~

57           2. Have employed ~~employs~~ at least 10 persons but not more  
 58 than ~~99~~ 50 persons at the end of the preceding fiscal year., ~~has~~  
 59 ~~maintained its principal place of business in the state for at~~  
 60 ~~least the previous 2 years,~~

61           3. Have generated ~~generates~~ at least \$1 million but not  
 62 more than \$50 ~~\$25~~ million in annual revenue during the preceding  
 63 fiscal year., ~~qualifies for the tax refund program for qualified~~  
 64 ~~target industry businesses under s. 288.106, and,~~

65           4. During ~~2~~ 3 of the previous ~~6~~ 5 years, have ~~has~~  
 66 increased either ~~both~~ its number of full-time equivalent  
 67 employees in this state or ~~and~~ its gross revenues.

68           5. Generate a minimum of 51 percent of its revenue outside  
 69 the state, be located in a "rural community" as defined in s.  
 70 288.0656, or be classified within a qualifying NAICS code.

71           (b) As used in this section, the term:

72           1. "NAICS" means those classifications contained in the  
 73 North American Industry Classification System, as published in  
 74 2012 by the Office of Management and Budget, Executive Office of  
 75 the President.

76           2. "Qualifying NAICS code" means any NAICS code within any  
 77 of the following NAICS sectors: 31-33, Manufacturing; 42,  
 78 Wholesale Trade; 51, Information; 52, Finance and Insurance; 54,  
 79 Professional, Scientific, and Technical Services; 55, Management  
 80 of Companies and Enterprises; or 56, Administrative and Support  
 81 and Waste Management and Remediation Services.

82           (c)-(b) The Florida Economic Gardening Institute A  
 83 contracted entity administering the pilot program, in selecting  
 84 the eligible businesses to receive assistance, shall choose

85 | businesses in more than one industry cluster and, to the maximum  
 86 | extent practicable, shall choose businesses that are  
 87 | geographically distributed throughout Florida or are in  
 88 | partnership with businesses that are geographically distributed  
 89 | throughout Florida.

90 |       (5) (a) A business receiving assistance under the ~~pilot~~  
 91 | program must enter into an agreement with the Florida Economic  
 92 | Gardening Institute ~~contracted entity administering the program~~  
 93 | to establish the business's commitment to participate  
 94 | ~~participation~~ in the ~~pilot~~ program. The agreement must require,  
 95 | at a minimum, that the business:

96 |           1. Attend a minimum number of meetings between the  
 97 | business and the Florida Economic Gardening Institute ~~contracted~~  
 98 | ~~entity administering the pilot program~~.

99 |           2. Report job creation data in the manner prescribed by  
 100 | the Florida Economic Gardening Institute ~~contracted entity~~  
 101 | ~~administering the pilot program~~.

102 |           3. Provide financial data in the manner prescribed by the  
 103 | Florida Economic Gardening Institute ~~contracted entity~~  
 104 | ~~administering the program~~.

105 |       (b) The Florida Economic Gardening Institute ~~department or~~  
 106 | ~~the contracted entity administering the pilot program~~ may  
 107 | prescribe in the agreement additional reporting requirements  
 108 | that are necessary to track the progress of the business and  
 109 | monitor the business's implementation of the assistance. The  
 110 | institute ~~contracted entity~~ shall report the information to the  
 111 | department on a quarterly basis.

112 |       (6) The Florida Economic Gardening Institute ~~A contracted~~

113 ~~entity administering the pilot program~~ is authorized to promote  
 114 the general business interests or industrial interests of the  
 115 state.

116 (7) The department shall review the progress of the  
 117 Florida Economic Gardening Institute ~~contracted entity~~  
 118 ~~administering the pilot program~~ at least once each 6 months and  
 119 shall determine whether the institute ~~contracted entity~~ is  
 120 meeting its contractual obligations for administering the ~~pilot~~  
 121 program. The department may terminate and rebid a contract if  
 122 the institute ~~contracted entity~~ does not meet its contractual  
 123 obligations.

124 (8) On December 31 of each year, the department shall  
 125 submit a report to the Governor, the President of the Senate,  
 126 and the Speaker of the House of Representatives that ~~which~~  
 127 describes in detail the progress of the ~~pilot~~ program. The  
 128 report must include, at a minimum, the number of businesses  
 129 receiving assistance, the number of full-time equivalent jobs  
 130 created as a result of the assistance, if any, the amount of  
 131 wages paid to employees in the newly created jobs, and the  
 132 locations and types of economic activity undertaken by the  
 133 businesses.

134 (9) The department may adopt rules ~~under ss. 120.536(1)~~  
 135 ~~and 120.54~~ to administer this section.

136 Section 2. Paragraphs (a) and (b) of subsection (3) of  
 137 section 288.1081, Florida Statutes, are amended to read:

138 288.1081 Economic Gardening Business Loan Pilot Program.—

139 (3)(a) To be eligible for a loan under the pilot program,  
 140 an applicant must be a business eligible for assistance under

141 the Economic Gardening Technical Assistance ~~Pilot~~ Program as  
 142 provided in s. 288.1082(4)(a).

143 (b) A loan applicant must submit a written application to  
 144 the loan administrator in the format prescribed by the loan  
 145 administrator. The application must include:

146 1. The applicant's federal employer identification number,  
 147 reemployment assistance account number, and sales or other tax  
 148 registration number.

149 2. The street address of the applicant's principal place  
 150 of business in this state.

151 3. A description of the type of economic activity,  
 152 product, or research and development undertaken by the  
 153 applicant, including the six-digit North American Industry  
 154 Classification System code for each type of economic activity  
 155 conducted by the applicant.

156 4. The applicant's annual revenue, number of employees,  
 157 number of full-time equivalent employees, and other information  
 158 necessary to verify the applicant's eligibility for the ~~pilot~~  
 159 program under s. 288.1082(4)(a).

160 5. The projected investment in the business, if any, which  
 161 the applicant proposes in conjunction with the loan.

162 6. The total investment in the business from all sources,  
 163 if any, which the applicant proposes in conjunction with the  
 164 loan.

165 7. The number of net new full-time equivalent jobs that,  
 166 as a result of the loan, the applicant proposes to create in  
 167 this state as of December 31 of each year and the average annual  
 168 wage of the proposed jobs.

169           8. The total number of full-time equivalent employees the  
170 applicant currently employs in this state.

171           9. The date that the applicant anticipates it needs the  
172 loan.

173           10. A detailed explanation of why the loan is needed to  
174 assist the applicant in expanding jobs in the state.

175           11. A statement that all of the applicant's available  
176 corporate assets are pledged as collateral for the amount of the  
177 loan.

178           12. A statement that the applicant, upon receiving the  
179 loan, agrees not to seek additional long-term debt without prior  
180 approval of the loan administrator.

181           13. A statement that the loan is a joint obligation of the  
182 business and of each person who owns at least 20 percent of the  
183 business.

184           14. Any additional information requested by the department  
185 or the loan administrator.

186           Section 3. The sum of \$2 million in recurring funds is  
187 appropriated from the General Revenue Fund to the University of  
188 Central Florida to fund the Economic Gardening Technical  
189 Assistance Program and to implement this act during the 2013-  
190 2014 fiscal year.

191           Section 4. This act shall take effect July 1, 2013.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

|                       |       |       |
|-----------------------|-------|-------|
| ADOPTED               | ___   | (Y/N) |
| ADOPTED AS AMENDED    | ___   | (Y/N) |
| ADOPTED W/O OBJECTION | ___   | (Y/N) |
| FAILED TO ADOPT       | ___   | (Y/N) |
| WITHDRAWN             | ___   | (Y/N) |
| OTHER                 | _____ |       |

1 Committee/Subcommittee hearing bill: Economic Development &  
 2 Tourism Subcommittee  
 3 Representative Hudson offered the following:

**Amendment (with title amendment)**

6 Remove lines 186-191 and insert:  
 7 Section 3. This act shall take effect July 1, 2013.

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 12 **T I T L E A M E N D M E N T**

13 Remove line 14 and insert:  
 14 effective date.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 705 Targeted Economic Development  
**SPONSOR(S):** Workman  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 546

| REFERENCE   | ACTION | ANALYST           | STAFF DIRECTOR or<br>BUDGET/POLICY CHIEF |
|---|--------|-------------------|--|
| 1) Economic Development & Tourism Subcommittee                          |        | Collins <i>OC</i> | West <i>PW</i>                           |
| 2) Transportation & Economic Development<br>Appropriations Subcommittee |        |                   |  |
| 3) Economic Affairs Committee   |        |                   |  |

### SUMMARY ANALYSIS

House Bill 705 amends s. 288.9625, F.S. to include innovation businesses among the entities eligible to receive assistance from the Florida Institute for the Commercialization of Public Research (Institute). The bill also grants the Institute the ability to create corporate subsidiaries, and, as long as it does not interfere with its core mission, may charge for services provided to private companies and affiliated organizations whose products are developed by the research and development activities of a publicly supported college, university, or research institute.

The bill also creates s. 288.96255, F.S. which would establish the Florida Technology Seed Capital Fund (Fund) as a corporate subsidiary of the Institute. The Fund will consist of \$50 million and be administered by the Institute for the purpose of fostering greater private-sector investment funding, encouraging seed-stage investments in start-up companies, and advising companies how to restructure existing management, operations, or production in order to attract advantageous business opportunities.

### SEE FISCAL COMMENTS

The effective date of this bill is July 1, 2013.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

The Florida Institute for the Commercialization of Public Research was created by the Legislature in 2007<sup>1</sup> as a non-profit organization tasked with working collaboratively with the technology licensing and commercialization offices of Florida's public supported universities and research institutions. It focuses on assisting in the creation of investable companies that in turn create jobs in innovation industries within the state. The Institute's mission is economic development through the commercialization of new discoveries generated from publicly funded research. The Institute supports new company formation and growth activities that result in increased job creation, capital investment, and revenue generation.

Florida universities and research institutions are conducting ground-breaking research and discovery that spurs the creation of new products and companies. With a research base of over \$2 billion, the Institute plays a critical role in helping to uncover the most commercially-viable opportunities, and then supporting them with hands-on services and funding to increase their likelihood of success. Competing with 38 states that have similar initiatives, Institute programs enhance Florida's entrepreneurship and innovation ecosystem at the early stages, with assisted companies growing and creating high-wage, high-skill jobs thereby strengthening Florida's economy and competitive position worldwide.<sup>2</sup>

Presently, the Institute operates two seed funding programs: the Seed Capital Accelerator Program and the Florida Research Commercialization Matching Grant Program. The purpose of each is to attract capital investment into Florida-based startup companies, to foster effective management, growth, capitalization, technology protection, or marketing and business success.

##### Seed Capital Accelerator Program

In 2010 the Legislature appropriated \$10 million for the deployment of the Institute's Seed Capital Accelerator Program which provides loans ranging from \$50,000 to \$300,000 to qualified startup companies. These qualified companies are required to raise private, approved matching funds thereby leveraging the state's investment and inducing additional private capital into Florida-based companies. The Institute notes that, to date, it has received over 80 applications for funding and committed \$6 million to 20 different companies. Of this, \$3.6 million has been dispersed to 12 companies who have directly created 75 jobs averaging \$74,000 in salary while raising \$12 million in private funds. The Institute expects the balance of the funding to be committed by the end of FY 2013 with projections of over 5,000 jobs to be created over the next 5-10 years.

##### Florida Research Commercialization Matching Grant Program

This program was created to match Federal Phase I and Phase II Small Business Innovation Research and Small Business Technology Transfer awards, both administered by U.S. Small Business Administration. The Institute developed and launched the program early in 2011, awarding nearly \$2.8 million to 13 companies statewide. Grantees have leveraged state funds to apply for and win additional federal grants and contracts, create direct high-wage, high skill jobs within their organizations, and engage local contractors to support development and manufacturing activities. All available funds in this program have been disbursed by the Institute resulting in 47 direct new jobs average \$60,000 in

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<sup>1</sup> Section 288.9625, F.S.

<sup>2</sup> The Florida Institute for the Commercialization of Public Research, *Annual Report*; June 30, 2012.

salary in addition to 9 new contracting positions. In addition, Federal grants awarded these companies over \$7 million.<sup>3</sup>

### **Effect of Proposed Changes**

#### **Expanded Purpose of the Florida Institute for the Commercialization of Public Research**

The bill changes the purpose of the Institute to include assisting in the commercialization of products developed by the research and development activities of innovation businesses. The Institute may:

- Create corporate subsidiaries.
- Develop or accrue ownership, royalty, patent, or other rights over or interest in companies or products in connection with financing provided directly to client companies.
- Deliver and charge for services to private companies and affiliated organizations so long as doing so does not interfere with the core mission of the Institute.
- Not use its capital in support of private companies or affiliated organizations whose products were not developed by research and development activities of a publicly supported college, university, or research institute, or any other organization.

#### **Florida Technology Seed Capital Fund**

The Institute is directed to create the Florida Technology Seed Capital Fund as a corporate subsidiary. The purpose of this fund is to foster greater private-sector investment funding, encourage seed-state investments in start-up companies, and advise companies on the restructuring of existing management, operations, or production in order to attract greater business opportunities.

The bill directs the Institute to establish an advisory board consisting of venture capitalists and early-stage investors who will advise and guide the fund in addition to making funding recommendations. The administration of the fund will be the responsibility of the Institute. Administrative fees are not to exceed 5%, and the fund must consist of \$50 million. The state will annually evaluate the activities and results of the funding.

The bill requires the Institute to use a thorough and detailed process modeled after the best practices of the investment industry to evaluate each proposal. To approve a company for investment, the Institute must consider if:

- The company has a strong intellectual property position, capable management team, readily identifiable paths to market or commercialization, significant job-growth potential, the ability to provide other sources of capital to leverage the state's investment, and the potential to attract additional funding.
- The company has been identified by a publicly funded research institution.
- The company operates in a targeted industry as identified by EFI.
- The company has been identified by an approved private-sector lead investor who has demonstrated due diligence typical of start-up investments in evaluating the potential of the company.
- The advisory board and fund manager have reviewed the company's proposal and recommend it.

The fund may make an investment if a company is approved for funding by the Institute and:

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<sup>3</sup> *Ibid*, 5

- There is a one-to-one match of private-sector investment.
- The investment range is between \$50,000 and \$300,000.
- The total invested in a single company does not exceed \$500,000 (which would require a two-to-one match of private sector investment).

In addition, the Institute may:

- Provide a company with value-added support services in the areas of business plan development and strategy, the preparation of investor presentations, and other critical areas identified by the Institute to increase its chances for long-term viability and success.
- Encourage appropriate investment funds to become preapproved to match investment funds.
- Market the attractiveness of the state as an early-stage investment location.
- Collaborate with state economic development organizations, national associations of seed and angel funds, and other innovation-based associations to create an enhanced state entrepreneurial ecosystem.

The Institute is required to annually evaluate the activities and results of the funding, taking into consideration that seed investment horizons span anywhere from 3 to 7 years.

## B. SECTION DIRECTORY:

**Section 1:** Amends subsections (2), (9), (10), and paragraph (a) of subsection (11) of section 288.9625, F.S. to expand the scope of services offered by the Florida Institute for the Commercialization of Public Research.

**Section 2:** Creates section 288.96255, F.S. to establish the Florida Technology Seed Capital Fund as a corporate subsidiary of the Institute.

**Section 3:** Provides an effective date of July 1, 2013.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The bill allows the Institute to charge privately-held companies for services provided which could increase revenues to the state.

#### 2. Expenditures:

SEE FISCAL COMMENTS

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill could have a positive impact on the private sector by stimulating more capital investment within the state.

D. FISCAL COMMENTS:

The bill creates the Florida Technology Seed Capital Fund and directs that it consist of \$50 million, but does not specify from where these funds are to be drawn.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not require a reduction of the percentage of state tax shared with municipalities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1                                   A bill to be entitled  
 2       An act relating to targeted economic development;  
 3       amending s. 288.9625, F.S.; expanding the purpose of  
 4       the Institute for the Commercialization of Public  
 5       Research to include the commercialization of products  
 6       developed by an innovation business; authorizing the  
 7       institute to create corporate subsidiaries; providing  
 8       conditions under which the institute may develop or  
 9       accrue certain interests in companies or products;  
 10      specifying conditions under which the institute may  
 11      deliver and charge for services; expanding the  
 12      institute's reporting requirements to include  
 13      information on assistance given to an innovation  
 14      business; creating s. 288.96255, F.S.; requiring that  
 15      the institute create the Florida Technology Seed  
 16      Capital Fund; providing for the purpose of the fund;  
 17      providing for certain administrative costs of the  
 18      fund; requiring professional managers to manage the  
 19      fund; providing for an investor advisory board to  
 20      advise and guide the managers and to make funding  
 21      recommendations; requiring the institute to administer  
 22      the fund and providing criteria for its  
 23      administration; providing for responsibilities of the  
 24      institute; providing for an annual evaluation of the  
 25      activities and results of funding; providing an  
 26      effective date.

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 28   Be It Enacted by the Legislature of the State of Florida:



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Section 1. Subsections (2), (9), (10), and paragraph (a) of subsection (11) of section 288.9625, Florida Statutes, are amended to read:

288.9625 Institute for the Commercialization of Public Research.—There is established at a public university or research center in this state the Institute for the Commercialization of Public Research.

(2) The purpose of the institute is to assist in the commercialization of products developed by the research and development activities of an innovation business, as defined in s. 288.1089; a publicly supported college, university, or research institute; or any other publicly supported organization in this ~~universities and colleges, research institutes, and publicly supported organizations within the~~ state. The institute shall ~~operate to~~ fulfill its purpose ~~and~~ in the best interests of the state. The institute:

(a) Is ~~Shall be~~ a corporation primarily acting as an instrumentality of the state pursuant to s. 768.28(2), for the purposes of sovereign immunity;

(b) Is not an agency within the meaning of s. 20.03(11);

(c) Is subject to the open records and meetings requirements of s. 24, Art. I of the State Constitution, chapter 119, and s. 286.011;

(d) Is not subject to the provisions of chapter 287;

(e) Shall be governed by the code of ethics for public officers and employees as set forth in part III of chapter 112;

(f) May ~~Is not authorized to~~ create corporate

57 subsidiaries;

58 (g) Shall support existing commercialization efforts at  
59 state universities; and

60 (h) May ~~Shall~~ not supplant, replace, or direct existing  
61 technology transfer operations or other commercialization  
62 programs, including incubators and accelerators.

63 (9) The institute may ~~shall~~ not develop or accrue any  
64 ownership, royalty, patent, or other such rights over or  
65 interest in companies or products in the institute except in  
66 connection with financing provided directly to client companies  
67 and shall maintain the confidentiality ~~secrecy~~ of proprietary  
68 information.

69 (10) The institute may ~~shall~~ not charge for services  
70 provided ~~rendered~~ to state universities and affiliated  
71 organizations, community colleges, or state agencies; however,  
72 the institute may deliver and charge for services to private  
73 companies and affiliated organizations if providing a service  
74 does not interfere with the core mission of the institute. The  
75 institute may not use its capital in support of private  
76 companies or affiliated organizations whose products were not  
77 developed by research and development activities of a publicly  
78 supported college, university, or research institute, or any  
79 other organization.

80 (11) By December 1 of each year, the institute shall issue  
81 an annual report concerning its activities to the Governor, the  
82 President of the Senate, and the Speaker of the House of  
83 Representatives. The report shall include the following:

84 (a) Information on any assistance ~~and activities~~ provided

85 | by the institute to an innovation business, as defined in s.  
 86 | 288.1089; a publicly supported college, university, or research  
 87 | institute; or any other publicly supported organization assist  
 88 | ~~publicly supported universities, colleges, research institutes,~~  
 89 | ~~and other publicly supported organizations~~ in the state.

90 | Section 2. Section 288.96255, Florida Statutes, is  
 91 | created to read:

92 | 288.96255 Florida Technology Seed Capital Fund; creation;  
 93 | duties.--

94 | (1) The Institute for the Commercialization of Public  
 95 | Research shall create the Florida Technology Seed Capital Fund  
 96 | as a corporate subsidiary. The fund shall consist of \$50  
 97 | million. The purpose of the fund is to foster greater private-  
 98 | sector investment funding, to encourage seed-stage investments  
 99 | in start-up companies, and to advise companies about how to  
 100 | restructure existing management, operation, or production to  
 101 | attract advantageous business opportunities. The proceeds of a  
 102 | sale of the equity held by the fund shall be returned to the  
 103 | fund for reinvestment.

104 | (2) The institute shall administer the Florida Technology  
 105 | Seed Capital Fund. Administrative costs paid out of the fund may  
 106 | not exceed 5 percent of the total appropriation for the program.

107 | (3) The institute shall employ professionals who have both  
 108 | technical and business expertise to manage fund activity. The  
 109 | institute shall establish an investor advisory board comprised  
 110 | of venture capital professionals and early-stage investors from  
 111 | this and other states who shall advise and guide the fund  
 112 | management and make funding recommendations.

113           (4) The institute shall use a thorough and detailed  
 114 process that is modeled after the best practices of the  
 115 investment industry to evaluate a proposal. In order to approve  
 116 a company for investment, the institute must consider if:

117           (a) The company has a strong intellectual property  
 118 position, a capable management team, readily identifiable paths  
 119 to market or commercialization, significant job-growth  
 120 potential, the ability to provide other sources of capital to  
 121 leverage the state's investment, and the potential to attract  
 122 additional funding;

123           (b) The company has been identified by a publicly funded  
 124 research institution;

125           (c) The start-up company operates in a targeted industry  
 126 that is identified by Enterprise Florida, Inc.

127           (d) The company has been identified by an approved  
 128 private-sector lead investor who has demonstrated due diligence  
 129 typical of start-up investments in evaluating the potential of  
 130 the company; and

131           (e) The advisory board and fund manager have reviewed the  
 132 proposal of a company and recommend it.

133           (5) The fund may make an investment if a company is  
 134 approved by the institute and:

135           (a) The seed-stage investment has a one-to-one private-  
 136 sector match of investment.

137           (b) The seed-stage investment is within the range from  
 138 \$50,000 to \$300,000, which requires a one-to-one private-sector  
 139 match.

140           (c) For an additional seed investment, the cumulative

141 total does not exceed \$500,000 for any single company, which  
 142 requires a two-to-one private-sector match.

143 (6) The institute may:

144 (a) Provide a company with value-added support services in  
 145 the areas of business plan development and strategy, the  
 146 preparation of investor presentations, and other critical areas  
 147 identified by the institute to increase its chances for long-  
 148 term viability and success.

149 (b) Encourage appropriate investment funds to become  
 150 preapproved to match investment funds;

151 (c) Market the attractiveness of the state as an early-  
 152 stage investment location; and

153 (d) Collaborate with state economic-development  
 154 organizations, national associations of seed and angel funds,  
 155 and other innovation-based associations to create an enhanced  
 156 state entrepreneurial ecosystem.

157 (7) The institute shall annually evaluate the activities  
 158 and results of the funding, taking into consideration that seed  
 159 investment horizons span from 3 to 7 years.

160 Section 3. This act shall take effect July 1, 2013.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

|                       |       |       |
|-----------------------|-------|-------|
| ADOPTED               | ___   | (Y/N) |
| ADOPTED AS AMENDED    | ___   | (Y/N) |
| ADOPTED W/O OBJECTION | ___   | (Y/N) |
| FAILED TO ADOPT       | ___   | (Y/N) |
| WITHDRAWN             | ___   | (Y/N) |
| OTHER                 | _____ |       |

1 Committee/Subcommittee hearing bill: Economic Development &  
 2 Tourism Subcommittee  
 3 Representative Workman offered the following:

**Amendment**

6 Remove lines 96-142 and insert:  
 7 as a corporate subsidiary. The purpose of the fund is to foster  
 8 greater private-sector investment funding, to encourage seed-  
 9 stage investments in start-up companies, and to advise companies  
 10 about how to restructure existing management, operation, or  
 11 production to attract advantageous business opportunities. The  
 12 proceeds of a sale of the equity held by the fund shall be  
 13 returned to the fund for reinvestment.

14 (2) The institute shall administer the Florida Technology  
 15 Capital Seed Fund. Administrative costs paid out of the fund  
 16 shall be determined by the investor advisory board.

17 (3) The institute shall employ professionals who have both  
 18 technical and business expertise to manage fund activity. The  
 19 institute shall establish an investor advisory board comprised  
 20 of venture capital professionals and early-stage investors from

Amendment No. 1

21 | this and other states who shall advise and guide the fund  
22 | management and make funding recommendations.

23 |       (4) The institute shall use a thorough and detailed  
24 | process that is modeled after the best practices of the  
25 | investment industry to evaluate a proposal. In order to approve  
26 | a company for investment, the institute must consider if:

27 |       (a) The company has a strong intellectual property  
28 | position, a capable management team, readily identifiable paths  
29 | to market or commercialization, significant job-growth,  
30 | potential, the ability to provide other sources of capital to  
31 | leverage the state's investment, and the potential to attract  
32 | additional funding;

33 |       (b) The company has been identified by a publicly funding  
34 | research institution;

35 |       (c) The start-up company operates in a target industry  
36 | designated pursuant to the procedure specified in s. 288.106(2);

37 |       (d) The company has been identified by an approved  
38 | private-sector lead investor who has demonstrated due diligence  
39 | typical of start-up investments in evaluating the potential of  
40 | the company; and

41 |       (e) The advisory board and fund manager have reviewed the  
42 | proposal of a company and recommend it.

43 |       (5)(a) Seed funds may be invested if the institute  
44 | approves a company and the initial seed-stage investment. The  
45 | initial seed-stage investment must be at least \$50,000, but no  
46 | greater than \$300,000. The initial seed-stage investment  
47 | requires a one-to-one private-sector match of investment.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 705 (2013)

Amendment No. 1

48        (b) Additional seed funds may be invested in a company if  
49 approved by the institute. The cumulative total of investment in  
50 a single company may not exceed \$500,000. Any additional  
51 investment amount requires a two-to-one private-sector match of  
52 investment.

53

54





**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 921 Tax Exemptions for Property Used for Affordable Housing  
**SPONSOR(S):** Renuart  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 740

| REFERENCE                                      | ACTION | ANALYST           | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|--|--------|-------------------|---------------------------------------|
| 1) Economic Development & Tourism Subcommittee |        | Duncan <i>pdd</i> | West <i>RW</i>                        |
| 2) Finance & Tax Subcommittee                  |        |                   |                                       |
| 3) Economic Affairs Committee                  |        |                   |                                       |

**SUMMARY ANALYSIS**

The bill removes the provision authorizing the affordable housing property exemption to apply to affordable housing owned by a Florida-based limited partnership whose sole general partner is a not for profit corporation qualified as charitable under the Internal Revenue Code. The bill also makes technical corrections to the amended provision.

Removing the affordable housing property exemption for limited partnerships should have a positive fiscal impact on local governments.

The bill is effective upon becoming a law and the removal of the exemption applies to the 2013 ad valorem tax rolls.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

In 1999,<sup>1</sup> the Legislature authorized property owned entirely by a not for profit corporation and used to provide affordable housing through any state housing program under chapter 420, F.S., and serving low-income and very-low-income persons, to be considered property as owned by an exempt entity used for charitable purpose and exempt from ad valorem taxation. The not for profit corporation must qualify as charitable under s. 501(c)(3) of the Internal Revenue Code and other federal regulations.

In 2009,<sup>2</sup> and later reenacted in 2011,<sup>3</sup> the Legislature expanded the affordable housing property exemption to apply to property owned entirely by a not for profit corporation, or a Florida-based limited partnership whose sole general partner is a not for profit corporation. The not for profit corporation must qualify as charitable under s. 501(c)(3) of the Internal Revenue Code. Any property owned by a limited partnership which is disregarded as an entity for federal income tax purposes is treated as if owned by its sole general partner.

The unintended effect of the expanded provision is that an affordable housing (i.e., low income housing tax credit) development with a nonprofit general partner can claim a tax exemption even though the limited partnership that owns the property is a for-profit corporation. While the provision may be beneficial to non-profit developments, the provision may also be misused if a for-profit developer uses a compliant non-profit, which has no significant role in the development's construction or operations, to gain the tax exemption.

##### Effect of Proposed Changes

The bill removes the provision authorizing the affordable housing property exemption to apply to affordable housing owned by a Florida-based limited partnership whose sole general partner is a not for profit corporation. The bill also makes technical corrections to the amended provision. The removal of such authority is effective upon becoming a law and applies to the 2013 ad valorem tax rolls.

#### B. SECTION DIRECTORY:

**Section 1:** Amends s. 196.1978, F.S., relating to the affordable housing property exemption, to remove the application of the exemption to property owned by a Florida-based limited partnership whose sole general partner is a not for profit corporation; and to make technical corrections.

**Section 2:** Provides that the act becomes effective upon becoming a law and must apply first to the 2013 ad valorem tax rolls.

### II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

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<sup>1</sup> Section 15, ch. 99-378, L.O.F., codified at s. 196.1978, F.S.

<sup>2</sup> Section 18, ch. 2009-96, L.O.F., amending s. 196.1978, F.S.

<sup>3</sup> Section 4, ch. 2011-15, L.O.F., reenacting s. 196.1978, F.S.

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

Indeterminate. The bill eliminates the authority for an affordable housing property tax exemption for affordable housing developments owned by a limited partnership whose sole general partner is a not for profit corporation. The elimination of this exemption should have a positive fiscal impact on local governments.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Property used to provide affordable housing and owned by Florida-based limited partnerships, the sole general partner of which is a not for profit corporations will be prohibited from claiming an affordable housing tax exemption.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

N/A.

1                                   A bill to be entitled  
 2           An act relating to tax exemptions for property used  
 3           for affordable housing; amending s. 196.1978, F.S.;  
 4           deleting an ad valorem tax exemption for property  
 5           owned by certain Florida-based limited partnerships  
 6           and used for affordable housing for certain income-  
 7           qualified persons; providing for retroactive  
 8           application; providing an effective date.

9  
 10   Be It Enacted by the Legislature of the State of Florida:

11  
 12           Section 1. Section 196.1978, Florida Statutes, is amended  
 13   to read:

14           196.1978 Affordable housing property exemption.—Property  
 15   used to provide affordable housing to to ~~to serving~~ eligible persons  
 16   as defined by s. 159.603(7) and natural persons or families  
 17   meeting the extremely-low-income, very-low-income, low-income,  
 18   or moderate-income limits specified in s. 420.0004, which  
 19   ~~property~~ is owned entirely by a nonprofit entity that is a  
 20   corporation not for profit, qualified as charitable under s.  
 21   501(c)(3) of the Internal Revenue Code and in compliance with  
 22   Rev. Proc. 96-32, 1996-1 C.B. 717, is ~~or a Florida-based limited~~  
 23   ~~partnership, the sole general partner of which is a corporation~~  
 24   ~~not for profit which is qualified as charitable under s.~~  
 25   ~~501(c)(3) of the Internal Revenue Code and which complies with~~  
 26   ~~Rev. Proc. 96-32, 1996-1 C.B. 717, shall be considered property~~  
 27   owned by an exempt entity and used for a charitable purpose, and  
 28   those portions of the affordable housing property that ~~which~~

29 provide housing to natural persons or families classified as  
 30 extremely low income, very low income, low income, or moderate  
 31 income under s. 420.0004 are ~~shall be~~ exempt from ad valorem  
 32 taxation to the extent authorized under ~~in~~ s. 196.196. All  
 33 property identified in this section must ~~shall~~ comply with the  
 34 criteria provided under s. 196.195 for determining ~~determination~~  
 35 ~~of~~ exempt status and ~~to be~~ applied by property appraisers on an  
 36 annual basis ~~as defined in s. 196.195~~. The Legislature intends  
 37 that any property owned by a limited liability company ~~or~~  
 38 ~~limited partnership~~ which is disregarded as an entity for  
 39 federal income tax purposes pursuant to Treasury Regulation  
 40 301.7701-3(b)(1)(ii) ~~shall~~ be treated as owned by its sole  
 41 member ~~or sole general partner~~.

42 Section 2. This act shall take effect upon becoming a law  
 43 and shall first apply to the 2013 ad valorem tax rolls.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 975 Archeological Sites and Specimens

**SPONSOR(S):** Metz

**TIED BILLS:** IDEN./SIM. BILLS: SB 1188

| REFERENCE   | ACTION | ANALYST           | STAFF DIRECTOR or<br>BUDGET/POLICY CHIEF |
|---|--------|-------------------|--|
| 1) Economic Development & Tourism Subcommittee                          |        | Collins <i>OC</i> | West <i>PW</i>                           |
| 2) Transportation & Economic Development<br>Appropriations Subcommittee |        |                   |  |
| 3) Economic Affairs Committee   |        |                   |  |

### SUMMARY ANALYSIS

Florida law prohibits persons from conducting archaeological field investigations on, or removing or attempting to remove, deface, destroy, or otherwise alter any archaeological site or specimen located upon any land owned or controlled by the state or within the boundaries of a designated state archaeological landmark or landmark zone, except under the authority of a permit granted by the Division of Historical Resources of the Department of State (Division). Persons engaging in these activities without an approved permit can face criminal penalties, administrative fines, and the forfeiture of any collected materials.

House Bill 975 expands the area where unauthorized archaeological activity is prohibited to include land owned by water authorities, and authorizes the Division to issue permits for archaeological research at these locations.

The fiscal impact of this bill is insignificant on state funds.

The bill has an effective date of July 1, 2013.



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### State Policy Relative to Historic Properties

The State Policy Relative to Historic Properties<sup>1</sup> acknowledges that the rich and unique heritage of historic properties in this state, representing more than 10,000 years of human presence, is an important legacy to be valued and conserved for present and future generations, and that the destruction of these nonrenewable historical resources will engender a significant loss to the state's quality of life, economy, and cultural environment. It is the policy of the state to:

- Provide leadership in the preservation of the state's historic resources;
- Administer state-owned or state-controlled historic resources in a spirit of stewardship and trusteeship;
- Contribute to the preservation of non-state-owned historic resources and give encouragement to organizations and individuals undertaking preservation by private means;
- Foster conditions, using measures that include financial and technical assistance, for a harmonious coexistence of society and state historic resources;
- Encourage the public and private preservation and utilization of elements of the state's historically-built environment; and
- Assist local governments to expand and accelerate their historic preservation programs and activities.

This policy also provides that all treasure trove, artifacts and objects having intrinsic or historical and archaeological value, which have been abandoned on state-owned lands or state-owned sovereignty submerged lands, belong to the state with the title vested in the Division for the purposes of administration and protection.

##### State Archaeological Landmarks and Landmark Zones

The Division may designate an archaeological site of significance to the scientific study or public representation of the state's historical, prehistoric, or aboriginal past as a "state archaeological landmark." In addition, the Division may publicly designate an interrelated grouping of significant archaeological sites as a "state archaeological landmark zone." No site or grouping of sites may be designated without the express written consent of a private owner. Upon designation of an archaeological site, the owners and occupants of each designated state archaeological landmark or landmark zone are given written notification by the Division. Once designated, no person may conduct field investigation activities without first securing a permit from the Division.<sup>2</sup>

##### Archaeological Research Permits

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<sup>1</sup> Section 267.061, F.S.

<sup>2</sup> Section 267.11, F.S.

The Division may issue permits to conduct archaeological excavation and surface reconnaissance on state lands as long as the work to be conducted is undertaken by a museum, university, college, or other such institution. Division accredited institutions may conduct archaeological field activities on state-owned or controlled lands without acquiring permits; however, the Division must ensure the planned project will conform to existing guidelines. The Division is required to review the planned project and make a determination within 15 days from the date of notification.<sup>3</sup>

### Prohibited Archaeological Practices and Penalties

Those who attempt to conduct an archaeological field investigation or remove, deface, or destroy any archaeological site on state-owned or controlled land without first acquiring the required permits or approvals from the Division will commit a first degree misdemeanor and are subject to penalties provided in s. 775.082 or s. 775.083, F.S. All materials collected at the site, including photographs, will be forfeited to the state.<sup>4</sup>

Anyone who attempts to conduct an unsanctioned archaeological excavation will commit a first degree felony and will be subject to penalties provided in s. 775.082, s. 775.083, or s. 775.084, F.S. In addition, all materials collected at the site, including photographs, will be forfeited to the state, and the offender may be required to make restitution to the state for the archaeological or commercial value and cost of restoration and repair of such materials.<sup>5</sup> Individuals are also prohibited, and subject to criminal penalties, for selling or purchasing archaeological artifacts which have been acquired in violation of state law.<sup>6</sup>

The Division also has the authority to institute administrative proceedings which could result in fines up to \$500 per day for anyone who attempts to excavate historical artifacts on state-owned or controlled lands.<sup>7</sup>

### Proposed Changes

The bill expands the provisions contained in s. 267.12, F.S. related to the issuance of permits for excavation and surface reconnaissance on state-owned or controlled lands to also apply to land owned by water authorities. In addition, the bill amends s. 267.13, F.S. to extend prohibited practices and penalties related to archaeological sites located on state-owned or controlled land to include land owned by water authorities.

The bill makes no changes to the process by which lands are designated as state archaeological landmarks or landmark zones.

#### B. SECTION DIRECTORY:

**Section 1:** Amends s. 267.12, F. S., to include land owned by a water authority as an area that the Division of Historical Resources may issue permits for evacuation and surface reconnaissance.

**Section 2:** Amends s. 267.13, F. S., to include land owned by a water authority as an area of land whereby it is a crime to excavate, conduct archaeological investigations, or remove artifacts without express authority from the Division of Historical Resources.

**Section 3:** Provides an effective date of July 1, 2013.

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<sup>3</sup> Section 267.12, F.S.

<sup>4</sup> Section 267.13(1)(a), F.S.

<sup>5</sup> Section 267.13(1)(b), F.S.

<sup>6</sup> Section 267.13(1)(c), F.S.

<sup>7</sup> Section 267.13(2), F.S.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not require a reduction of the percentage of state tax shared with municipalities or counties.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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A bill to be entitled  
 An act relating to archeological sites and specimens;  
 amending s. 267.12, F.S.; authorizing the Division of  
 Historical Resources of the Department of State to  
 issue permits for excavation, surface reconnaissance,  
 and archaeological activities on land owned by a water  
 authority; amending s. 267.13, F.S.; providing that  
 specified activities relating to archaeological sites  
 and specimens located upon land owned by a water  
 authority are prohibited and subject to penalties;  
 authorizing the division to impose an administrative  
 fine on and seek injunctive relief against certain  
 entities; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (1) and (2) of section 267.12,  
 Florida Statutes, are amended to read:

267.12 Research permits; procedure.—

(1) The division may issue permits for excavation and  
 surface reconnaissance on land owned or controlled by the state,  
land owned by a water authority, ~~lands~~ or land ~~lands~~ within the  
 boundaries of a designated state archaeological landmark  
~~landmarks~~ or landmark zone ~~zones~~ to institutions that ~~which~~ the  
 division deems ~~shall deem~~ to be properly qualified to conduct  
 such activity, subject to such rules and regulations as the  
 division may prescribe, provided such activity is undertaken by  
 reputable museums, universities, colleges, or other historical,

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

29 scientific, or educational institutions or societies that  
 30 possess or will secure the archaeological expertise for the  
 31 performance of systematic archaeological field research,  
 32 comprehensive analysis, and interpretation in the form of  
 33 publishable reports and monographs, such reports to be submitted  
 34 to the division.

35 (2) Those state institutions considered by the division  
 36 permanently to possess the required archaeological expertise to  
 37 conduct the archaeological activities allowed under ~~the~~  
 38 ~~provisions of~~ the permit may be designated as accredited  
 39 institutions which will be allowed to conduct archaeological  
 40 field activities on land owned or controlled by the state, land  
 41 owned by a water authority, ~~state-owned or controlled lands~~ or  
 42 land within the boundaries of a ~~any~~ designated state  
 43 archaeological landmark or ~~any~~ landmark zone without obtaining  
 44 an individual permit for each project, except that those  
 45 accredited institutions will be required to give prior written  
 46 notice of all anticipated archaeological field activities on  
 47 land owned or controlled by the state, land owned by a water  
 48 authority, ~~state-owned or controlled lands~~ or land within the  
 49 boundaries of a ~~any~~ designated state archaeological landmark or  
 50 landmark zone to the division, together with such information as  
 51 may reasonably be required by the division to ensure the proper  
 52 preservation, protection, and excavation of the archaeological  
 53 resources. However, ~~no~~ archaeological activity may not be  
 54 commenced by the accredited institution until the division has  
 55 determined that the planned project will be in conformity with  
 56 the guidelines, regulations, and criteria adopted pursuant to

57 | ss. 267.11-267.14. Such determination will be made by the  
 58 | division and notification to the institution given within a  
 59 | ~~period of 15 days~~ after ~~from the time of~~ receipt of the prior  
 60 | notification by the division.

61 | Section 2. Subsections (1) and (2) of section 267.13,  
 62 | Florida Statutes, are amended to read:

63 | 267.13 Prohibited practices; penalties.—

64 | (1) (a) Any person who by means other than excavation  
 65 | ~~either~~ conducts archaeological field investigations on, or  
 66 | removes or attempts to remove~~r~~ or defaces, destroys, or  
 67 | otherwise alters any archaeological site or specimen located  
 68 | upon, ~~any~~ land owned or controlled by the state, land owned by a  
 69 | water authority, or land within the boundaries of a designated  
 70 | state archaeological landmark or landmark zone, except in the  
 71 | course of activities pursued under the authority of a permit or  
 72 | under procedures relating to accredited institutions granted by  
 73 | the division, commits a misdemeanor of the first degree,  
 74 | punishable as provided in s. 775.082 or s. 775.083, and, in  
 75 | addition, shall forfeit to the state all specimens, objects, and  
 76 | materials collected, together with all photographs and records  
 77 | relating to such material.

78 | (b) Any person who by means of excavation ~~either~~ conducts  
 79 | archaeological field investigations on, or removes or attempts  
 80 | to remove~~r~~ or defaces, destroys, or otherwise alters any  
 81 | archaeological site or specimen located upon, ~~any~~ land owned or  
 82 | controlled by the state, land owned by a water authority, or  
 83 | land within the boundaries of a designated state archaeological  
 84 | landmark or landmark zone, except in the course of activities

85 | pursued under the authority of a permit or under procedures  
 86 | relating to accredited institutions granted by the division,  
 87 | commits a felony of the third degree, punishable as provided in  
 88 | s. 775.082, s. 775.083, or s. 775.084, and any vehicle or  
 89 | equipment of any person used in connection with the violation is  
 90 | subject to forfeiture to the state if it is determined by any  
 91 | court of law that the vehicle or equipment was involved in the  
 92 | violation. Such person shall forfeit to the state all specimens,  
 93 | objects, and materials collected or excavated, together with all  
 94 | photographs and records relating to such material. The court may  
 95 | also order the defendant to make restitution to the state for  
 96 | the archaeological or commercial value and cost of restoration  
 97 | and repair as defined in subsection (4).

98 |       (c) Any person who offers for sale or exchange any object  
 99 | with knowledge that it has previously been collected or  
 100 | excavated in violation of any of the terms of ss. 267.11-267.14,  
 101 | or who procures, counsels, solicits, or employs any other person  
 102 | to violate any prohibition contained in ss. 267.11-267.14 or to  
 103 | sell, purchase, exchange, transport, receive, or offer to sell,  
 104 | purchase, or exchange any archaeological resource excavated or  
 105 | removed from ~~any~~ land owned or controlled by the state, land  
 106 | owned by a water authority, or land within the boundaries of a  
 107 | designated state archaeological landmark or landmark zone,  
 108 | except with the express consent of the division, commits a  
 109 | felony of the third degree, punishable as provided in s.  
 110 | 775.082, s. 775.083, or s. 775.084, and any vehicle or equipment  
 111 | of any person used in connection with the violation is subject  
 112 | to forfeiture to the state if it is determined by any court of

113 law that such vehicle or equipment was involved in the  
 114 violation. All specimens, objects, and material collected or  
 115 excavated, together with all photographs and records relating to  
 116 such material, shall be forfeited to the state. The court may  
 117 also order the defendant to make restitution to the state for  
 118 the archaeological or commercial value and cost of restoration  
 119 and repair as defined in subsection (4).

120 (2)(a) The division may institute an administrative  
 121 proceeding to impose an administrative fine of not more than  
 122 \$500 a day on any person or business organization that, without  
 123 written permission of the division, explores for, salvages, or  
 124 excavates treasure trove, artifacts, sunken or abandoned ships,  
 125 or other objects having historical or archaeological value  
 126 located upon land owned or controlled by the state ~~on state-~~  
 127 ~~owned or state-controlled lands~~, including state sovereignty  
 128 submerged land, or land owned by a water authority ~~lands~~.

129 (b) The division shall institute an administrative  
 130 proceeding by serving written notice of a violation by certified  
 131 mail upon the alleged violator. The notice shall specify the law  
 132 or rule allegedly violated and the facts upon which the  
 133 allegation is based. The notice shall also specify the amount of  
 134 the administrative fine sought by the division. The fine is  
 135 ~~shall~~ not ~~become~~ due until after service of notice and an  
 136 administrative hearing. However, the alleged violator has ~~shall~~  
 137 ~~have~~ 20 days after ~~from~~ service of notice to request an  
 138 administrative hearing. Failure to respond within that time  
 139 constitutes ~~shall constitute~~ a waiver, and the fine becomes  
 140 ~~shall become~~ due without a hearing.



141 (c) The division may enter its judgment for the amount of  
 142 the administrative penalty imposed in a court of competent  
 143 jurisdiction, pursuant to s. 120.69. The judgment may be  
 144 enforced as any other judgment.

145 (d) The division may apply to a court of competent  
 146 jurisdiction for injunctive relief against any person or  
 147 business organization that explores for, salvages, or excavates  
 148 treasure trove, artifacts, sunken or abandoned ships, or other  
 149 objects having historical or archaeological value located upon  
 150 ~~en state owned or state controlled~~ land owned or controlled by  
 151 the state, including state sovereignty submerged land, or land  
 152 owned by a water authority without the written permission of the  
 153 division.

154 (e) The division shall adopt rules pursuant to ss.  
 155 120.536(1) and 120.54 to administer ~~implement the provisions of~~  
 156 this section.

157 Section 3. This act shall take effect July 1, 2013.