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# **Transportation & Economic Development Appropriations Subcommittee**

## **Meeting Packet**

**March 31, 2015  
12:30 p.m. – 2:30 p.m.  
Reed Hall**



# The Florida House of Representatives

## Appropriations Committee

### Transportation & Economic Development Appropriations Subcommittee

Steve Crisafulli  
Speaker

Clay Ingram  
Chair

March 31, 2015

**AGENDA**  
**12:30 PM – 2:30 PM**  
**Reed Hall**

- I. **Call to Order/Roll Call**
- II. **Consideration of Bills**
  - HB 237 Qualified Television Revolving Loan Fund by Rep. Latvala
  - HB 553 Public Libraries by Rep. Perry
  - CS/HB 1101 Central Florida Expressway Authority by Transportation & Ports Subcommittee, Rep. Miller
  - HB 4043 Write-in Candidates by Rep. Geller
  - HB 7067 Economic Development by Economic Development & Tourism Subcommittee, Rep. La Rosa
  - HB 7099 Individuals with Disabilities by Economic Affairs Committee, Rep. Oliva
- III. **Closing Remarks/Adjourn**


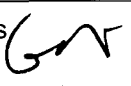


## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 237 Qualified Television Revolving Loan Fund

**SPONSOR(S):** Latvala and others

**TIED BILLS:** IDEN./SIM. BILLS: SB 196

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Economic Development & Tourism Subcommittee	11 Y, 0 N	Lukis	Duncan
2) Transportation & Economic Development Appropriations Subcommittee		Proctor 	Davis 
3) Economic Affairs Committee			

### SUMMARY ANALYSIS

The bill creates a qualified television revolving loan fund ("QTV Fund" or "Fund") - an "evergreen" fund privately managed under state oversight, which offers loans for qualified television content production throughout the state.

As production companies repay the principal and interest to the QTV Fund, state funds, less any QTV Fund expenses, are returned to the account to be lent to subsequent borrowers. Loans will not exceed 36 months in duration, and the fund administrator must invest and reinvest funds in a manner so as to not subject the funds to state or federal taxes.

The bill provides for the QTV Fund to expire on December 31, 2025. Any remaining funds in the QTV Fund at such time will revert to the General Revenue Fund.

The bill may have a negative fiscal impact on the workload of the Department of Economic Opportunity. See the fiscal analysis section for additional detail.

The bill provides for an effective date of upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### Background

Florida has a long history in hosting film and television productions—from film productions like *Where the Boys Are*, *Tarzan*, *Days of Thunder*, *The Truman Show*, *Scarface*, *Caddyshack*, *Indiana Jones and the Temple of Doom*, *Armageddon*, *The Birdcage*, and *2 Fast 2 Furious*, to television productions like *Miami Vice*, *Flipper*, *CSI: Miami*, *Dexter*, *Miami Ink*, *Burn Notice*, *8<sup>th</sup> and Ocean*, *Kourtney & Kim Take Miami*, *The Real Housewives of Miami*, and *The Glades*.<sup>1</sup> Florida has also hosted the production of various television episodes, commercials, telenovelas, and award shows.

In addition, Florida is host to many Univision and Telemundo studios and production facilities.<sup>2</sup> Univision is the largest Spanish-speaking television network in the world, and Telemundo is one of the nation's fastest growing Spanish-language broadcast networks. Telemundo also produces original theatrical motion pictures, news and sports broadcasts.<sup>3</sup>

Further, Florida is home to numerous digital media developers and publishers, including Electronic Arts (EA) Tiburon, a major studio for the world's largest video game developer, as well as 360ed, n-SPACE, and Firebrand Games.<sup>4</sup> Many digital media developers and publishers occupy Florida's "high-tech corridor," which comprises of 23 counties and is connected by research universities, economic development organizations, educational institutions, workforce boards, industry groups, and innovative gaming companies.<sup>5</sup> Notably, the corridor is home to the University of Central Florida's graduate video game design school.<sup>6</sup>

Presently, Florida ranks third in the nation for its number of film and television productions.<sup>7</sup> Additionally, in 2013, the Department of Economic Opportunity's ("department" or "DEO") Bureau of Labor Market Statistics collected the following employment information about Florida's film and entertainment industry.<sup>8</sup>

- In 2013, there were 4,446 established businesses in Florida's film and entertainment industry employing 22,545 individuals.
- The average wage of such employees was \$70,996, which exceeds the state's annual average wage for all industries of \$43,651 by 62.6 percent.
- The largest sector of the film and entertainment industry was television broadcasting with 8,212 Floridians employed.
- The sector of the film and entertainment industry with the highest annual average wage (\$98,764) was motion picture and video distribution.

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<sup>1</sup> Motion Picture Association of America, *Economic and Social Impacts of the Florida Film and Entertainment Industry Financial Incentive Program* at 11. March 2013. On file with staff.

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

<sup>3</sup> *Id.*

<sup>4</sup> *Id.* (For more information on Florida's high-tech corridor, visit: [www.floridahightech.com](http://www.floridahightech.com).)

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Office of Economic and Demographic Research, *Return on Investment for the Entertainment Industry Incentive Programs*, at 4. (January 2015). On file with staff.

<sup>8</sup> Florida Office of Film and Entertainment, Fiscal Year 2013-2014 Annual Report, at 3. (November 1, 2014). On file with staff.

## Florida's Office of Film and Entertainment

The Florida Office of Film and Entertainment ("OFE"), which is administratively housed in DEO, is the state's official mechanism for the development and expansion of the motion picture, television, and entertainment industries.<sup>9</sup> OFE staff members facilitate access to filming locations, serve as liaisons between the industry and government entities, administer incentive programs, and market the state as a world-class production center.<sup>10</sup>

OFE has an operating budget of \$400,000 and employs five full-time staff members (including one Los Angeles-based liaison).<sup>11</sup>

## Florida's Entertainment Industry Financial Incentive Program<sup>12</sup>

Florida's Entertainment Industry Financial Incentive Program ("FTC program" or "program"), which is administered by OFE, provides tax credits for qualified expenditures related to filming and production activities in Florida. The Florida Legislature created the program to encourage the use of Florida "as a site for filming, for the digital production of films, and to develop and sustain the workforce and infrastructure for film, digital media, and entertainment production."<sup>13</sup>

The program began as a cash refund incentive subject to an annual appropriation,<sup>14</sup> but in 2010 the Legislature replaced the refund incentive with a transferable tax credit program, available as an offset against any liability for the sales and use tax and corporate income tax.<sup>15</sup> These tax credits provide a reduction in taxes due, after verification that statutory or contractual terms have been met.

However, if the activity of the recipients of the credits results in no tax obligation, such recipients are unable to benefit from the credits. To overcome this limitation, incentive recipients have the option to monetize the credits by selling them to an entity that has a tax obligation, either directly or through an intermediary (tax broker), and typically at a discount.<sup>16</sup> The statutes also authorize the transfer of the credit back to the state for 90 percent of the credit's face value (though this option is currently unavailable as no state funds have been appropriated for this purpose).<sup>17</sup>

Annual credit caps were initially set for five years, from FY 2010-11 through 2014-15, for a total of \$242 million. In 2011, the Legislature increased the total to \$254 million.<sup>18</sup> In 2012, the Legislature extended the program through FY 2015-16 and authorized an additional \$42 million in credits, for a total of \$296 million for the six-year period.<sup>19</sup> OFE reports that all of the credits have been certified (or allocated to certified productions), and as of September 30, 2014, \$119 million of the \$296 million have been awarded.<sup>20</sup>

Qualified expenditures include production expenditures incurred by a qualified production in Florida for the following:

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<sup>9</sup> *Id.*

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

<sup>11</sup> Department of Economic Opportunity Office of Film and Entertainment, *Five-Year Strategic Plan for Economic Development, 2013-2018*, at 10. On file with staff.

<sup>12</sup> Information about the incentive program is also available on OFE's website, available at: <http://filminflorida.com/ifi/incentives.asp> (last visited March 5, 2015).

<sup>13</sup> Section 288.1254, F.S.

<sup>14</sup> Section 2, Ch. 2003-81, L.O.F.

<sup>15</sup> Section 28, Ch. 2010-147, L.O.F.

<sup>16</sup> Section 288.1254(5), F.S.

<sup>17</sup> Section 288.1254(6)(a), F.S.

<sup>18</sup> Section 26, Ch. 2011-76, L.O.F.

<sup>19</sup> Section 15, Ch. 2012-32, L.O.F.

<sup>20</sup> Office of Economic and Demographic Research, *Return on Investment for the Entertainment Industry Incentive Programs*, at 5. (January 2015). On file with staff.

- goods purchased or leased from, or services provided by, a vendor or supplier in Florida that is registered with the Department of State (“DOS”) or the Department of Revenue (“DOR”) and is doing business in Florida (not including re-billed goods or services provided by an in-state company from out-of-state vendors or suppliers);
- sound stages, back lots, production editing, digital effects, sound recordings, sets, and set construction;
- entertainment-related rental equipment, including cameras and grip or electrical equipment;
- newly purchased computer software and hardware, up to \$300,000;
- meals, travel, and accommodations; and
- salary, wages, or other compensation paid to Florida residents, up to a maximum of \$400,000 per resident.<sup>21</sup>

Types of productions eligible for tax credits include the following:

- motion pictures;
- commercials;
- music videos;
- industrial or educational films;
- infomercials;
- documentary films;
- television series; and
- digital media projects (interactive games, digital animation and visual effects).<sup>22</sup>

Initially, three percent of the authorized tax credits are reserved for music videos, and three percent are reserved for independent and emerging media.<sup>23</sup> Also, awards are limited to productions within 180 days of project start dates, and awards may not be granted after the production has begun, and are capped at \$8 million per project.<sup>24</sup> Lastly, the program is scheduled to sunset on June 30, 2016.<sup>25</sup>

Florida law does not provide for any *loan* programs that pertain to the film and entertainment industry or television production. However, the Department of Economic Opportunity’s (“department” or “DEO”) Office of Film and Entertainment recently published its five-year strategic plan, which includes as a specific strategy to “[e]stablish, grow and sustain an entertainment infrastructure bank to provide low- and no- interest loans for infrastructure development for the film, multi-media and entertainment industry.”<sup>26</sup>

## **Effect of Proposed Changes**

### QTV Fund Creation

The bill creates the qualified television revolving loan fund (“QTV Fund” or “Fund”) - an “evergreen” fund privately managed under state oversight, which offers loans for qualified television content production throughout the state.

<sup>21</sup> Section 288.1254(1)(i), F.S.

<sup>22</sup> Section 288.1254(1), F.S.

<sup>23</sup> Section 288.1254(4)(b), F.S.

<sup>24</sup> *Id.*

<sup>25</sup> Section 288.1254(11), F.S.

<sup>26</sup> Department of Economic Opportunity Office of Film and Entertainment, *Five-Year Strategic Plan for Economic Development, 2013-2018*, at 13. On file with staff.

As production companies repay the principal and interest to the QTV Fund, state funds, less any QTV Fund expenses, are returned to the account to be lent to subsequent borrowers. Loans will not exceed 36 months in duration, and the fund administrator must invest and reinvest funds in a manner so as to not subject the funds to state or federal taxes.

The bill states the purpose of the Fund is to create a public-private partnership to incentivize the growth of television productions in Florida and to develop and sustain the workforce and infrastructure for such television production. The following sub-headings and explanations summarize the bill's primary components.

### Definitions

The bill creates the following definitions for terminology used throughout the bill:

- "Fund administrator" means a private sector organization under contract with DEO to manage and administer the qualified television revolving loan fund.
- "Major broadcaster" means broadcasting organizations that include, but are not limited to, television broadcasting networks, cable television, direct broadcast satellite, telecommunications companies, and Internet streaming or other digital media platforms.
- "Private investment capital" means capital from private, nongovernmental funding sources, which will be co-invested with the QTV Fund in segregated accounts.
- "Qualified lending partner" means a financial institution, as defined in s. 655.005, F.S., selected by a fund administrator that has demonstrated capability in providing financing to television production and specialized expertise in intellectual property, tax credit programs, customary broadcast license agreements, advertising inventories, and ancillary revenue sources, and a combined portfolio in film, television, and entertainment media of at least \$500 million.
- "Qualified television content" means series, mini-series, or made-for-TV content produced by a qualified production company that has in place a distribution contract with a major broadcaster, under a customary broadcaster license agreement, and meets other criteria described below. The term does not include a production that contains content that is obscene, as defined in s. 847.001, F.S.

### Fund Administrator - General Provisions

DEO must contract with a fund administrator within 90 days after funds are appropriated to the QTV Fund and must award such contract in accordance with the competitive bidding requirements in s. 287.057, F.S.

The department must give preference to applicants that are headquartered in the state, and, at a minimum, the fund administrator's qualifications must include the following:

- a demonstrated track record of managing private sector equity or debt funds in the entertainment and media industry; and
- the ability to demonstrate through a partnership agreement that a qualified lending partner is in place, which is capable of providing leverage of a minimum of 2.5 times the capital amount of the QTV Fund, for financing the production cost of qualified television content in the form of senior debt.



In addition, the bill provides that the fund administrator must be reimbursed for the costs that the fund administrator incurs in establishing and operating the Fund, which must be paid from the state funds in the QTV Fund. The fund administrator is entitled to a reasonable profit, but such distribution may not be made from the principal funds from the original appropriation.

The contract between the fund administrator and DEO must set forth the circumstances under which the contract may be terminated.

#### Fund Administrator - Powers and Duties

The bill provides for the following powers and duties for the fund administrator:

- Subject to certain limitations, the fund administrator may enter into agreements with qualified lending partners for concurrent lending through the QTV Fund.
- The fund administrator must prudently manage the funds in the QTV Fund as a revolving loan fund.
- The fund administrator must contract with one or more qualified lending partners.
- The fund administrator must provide improvement of the credit profile of a structured financial transaction for qualified production companies that produce qualified television content.
- In addition to the leverage provided by the qualified lending partner, the fund administrator may raise private investment capital to be held in separate accounts.
- The fund administrator must agree to verify that the recipient's books and records relating to funds received from the department are detailed, maintained according to generally accepted accounting principles, and will be available for the department's review upon reasonable notice.
- The fund administrator must maintain its registered office in the state throughout the duration of its contract with the department.
- By February 28 of each year, the fund administrator must submit to the department financial statements for the preceding tax year, which among other requirements, demonstrate proper segregation of state funds from private funds.
- By February 28 after the end of each year in which the fund administrator is under contract with the department, the fund administrator must submit a report to the department including certain information about the progress and status of the QTV Fund program.
- The fund administrator must submit an annual plan of accountability of economic development, including among other information, a report detailing the job creation resulting from the QTV Fund loans.
- The fund administrator must provide a conflict-of-interest statement from its governing board certifying that no person connected to or affiliated with the fund administrator is receiving or will receive any type of compensation or remuneration from a production company that has received or will receive funds from the loan program or from a qualified lending partner (though the department is free to waive this requirement for good cause).

#### Loan Structure

The bill provides that the QTV Fund may be used to make loans to production companies to fund production costs or provide improvement of the credit profile of a structured financial transaction for qualified television content. To make a loan, the fund administrator must consider the types of eligible collateral, the credit worthiness of a project, the producer's track record, the possibility that the project will encourage, enhance, or create economic benefits, and the extent to which financial assistance would foster innovative public-private partnerships and attract private debt or equity investment.

Other loan requirements include the following:

- the QTV Fund loan package must be secured by anticipated receivables from domestic and international broadcaster license agreements and other ancillary revenues that are derived from media content rights;
- the QTV Fund can only provide funding in conjunction with senior loans provided by a qualified lending partner;
- the production company's repayment of a loan must be in accordance with the license fee payment schedule agreement and the delivery of qualified television content to the major broadcaster and shall be within 60 days after such delivery;
- loans cannot exceed 36 months (though, the fund administrator may grant an extension for extenuating circumstances upon making written findings to the department specifying the conditions requiring the extension);
- the fund administrator, or board member, employee, or agent thereof, or an immediate family member of a board member, employee, or agent, may not have a financial interest in an entity that is awarded a loan under the loan program and may not benefit directly or indirectly from the making of such loan; and
- except for the funds appropriated to the department for the loan program, the credit of the state may not be pledged.

#### Qualified Television Content Criteria

The fund administrator must, at a minimum, consider the following criteria for evaluating the qualifying television content:

- The content is intended for broadcast by a major broadcaster.
- The content is produced in the state, or a minimum of 80 percent of the production budget must be spent in the state (though the fund administrator may amend this requirement if the department does not object to the amendment).
- If the content is a series, there is a programming order for at least 13 episodes (again, the fund administrator may amend this requirement if the department does not object to the amendment).
- The producer must have a contract in place with a major broadcaster to acquire content programming under a customary broadcast license agreement, and the contract must cover at least 60 percent of the budget.
- The producer must retain a foreign sales agent and must be able to provide the fund administrator with the foreign sales agent's official estimates of foreign and ancillary sales.
- The project must be bonded and secured by an industry-approved completion guarantor if the production cost per episode exceeds \$1 million (though this requirement may be waived if the loan applicant provides the fund administrator with evidence of adequate structure to protect the state's funds).

#### Audits

The bill provides that the Auditor General may conduct operational audits of the QTV Fund and fund administrator. The fund administrator must provide any required information for such audit.

#### Office of Economic and Demographic Research (EDR) and Office of Program Policy and Government Accountability (OPPAGA) Analyses

The bill directs EDR and OPPAGA to analyze the QTV Fund every three years and provide a report on their findings to the Governor, the President of the Senate, the Speaker of the Florida House of Representatives, and the chairs of the legislative appropriations committees.

Expiration

The bill provides for the QTV Fund to expire on December 31, 2025. Any remaining funds in the QTV Fund at such time will revert to the General Revenue Fund.

Effective Date

The bill provides for an effective date of upon becoming a law.

**B. SECTION DIRECTORY:**

- Section 1: Creates s. 288.127, F.S., creating the QTV Fund, including definitions, its purpose, administration, and expiration.
- Section 2: Amends s. 288.0001, F.S., requiring EDR and OPPAGA to submit a report every three years on the QTV Fund.
- Section 3: Provides an effective date.

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

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

1. Revenues:

None.

2. Expenditures:

DEO advised that it may need an additional FTE and/or OPS authority to implement. DEO states that this could be an annual recurring cost of \$125,000 to implement and manage the requirements of the bill.<sup>27</sup>

The bill does not provide an appropriation, nor is funding provided in the proposed House budget, HB 5001. The bill establishes the structure for a loan program which would require a state appropriation to implement.

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

1. Revenues:

None.

2. Expenditures:

None.

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

The bill will likely have an indeterminate positive impact on the television industry in Florida as the QTV Fund will provide access to funds for certain television production companies that may otherwise have not been available.

**D. FISCAL COMMENTS:**

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<sup>27</sup> Department of Economic Opportunity, 2015 Agency Legislative Bill Analysis on HB 237 on file with staff.  
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DATE: 3/26/2015

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:**

The department may adopt rules to administer the bill. Also, the executive director of the department is authorized to adopt emergency rules until October 1, 2016 pursuant to ss. 120.536(1) and 120.54(4) for the purpose of implementing the bill.

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

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

1                                   A bill to be entitled  
 2           An act relating to the qualified television revolving  
 3           loan fund; creating s. 288.127, F.S.; defining terms;  
 4           providing a purpose; creating the qualified television  
 5           revolving loan fund; requiring the Department of  
 6           Economic Opportunity to contract with a fund  
 7           administrator; providing fund administrator  
 8           qualifications; providing for the fund administrator's  
 9           compensation and removal; specifying the fund  
 10          administrator's powers and duties; providing the  
 11          structure of the loans; providing qualified television  
 12          content criteria; authorizing the Auditor General to  
 13          conduct an operational audit of the fund and the fund  
 14          administrator; authorizing the department to adopt  
 15          rules; providing for expiration of the loan program;  
 16          providing emergency rulemaking authority; providing  
 17          for expiration of the emergency rulemaking authority;  
 18          amending s. 288.0001, F.S.; requiring an analysis of  
 19          the qualified television revolving loan fund in the  
 20          Economic Development Programs Evaluation; providing an  
 21          effective date.

22  
 23   Be It Enacted by the Legislature of the State of Florida:

24  
 25           Section 1.   Section 288.127, Florida Statutes, is created  
 26   to read:

27        288.127 Qualified television revolving loan fund.-  
 28        (1) DEFINITIONS.-As used in this section, the term:  
 29        (a) "Fund administrator" means a private sector  
 30 organization under contract with the department to manage and  
 31 administer the qualified television revolving loan fund.  
 32        (b) "Major broadcaster" means broadcasting organizations  
 33 that include, but are not limited to, television broadcasting  
 34 networks, cable television, direct broadcast satellite,  
 35 telecommunications companies, and Internet streaming or other  
 36 digital media platforms.  
 37        (c) "Private investment capital" means capital from  
 38 private, nongovernmental funding sources which will be  
 39 coinvested with the QTV Fund in segregated accounts.  
 40        (d) "Qualified lending partner" means a financial  
 41 institution, as defined in s. 655.005, selected by a fund  
 42 administrator that has demonstrated capability in providing  
 43 financing to television production and specialized expertise in  
 44 intellectual property, tax credit programs, customary broadcast  
 45 license agreements, advertising inventories, and ancillary  
 46 revenue sources, and a combined portfolio in film, television,  
 47 and entertainment media of at least \$500 million.  
 48        (e) "Qualified television content" means series, mini-  
 49 series, or made-for-TV content produced by a qualified  
 50 production company that has in place a distribution contract  
 51 with a major broadcaster, under a customary broadcaster license  
 52 agreement, and meets the criteria provided in subsection (7).

53 The term does not include a production that contains content  
 54 that is obscene, as defined in s. 847.001.

55 (f) "QTV Fund" means the qualified television revolving  
 56 loan fund.

57 (2) PURPOSE.—The purpose of the QTV Fund is to create a  
 58 public-private partnership in the form of a revolving loan fund  
 59 to administer a loan program for television production. The QTV  
 60 Fund is privately managed under state oversight to incentivize  
 61 the use of this state as a site for producing qualified  
 62 television content and to develop and sustain the workforce and  
 63 infrastructure for television content production.

64 (3) CREATION.—The qualified television revolving loan fund  
 65 is created within the department. The QTV Fund shall be a public  
 66 fund that is privately managed by the fund administrator under  
 67 contract with the department. The department shall disburse the  
 68 funds appropriated for this loan program to the fund  
 69 administrator to invest in the QTV Fund during the existence of  
 70 the program pursuant to this section and the contract between  
 71 the fund administrator and the department. State funds in the  
 72 QTV Fund may be used only to enter into loan agreements and to  
 73 pay any administrative costs or other authorized fees under this  
 74 section.

75 (a) The QTV Fund shall be a revolving loan fund that  
 76 invests and reinvests the principal and interest of the fund in  
 77 accordance with s. 617.2104 in a manner so as not to subject the  
 78 funds to state or federal taxes and to be consistent with the

79 investment policy statement adopted by the fund administrator.  
 80 As production companies repay the principal and interest to the  
 81 QTV Fund, state funds, less any QTV Fund expenses, shall be  
 82 returned to the account to be lent to subsequent borrowers.

83 (b) Funds from the QTV Fund shall be disbursed by the fund  
 84 administrator through a lending vehicle to make loans not to  
 85 exceed 36 months in duration pursuant to this section.

86 (4) FUND ADMINISTRATOR.-

87 (a) The department shall contract with a fund  
 88 administrator within 90 days after funds are appropriated for  
 89 the loan program and shall award the contract in accordance with  
 90 the competitive bidding requirements in s. 287.057.

91 (b) The department shall select as fund administrator a  
 92 private sector entity that demonstrates the ability to implement  
 93 the program under this section and that meets the requirements  
 94 set forth in this section. Preference shall be given to  
 95 applicants that are headquartered in this state. Additional  
 96 consideration may be given to applicants that have experience in  
 97 the management of economic development or job creation-related  
 98 funds. The qualifications for the fund administrator must  
 99 include, but are not limited to:

100 1. A demonstrated track record of managing private sector  
 101 equity or debt funds in the entertainment and media industries.

102 2. The ability to demonstrate through a partnership  
 103 agreement that a qualified lending partner is in place which has  
 104 the capability of providing leverage of a minimum of 2.5 times



105 the capital amount of the QTV Fund, for financing the production  
 106 cost of qualified television content in the form of senior debt.

107 (c) For overseeing and administering the QTV Fund, the  
 108 fund administrator shall be reimbursed for the costs that the  
 109 fund administrator incurs in establishing and operating the fund  
 110 related to the state's investment, which shall be paid from  
 111 state funds in the QTV Fund. Any additional private investment  
 112 capital in the segregated accounts is responsible for its own  
 113 management fees. The fund administrator is entitled to a  
 114 reasonable profit, but such distribution may not be made from  
 115 the principal funds from the original appropriation.

116 (d) The fund administrator shall provide services defined  
 117 under this section for the duration of the QTV Fund term unless  
 118 removed by the department. The contract between the department  
 119 and the fund administrator shall set forth the circumstances  
 120 under which the contract may be terminated.

121 (5) FUND ADMINISTRATOR POWERS AND DUTIES.—

122 (a) Authority to contract.—The fund administrator may  
 123 enter into agreements with qualified lending partners for  
 124 concurrent lending through the QTV Fund. A loan made by the  
 125 qualified lending partner must be accounted for separately from  
 126 the state funds or other private investment capital. Such loan  
 127 shall be made as senior debt. The fund administrator may raise  
 128 private investment capital for mezzanine equity and other equity  
 129 or raise junior capital for concurrent lending through the QTV  
 130 Fund. However, loans from private investment capital, which is

131 invested at the same risk profile as the QTV Fund, may not be  
 132 made at more favorable terms and conditions than the terms and  
 133 conditions of the state funds in the QTV Fund. The state  
 134 appropriation must be maintained in a separate account from  
 135 private investment capital and administered in a separate legal  
 136 investment entity or entities. Private investment capital and  
 137 loans shall be segregated from each other, and funds may not be  
 138 commingled.

139 (b) General duties.—The fund administrator:

140 1. Shall prudently manage the funds in the QTV Fund as a  
 141 revolving loan fund.

142 2. Shall contract with one or more qualified lending  
 143 partners.

144 3. Shall provide improvement of the credit profile of a  
 145 structured financial transaction for qualified production  
 146 companies that produce qualified television content meeting the  
 147 criteria in subsection (7).

148 4. May raise additional private investment capital to be  
 149 held in separate accounts, in addition to the leverage provided  
 150 by the qualified lending partner.

151 5. Shall administer the QTV Fund in accordance with this  
 152 part.

153 6. Shall agree to verify that the recipient's books and  
 154 records relating to funds received from the department are  
 155 maintained according to generally accepted accounting principles  
 156 and in accordance with s. 215.97(7) and to ensure that those

157 books and records will be available to the department for  
 158 inspection upon reasonable notice. The books and records must be  
 159 maintained with detailed records showing the use of proceeds  
 160 from loans to fund qualified television content.

161 7. Shall maintain its registered office in this state  
 162 throughout the duration of the contract.

163 (c) Financial reporting.—By February 28 of each year, the  
 164 fund administrator shall submit to the department financial  
 165 statements for the preceding tax year which are audited by an  
 166 independent certified public accountant after the end of each  
 167 year in which the fund administrator is under contract with the  
 168 department. In addition to providing an independent opinion on  
 169 the annual financial statements, such audit provides a basis for  
 170 verifying the segregation of state funds from those of any  
 171 private investment capital.

172 (d) Program reporting.—The fund administrator shall submit  
 173 a report to the department by February 28 after the end of each  
 174 year in which the fund administrator is under contract with the  
 175 department. The report must include information on the loans  
 176 made in the preceding calendar year, including:

177 1. The name of the qualified television content.

178 2. The names of the counties in which the production  
 179 occurred.

180 3. The number of jobs created and retained as a result of  
 181 the production.

182 4. The loan amounts, including the amount of private

183 | investment capital and funds provided by a qualified lending  
 184 | partner.

185 |       5. The loan repayment status for each loan.

186 |       6. The number and amounts of any loans with payments past  
 187 | due.

188 |       7. The number and amounts of any loans in default.

189 |       8. A description of the assets securing the loans.

190 |       9. Other information and documentation required by the  
 191 | department.

192 |       (e) Plan of accountability.—The fund administrator shall  
 193 | submit an annual plan of accountability of economic development,  
 194 | including a report detailing the job creation resulting from the  
 195 | QTV Fund loans made during the current year and cumulatively  
 196 | since the inception of the program. The fund administrator shall  
 197 | also provide any additional information requested by the  
 198 | department pertaining to economic development and job creation  
 199 | in the state.

200 |       (f) Conflict-of-interest statement.—The fund administrator  
 201 | shall provide a conflict-of-interest statement from its  
 202 | governing board certifying that no board member, director,  
 203 | employee, or agent, or immediate family member thereof, or other  
 204 | person connected to or affiliated with the fund administrator is  
 205 | receiving or will receive any type of compensation or  
 206 | remuneration from a production company that has received or will  
 207 | receive funds from the loan program or from a qualified lending  
 208 | partner. The department may waive this requirement for good

209 cause shown.

210 (6) LOAN STRUCTURE.—

211 (a) The QTV Fund may be used to make loans to production  
 212 companies to fund production costs or provide improvement of the  
 213 credit profile of a structured financial transaction for  
 214 qualified television content that meets the criteria  
 215 requirements of subsection (7). To make a loan, the fund  
 216 administrator shall consider the types of eligible collateral,  
 217 the credit worthiness of the project, the producer's track  
 218 record, the possibility that the project will encourage,  
 219 enhance, or create economic benefits, and the extent to which  
 220 assistance would foster innovative public-private partnerships  
 221 and attract private debt or equity investment.

222 (b) The QTV Fund loan package shall be secured by  
 223 anticipated receivables from domestic and international  
 224 broadcaster license agreements and other ancillary revenues that  
 225 are derived from media content rights. Unsecured loans may not  
 226 be made.

227 (c) The loans shall be made on the basis of a second lien  
 228 or primary security rights on the media assets listed in  
 229 paragraph (b).

230 (d) The QTV Fund shall provide funding only in conjunction  
 231 with senior loans provided by a qualified lending partner. Loans  
 232 from the fund may be subordinated to senior debt from the  
 233 qualified lending partner and may not exceed 30 percent of the  
 234 total production funding cost of any particular project.

235        (e) The production company's repayment of a loan shall be  
 236 in accordance with the license fee payment schedule agreement  
 237 and the delivery of qualified television content to the major  
 238 broadcaster and shall be within 60 days after such delivery.

239        (f) Loans made by the QTV Fund may not exceed 36 months in  
 240 duration, except for extenuating circumstances for which the  
 241 fund administrator may grant an extension upon making written  
 242 findings to the department specifying the conditions requiring  
 243 the extension.

244        (g) The fund administrator, or a board member, employee,  
 245 or agent thereof, or an immediate family member of a board  
 246 member, employee, or agent, may not have a financial interest in  
 247 an entity that is awarded a loan under the loan program and may  
 248 not benefit directly or indirectly from the making of such loan.  
 249 A loan may not be made to a person if it violates this  
 250 paragraph. As used in this section, the term "immediate family"  
 251 means a parent, child, or spouse, or other relative by blood,  
 252 marriage, or adoption, of the fund administrator, or a board  
 253 member, employee, or agent thereof.

254        (h) Except for funds appropriated to the department for  
 255 the loan program, the credit of the state may not be pledged.  
 256 The state is not liable or obligated in any way for claims  
 257 against the QTV Fund or against the fund administrator, the  
 258 qualified lending partner, or the department.

259        (7) QUALIFIED TELEVISION CONTENT CRITERIA.—The fund  
 260 administrator must, at a minimum, consider the following

261 criteria for evaluating the qualifying television content:

262 (a) The content is intended for broadcast by a major  
 263 broadcaster on a major network, cable, or streaming channel.

264 (b) The content is produced in this state, or a minimum of  
 265 80 percent of the production budget must be spent in this state.  
 266 This requirement may be amended by the fund administrator upon  
 267 notice to the department. Such notice must include a specific  
 268 justification for the change and must be transmitted to the  
 269 department in writing. The department has 10 business days to  
 270 object to the change. If the department does not object within  
 271 10 business days, the change is deemed acceptable by the  
 272 department, and the fund administrator may grant the amendment.

273 (c) If the content is a series, there is a programming  
 274 order for at least 13 episodes. This requirement may be amended  
 275 by the fund administrator upon notice to the department. Such  
 276 notice must include a specific justification for the change and  
 277 must be transmitted to the department in writing. The department  
 278 has 10 business days to object to the change. If the department  
 279 does not object within 10 business days, the change is deemed  
 280 acceptable by the department, and the fund administrator may  
 281 grant the amendment.

282 (d) The producer must have a contract in place with a  
 283 major broadcaster to acquire content programming under a  
 284 customary broadcast license agreement, and the contract must  
 285 cover at least 60 percent of the budget.

286 (e) The producer must retain a foreign sales agent and

287 must be able to provide the fund administrator with the foreign  
 288 sales agent's official estimates of foreign and ancillary sales.

289 (f) The project must be bonded and secured by an industry-  
 290 approved completion guarantor if the production cost per episode  
 291 exceeds \$1 million. This requirement may be waived if the loan  
 292 applicant provides the fund administrator with evidence of  
 293 adequate structure to protect the state's funds.

294 (8) AUDITOR GENERAL AUDIT.—The Auditor General may conduct  
 295 operational audits, as defined in s. 11.45, of the QTV Fund and  
 296 fund administrator. The scope of the audit must include, but is  
 297 not limited to, internal controls evaluations, internal audit  
 298 functions, reporting and performance requirements for the use of  
 299 the funds, and compliance with state and federal law. The fund  
 300 administrator shall provide to the Auditor General any detail or  
 301 supplemental data required.

302 (9) RULEMAKING AUTHORITY.—The department may adopt rules  
 303 to administer this section.

304 (10) EXPIRATION.—This section expires December 31, 2025,  
 305 at which point all funds remaining in the QTV Fund revert to the  
 306 General Revenue Fund.

307 (11) EMERGENCY RULES.—

308 (a) The executive director of the department is  
 309 authorized, and all conditions are deemed met, to adopt  
 310 emergency rules pursuant to ss. 120.536(1) and 120.54(4) for the  
 311 purpose of implementing this section.

312 (b) Notwithstanding any other law, the emergency rules



313 | adopted pursuant to paragraph (a) remain in effect for 6 months  
 314 | after adoption and may be renewed during the pendency of  
 315 | procedures to adopt permanent rules addressing the subject of  
 316 | the emergency rules.

317 | (c) This subsection expires October 1, 2016.

318 | Section 2. Paragraph (b) of subsection (2) of section  
 319 | 288.0001, Florida Statutes, is amended to read:

320 | 288.0001 Economic Development Programs Evaluation.—The  
 321 | Office of Economic and Demographic Research and the Office of  
 322 | Program Policy Analysis and Government Accountability (OPPAGA)  
 323 | shall develop and present to the Governor, the President of the  
 324 | Senate, the Speaker of the House of Representatives, and the  
 325 | chairs of the legislative appropriations committees the Economic  
 326 | Development Programs Evaluation.

327 | (2) The Office of Economic and Demographic Research and  
 328 | OPPAGA shall provide a detailed analysis of economic development  
 329 | programs as provided in the following schedule:

330 | (b) By January 1, 2018 ~~2015~~, and every 3 years thereafter,  
 331 | an analysis of the following:

332 | 1. The entertainment industry financial incentive program  
 333 | established under s. 288.1254.

334 | 2. The entertainment industry sales tax exemption program  
 335 | established under s. 288.1258.

336 | 3. The ~~VISIT~~ Florida Tourism Industry Marketing  
 337 | Corporation and its programs established or funded under ss.  
 338 | 288.122, 288.1226, 288.12265, and 288.124.

339           4. The Florida Sports Foundation and related programs  
340 established under ss. 288.1162, 288.11621, 288.1166, 288.1167,  
341 288.1168, 288.1169, and 288.1171.

342           5. The qualified television revolving loan fund  
343 established under s. 288.127.

344           Section 3. This act shall take effect upon becoming a law.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 553 Public Libraries  
**SPONSOR(S):** Perry  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 434

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Economic Development & Tourism Subcommittee	13 Y, 0 N	Purnell	Duncan
2) Transportation & Economic Development Appropriations Subcommittee		Cobb <i>PL</i>	Davis <i>[Signature]</i>
3) Economic Affairs Committee			

### SUMMARY ANALYSIS

The Department of State's Division of Library and Information Services (Division) provides library, records management, and archival services to the state and local governments. The Division also provides direct library services to state government, management services, technical assistance, education, financial aid, and cooperative services. Working in partnership with archivists, librarians, records managers, government officials, and citizens, the division seeks to ensure access to materials and information of past, present and future value to enable state agencies, educational institutions, and local libraries to provide effective information services for the benefit of the citizens of Florida.

The bill revises the powers and duties of the Division and removes outdated and burdensome practices required for the submission and collection of documents. The bill establishes the State Publications Program requiring each state official, department, court, or agency to designate a state publications liaison; and defines the terms "depository library" and "state publication."

The bill also restructures the composition of the State Library Council and specifies that the Council's purpose is to assist the Division with planning, policy, and priorities related to the development of statewide information services. The Division is directed to coordinate with the Department of Education's Division of Blind Services to provide services to the blind and physically handicapped persons. The bill amends other sections of law to reflect the changes in the bill.

The bill appears to have a minimal, positive fiscal impact on state expenditures. See fiscal section for detail.

The bill provides an effective date of July 1, 2015.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### The Division of Library and Information Services

The Florida Department of State's Division of Library and Information Services (Division)<sup>1</sup> manages the State Library and Archives, supports public libraries, directs record management services, and is the designated information resource provider for the state.<sup>2</sup>

The Division may receive gifts of money, books, or other property and may purchase books, periodicals, furniture, and equipment it deems necessary to carry out its mission. The Division may also give aid and assistance to all school, state, academic, free, and public libraries, and to all communities in the state which may establish libraries. The Division is required to maintain a library for state officials and employees and provide research and informational services for all state agencies. The Division must also provide library services to blind and physically handicapped persons within the state.<sup>3</sup>

##### The Florida State Library Council

The Florida State Library Council, (Council)<sup>4</sup>, created in 1970,<sup>5</sup> is directed to advise and assist the Division with its programs and activities.<sup>6</sup> The Library Council is composed of nine members who are appointed by the Secretary of State to four year terms. The composition of the board must contain:

- at least one member who represents a Florida library professional association;
- at least one member who represents a Florida archive professional association;
- at least one member who represents a Florida records management professional association; and
- at least one member who is not, and has never been, employed in a library or in teaching library science courses.<sup>7</sup>

##### Public Documents Depository Program

"Public document" means any document, report, directory, bibliography, rule, newsletter, pamphlet, brochure, periodical, or other publication, whether in print or nonprint format, that is paid for in whole or in part by funds appropriated by the Legislature and may be subject to distribution to the public. The term does not include publications for internal use by an executive agency.<sup>8</sup>

The Division's State Documents Depository Program, established in 1967, was formed to meet the needs of researchers and the general public throughout the state to access information by and about state government.<sup>9</sup> State law requires the Division to designate university, college, and public libraries

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<sup>1</sup> See Chapter 257, F.S., public libraries and state archives; see also s. 20.10(2), F.S., Department of State.

<sup>2</sup> Florida Department of State, Division of Library and Information Services, *About the State Library of Florida*, can be accessed at: <http://dos.myflorida.com/library-archives/about-us/about-the-state-library-of-florida/>, (last viewed on Mar. 10, 2015).

<sup>3</sup> See s. 257.04, F.S.

<sup>4</sup> Section 257.02, F.S.

<sup>5</sup> Florida Department of State, Division of Library and Information Services, *About Us, State Library Council*, available at <http://dos.myflorida.com/library-archives/about-us/state-library-council/> (last visited March 12, 2015).

<sup>6</sup> Section 257.02(1), F.S.

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

<sup>8</sup> Section 257.05(1), F.S.

<sup>9</sup> Department of State, *2015 Agency Analysis for SB 434, (Similar to HB 553)* on file with Economic Development & Tourism Subcommittee staff.

as depositories for public documents and to designate certain depositories as regional centers for full collections of public documents.<sup>10</sup> By placing public documents in designated depository libraries throughout the state, the program makes state documents more readily available.

The collection of state documents at the State Library is comprised of publications by state agencies, dating from the territorial period to today. Documents published by state agencies and provided to the State Library are listed in the State Library's online catalog, which is searchable by author, title, subject, and keyword.<sup>11</sup>

State law requires state officials and state entities such as departments, boards, or courts to provide 35 copies of public documents to the Division.<sup>12</sup> The law also stipulates the number of additional copies that must be provided under certain circumstances.<sup>13</sup> The State Library keeps at least two paper copies of state documents for its collections and distributes the others to libraries throughout the state. State entities issue approximately 22.5% of the publications in digital form and the State Library makes the full text of such documents available online through the library's searchable catalog.<sup>14</sup>

### The Division of Blind Services

The Division of Blind Services<sup>15</sup> (DBS), which serves Floridians of all ages, offers a coordinated program of services to Floridians whose visual impairments significantly affect their ability to participate in daily activities. DBS programs must be designed to maximize employment opportunities for individuals with visual impairments, and to increase their independence and self-sufficiency.<sup>16</sup> DBS provides services to individuals who are blind or visually impaired through 10 district offices, the Rehabilitation Center for the Blind, the Braille and Talking Books Library, and local community rehabilitation programs.<sup>17</sup>

### **Effect of Proposed Changes**

The bill revises the Division's process for collecting and distributing public documents to remove antiquated requirements, update terms, and revise the membership and role of the State Library Council.

### Definitions

The bill defines the term "depository library" as a library that has been designated as a depository for receiving state publications.

The bill replaces "public document" with "state publication," which means a publication created under the authority of or at the total or partial expense of a state official, state department, state board, state court, or state agency, or that is required to be publicly distributed pursuant to state law. The term includes any publication containing information about the state and its government, which is culturally and historically significant to researchers and the general public. It does not include publications created only for internal use by state officials, state departments, state boards, state courts, or state agencies.

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<sup>10</sup> Section 257.05(3)(a), F.S.

<sup>11</sup> See *supra* note 9.

<sup>12</sup> See s. 257.05(2), F.S.

<sup>13</sup> *Id.*

<sup>14</sup> See *supra* note 9.

<sup>15</sup> Section 413.011, F.S.

<sup>16</sup> Section 413.011(2), F.S.

<sup>17</sup> Florida Division of Blind Services, *About Us*, can be accessed at: <http://dbs.myflorida.com/About%20Blind%20Services/index.html> (last viewed on Mar. 10, 2015).

### The Library Council

The bill restructures the Council by adding and removing key requirements of Council composition and specifying that the purpose of the Council is to assist the Division with planning, policy, and priorities related to the development of statewide information services. The Council composition must include:

- three members must represent Florida public libraries;
- two members must represent the Florida Academic Library Services Cooperative;
- one member must represent a multitype library cooperative;
- one member must represent a school library media center;
- one member must represent the Independent Colleges and Universities of Florida; and
- one member must represent a Florida library professional association.

### Coordination with the Division of Blind Services

The bill requires the Division to coordinate with DBS to provide library services to the blind and physically handicapped persons.

### State Publications Program and Liaison

The bill significantly rewrites s. 257.05, F.S., creating the State Publications Program, removing existing public document submittal requirements, and giving discretion to the Division to request how many copies of the required documents they would like to have submitted to record. State entities are no longer required to provide 35 copies of each public document it produces to the Division. The Division may issue both print and electronic copies of state publications.

Similar to the provisions related to the Florida State Archives record management, which requires each state agency to designate a records management liaison officer,<sup>18</sup> each state official, department, court, or agency is required to designate a state publications liaison with contact information. Each liaison must maintain a list of the state publications produced by the state entity they represent, and furnish an updated list to the Division by December 31 of each year.

The bill clarifies that depository libraries are required to maintain state publications in a form that is convenient and accessible to the public.

The bill deletes the provision that requires the Division provide a centralized program for microfilming documents. The bill also makes conforming changes to other sections of law.

#### B. SECTION DIRECTORY:

Section 1: Amends s. 257.015, F.S., defining the terms "depository library" and "state publication."

Section 2: Amends s. 257.02, F.S., revising the composition and duties of the State Library Council.

Section 3: Amends s. 257.04, F.S., revising the powers and duties of the Division of Library and Information Services of the Department of State.

Section 4: Amends s. 257.05, F.S., relating to public documents.

Section 5: Amends s. 257.36, F.S., removing a provision related to a centralized microfilming program for state agencies.

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<sup>18</sup> Section 257.36(5), F.S.

Section 6: Amends s. 257.105, F.S., conforming provisions to changes made by the bill.

Section 7: Amends s. 283.31, F.S., conforming provisions to changes made by the bill.

Section 8: Amends s. 286.001, F.S., conforming provisions to changes made by the bill.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Revisions to the State Publications Program like removing the requirement for state entities issuing public documents to furnish the State Library with 35 copies of each document will likely lower postage, shipping, and staff costs. The savings cannot be quantified, but are likely minimal.

### 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:



According to the Department of State:

The state agencies, other governmental bodies and the depositories themselves are making the transition from print publication to e-documents. State agencies currently upload full-text publications to the State Library. E-documents allow better access to this information via the Internet.

As more e-documents are published, there is less need in statute for designating the number of print copies of a publication an entity must send to the State Library. Designating the number of print copies in rule will enable the State Library to change the number when it is needed or eventually eliminate print copies altogether.

To foster better communication between state agencies and the Division regarding state publications, each state agency will be asked to appoint an agency publications liaison to work with the State Library.

The Division of Library and Information Services will coordinate with the Division of Blind Services of the Department of Education to provide library services to the blind and physically handicapped persons of the state.

These changes will result in a stronger and more relevant approach to the State Publications Program. The Division of Library and Information Services will save about \$1,000.00 postage and a savings in staff time for the Florida Documents Librarian. State agencies will also see a savings in postage and shipping costs and staff costs.<sup>19</sup>

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

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<sup>19</sup> See *supra* note 9.

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A bill to be entitled  
An act relating to public libraries; amending s.  
257.015, F.S.; defining the terms "depository library"  
and "state publication"; amending s. 257.02, F.S.;  
revising the composition and duties of the State  
Library Council; amending s. 257.04, F.S.; revising  
the powers and duties of the Division of Library and  
Information Services of the Department of State;  
requiring the division to coordinate with the Division  
of Blind Services of the Department of Education to  
provide certain services; authorizing the division to  
issue electronic information; amending s. 257.05,  
F.S.; providing legislative findings; revising  
provisions regarding the delivery and distribution of  
publications; requiring specified entities in state  
government to designate a state publications liaison;  
removing the definition of the term "public document";  
revising the duties of the division with respect to  
the management of the State Publications Program;  
amending s. 257.36, F.S.; removing a provision  
requiring the division to provide a centralized  
microfilming program for state agencies; amending ss.  
257.105, 283.31, and 286.001, F.S.; conforming  
provisions to changes made by the act; providing an  
effective date.

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

28

29 Section 1. Section 257.015, Florida Statutes, is amended  
30 to read:

31 257.015 Definitions.—As used in this chapter, the term:

32 (1) "Department" means the Department of State.

33 (2) "Depository library" means a library that has been  
34 designated as a depository for receiving state publications in  
35 accordance with s. 257.05(3).

36 (3)~~(2)~~ "Division" means the Division of Library and  
37 Information Services of the Department of State.

38 (4)~~(3)~~ "Secretary" means the Secretary of State.

39 (5)~~(4)~~ "State Librarian" means the person appointed by the  
40 secretary as the director of the Division of Library and  
41 Information Services pursuant to s. 257.031.

42 (6) "State publication" means a publication created under  
43 the authority of or at the total or partial expense of a state  
44 official, state department, state board, state court, or state  
45 agency, or that is required to be publicly distributed pursuant  
46 to state law. The term includes a publication containing  
47 information about the state and its government which is  
48 culturally and historically significant to researchers and the  
49 general public. The term does not include a publication that is  
50 created only for internal use of a state official, state  
51 department, state board, state court, or state agency.

52 Section 2. Section 257.02, Florida Statutes, is amended to

53 | read:

54 |       257.02 State Library Council.—

55 |       (1) There shall be a State Library Council to advise and  
 56 | assist the division with planning, policy, and priorities  
 57 | related to the development of statewide information services ~~of~~  
 58 | ~~Library and Information Services on its programs and activities.~~  
 59 | The council shall consist of nine members who shall be appointed  
 60 | by the Secretary of State. Of the nine members, three members  
 61 | must represent Florida public libraries, two members must  
 62 | represent the Florida Academic Library Services Cooperative, one  
 63 | member must represent a multitype library cooperative, one  
 64 | member must represent a school library media center, one member  
 65 | must represent the Independent Colleges and Universities of  
 66 | Florida, and at least one member must represent a Florida  
 67 | library professional association, ~~at least one must represent a~~  
 68 | ~~Florida archive professional association, at least one must~~  
 69 | ~~represent a Florida records management professional association,~~  
 70 | ~~and at least one must be a person who is not, and has never~~  
 71 | ~~been, employed in a library or in teaching library science~~  
 72 | ~~courses.~~ Members shall be appointed for 4-year terms. A vacancy  
 73 | on the council shall be filled for the period of the unexpired  
 74 | term. A ~~No~~ person may not be appointed to serve more than two  
 75 | consecutive terms as a member of the council. The secretary ~~of~~  
 76 | ~~State~~ may remove from office any council member for malfeasance,  
 77 | misfeasance, neglect of duty, incompetence, permanent inability  
 78 | to perform official duties, or pleading guilty or nolo

79 | contendere to, or being found guilty of, a felony.

80 |       (2) Members of the council shall serve without  
 81 | compensation or honorarium but are ~~shall be~~ entitled to receive  
 82 | reimbursement for per diem and travel expenses as provided in s.  
 83 | 112.061. The council shall meet at the call of its chair, at the  
 84 | request of a majority of its membership, at the request of the  
 85 | division, or at such times as may be prescribed by its rules.

86 |       ~~(3) The Secretary of State may, in making appointments,~~  
 87 | ~~consult Florida's library, archival, or records management~~  
 88 | ~~community and related statewide associations and organizations~~  
 89 | ~~for suggestions as to persons having special knowledge and~~  
 90 | ~~interest concerning libraries.~~

91 |       (3)~~(4)~~ The officers of the State Library Council shall be  
 92 | a chair, elected from the members thereof, and the State  
 93 | Librarian, who shall serve without voting rights as secretary of  
 94 | the council.

95 |       Section 3. Section 257.04, Florida Statutes, is amended to  
 96 | read:

97 |       257.04 Publications, pictures, and other documents  
 98 | received to constitute part of State Library; powers and duties  
 99 | of Division of Library and Information Services.—

100 |       (1) All books, pictures, documents, publications, and  
 101 | manuscripts received through gifts, purchase, or exchange, or on  
 102 | deposit from any source for the use of the state, shall  
 103 | constitute a part of the State Library and shall be placed  
 104 | therein for the use of the public under the control of the

105 | ~~division of Library and Information Services of the Department~~  
 106 | ~~of State.~~ The division may receive gifts of money, books, or  
 107 | other property which may be used or held for the ~~purpose or~~  
 108 | purposes given; and it may purchase books, periodicals,  
 109 | furniture, and equipment as ~~it deems~~ necessary to promote the  
 110 | efficient operation of the service it is expected to render to  
 111 | state officials, employees, and the public.

112 |       (2) The division may, upon request, give aid and  
 113 | assistance, financial, advisory, or otherwise, to all school,  
 114 | state institutional, academic, free, and public libraries, and  
 115 | to all communities in the state which may propose to establish  
 116 | libraries, as to the best means of establishing and  
 117 | administering libraries, selecting and cataloging books, and  
 118 | other facets of library management.

119 |       (3) The division shall maintain a library for state  
 120 | officials and employees, especially of informational material  
 121 | pertaining to ~~the phases of their work, and provide for them~~  
 122 | ~~material for general reading and study.~~

123 |       (4) The division shall maintain and provide research and  
 124 | information services for ~~all~~ state agencies.

125 |       (5) The division shall make all necessary arrangements to  
 126 | coordinate with the Division of Blind Services of the Department  
 127 | of Education to provide library services to the blind and  
 128 | physically handicapped persons of the state.

129 |       (6) The division may issue printed material and electronic  
 130 | information, such as lists and circulars of information, and in

131 the publication thereof may cooperate with state library  
 132 commissions and libraries of other states in order to secure the  
 133 more economical administration of the work for which it is  
 134 formed. The division ~~It~~ may conduct courses of library  
 135 instruction and hold librarians' institutes in various parts of  
 136 the state.

137 (7) The division shall perform such other services and  
 138 engage in any other activity, not contrary to law, ~~that it may~~  
 139 ~~think~~ appropriate in the development of library service to state  
 140 government, to the libraries and library profession of the  
 141 state, and to the citizens of the state.

142 Section 4. Section 257.05, Florida Statutes, is amended to  
 143 read:

144 257.05 State Publications Program ~~Public documents,~~  
 145 ~~delivery to, and distribution by, division.-~~

146 (1) The Legislature finds that the State Publications  
 147 Program increases accessibility to culturally and historically  
 148 significant information about the state and its government for  
 149 researchers and the general public through the distribution of  
 150 state publications to depository libraries throughout the state.

151 (2) Each state official, state department, state board,  
 152 state court, or state agency:

153 (a) Shall furnish its state publications to the division  
 154 for distribution to depository libraries throughout the state  
 155 upon the publication's release in accordance with division rule.

156 (b) Shall designate a state publications liaison. Upon

157 designation of a liaison, a state official, state department,  
 158 state board, state court, or state agency shall provide the  
 159 division with the liaison's name and contact information. Each  
 160 state publications liaison shall maintain a list of his or her  
 161 respective entity's state publications and furnish the list to  
 162 the division as updated or by December 31 of each year ~~The term~~  
 163 ~~"public document" as used in this section means any document,~~  
 164 ~~report, directory, bibliography, rule, newsletter, pamphlet,~~  
 165 ~~brochure, periodical, or other publication, whether in print or~~  
 166 ~~nonprint format, that is paid for in whole or in part by funds~~  
 167 ~~appropriated by the Legislature and may be subject to~~  
 168 ~~distribution to the public; however, the term excludes~~  
 169 ~~publications for internal use by an executive agency as defined~~  
 170 ~~in s. 283.30.~~

171 ~~(2)(a) Each state official, state department, state board,~~  
 172 ~~state court, or state agency issuing public documents shall~~  
 173 ~~furnish the Division of Library and Information Services of the~~  
 174 ~~Department of State 35 copies of each of those public documents,~~  
 175 ~~as issued, for deposit in and distribution by the division.~~  
 176 ~~However, if the division so requests, as many as 15 additional~~  
 177 ~~copies of each public document shall be supplied to it.~~

178 ~~(b) If any state official, state department, state board,~~  
 179 ~~state court, or state agency has fewer than 40 copies of any~~  
 180 ~~public document, it shall supply the division with 2 copies of~~  
 181 ~~each such public document for deposit in the State Library.~~

182 ~~(c) By December 31 of each year, any state official, state~~



183 ~~department, state board, state court, or state agency issuing~~  
 184 ~~public documents shall furnish to the division a list of all~~  
 185 ~~public documents, including each publication that is on the~~  
 186 ~~agency's website, issued by the official, department, board,~~  
 187 ~~court, or agency during that calendar year.~~

188 (c)~~(d)~~ Shall, if having charge of their distribution,  
 189 furnish the division with ~~As issued,~~ daily journals and bound  
 190 journals of each house of the Legislature, as issued; slip laws  
 191 and bound session laws, both general and special; and Florida  
 192 Statutes and supplements thereto ~~shall be furnished to the~~  
 193 ~~division by the state official, department, or agency having~~  
 194 ~~charge of their distribution.~~ The number of copies furnished  
 195 shall be determined by requests of the division, ~~which number in~~  
 196 ~~no case may exceed 35 copies of the particular publication.~~

197 (3) It is the duty of the division to:

198 (a) Manage the State Publications Program.

199 (b) Designate university, college, and public libraries as  
 200 depository libraries for state publications ~~depositories for~~  
 201 ~~public documents and to designate certain of these depositories~~  
 202 ~~as regional centers for full collections of public documents. A~~  
 203 depository library must maintain state publications in a form  
 204 that is convenient and accessible to the public. The division  
 205 shall be the official repository for state publications.

206 (c)~~(b)~~ Create a distribution ~~Provide a system to provide~~  
 207 ~~of distribution of the copies of state publications to~~  
 208 depository libraries ~~furnished to it under subsection (2) to~~

209 ~~such depositories.~~

210 (d) ~~(e)~~ Create ~~Publish~~ a periodic bibliography for the  
 211 State Publications Program ~~of the publications of the state.~~

212

213 The division may exchange copies of state publications ~~public~~  
 214 ~~documents~~ for those of other states, territories, and countries.  
 215 ~~Depositories receiving public documents under this section shall~~  
 216 ~~keep them in a convenient form accessible to the public.~~

217 Section 5. Paragraph (h) of subsection (1) of section  
 218 257.36, Florida Statutes, is amended, and present paragraphs (i)  
 219 through (l) of subsection (1) are redesignated as paragraphs (h)  
 220 through (k), respectively, to read:

221 257.36 Records and information management.—

222 (1) There is created within the Division of Library and  
 223 Information Services of the Department of State a records and  
 224 information management program. It is the duty and  
 225 responsibility of the division to:

226 ~~(h) Provide a centralized program of microfilming for the~~  
 227 ~~benefit of all agencies.~~

228 Section 6. Section 257.105, Florida Statutes, is amended  
 229 to read:

230 257.105 State publications ~~Public documents~~; copies to  
 231 Library of Congress.—Any state official or state agency, board,  
 232 commission, or institution having charge of state publications  
 233 hereinafter named is authorized and directed to furnish the  
 234 Library of Congress in Washington, D.C., upon requisition from

235 the Library of Congress, up to three copies of the journals of  
 236 both houses of the Legislature; volumes of the Supreme Court  
 237 Reports; volumes of periodic reports of Cabinet officers; and  
 238 copies of reports, studies, maps, or other publications by  
 239 official boards or institutions of the state, from time to time,  
 240 as such are published and are available for public distribution.

241 Section 7. Section 283.31, Florida Statutes, is amended to  
 242 read:

243 283.31 Records of executive agency publications.—Each  
 244 agency shall maintain a record of any state publication, as  
 245 defined in s. 257.015 ~~s. 257.05~~, the printing of which costs in  
 246 excess of the threshold amount provided in s. 287.017 for  
 247 CATEGORY THREE, at least part of which is paid for by state  
 248 funds appropriated by the Legislature. Such record shall also  
 249 contain the following: written justification of the need for  
 250 such publication, purpose of such publication, legislative or  
 251 administrative authority, sources of funding, frequency and  
 252 number of issues, and reasons for deciding to have the  
 253 publication printed in-house, by another agency or the  
 254 Legislature, or purchased on bid. In addition, such record shall  
 255 contain the comparative costs of alternative printing methods  
 256 when such costs were a factor in deciding upon a method. The  
 257 record of the corporation operating the correctional industry  
 258 printing program shall include the cost of materials used, the  
 259 cost of labor, the cost of overhead, the amount of profit made  
 260 by the corporation for such printing, and whether the state

261 agencies that contract with the corporation for printing are  
 262 prudently determining the price paid for such printing.

263 Section 8. Subsections (2) and (4) of section 286.001,  
 264 Florida Statutes, are amended to read:

265 286.001 Reports statutorily required; filing, maintenance,  
 266 retrieval, and provision of copies.—

267 (2) With respect to reports statutorily required of  
 268 agencies or officers within the executive, legislative, or  
 269 judicial branches of state government, the State Board of  
 270 Education, the Board of Governors of the State University  
 271 System, or the Public Service Commission, it is the duty of the  
 272 division, in addition to its duties under s. 257.05, to:

273 (a) Regularly compile and update bibliographic information  
 274 on such reports for distribution as provided in paragraph (b).  
 275 Such bibliographic information may be included in the  
 276 bibliographies prepared by the division pursuant to s. 257.05(3)  
 277 ~~s. 257.05(3)(c)~~.

278 (b) Provide for at least quarterly distribution of  
 279 bibliographic information on reports to:

280 1. Agencies and officers within the executive,  
 281 legislative, and judicial branches of state government, the  
 282 State Board of Education, the Board of Governors of the State  
 283 University System, and the Public Service Commission, free of  
 284 charge; and

285 2. Other interested parties upon request properly made and  
 286 upon payment of the actual cost of duplication pursuant to s.

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287 | 119.07(1).


288 |       (4) ~~Nothing in~~ This section may not ~~shall~~ be construed to  
289 | waive or modify the requirement in s. 257.05(2) pertaining to  
290 | the provision of copies of state publications ~~public documents~~  
291 | to the division.

292 |       Section 9. This act shall take effect July 1, 2015.



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1101 Central Florida Expressway Authority  
SPONSOR(S): Miller  
TIED BILLS: IDEN./SIM. BILLS: CS/SB 1024

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Ports Subcommittee	12 Y, 0 N, As CS	Johnson	Vickers
2) Transportation & Economic Development Appropriations Subcommittee		Davis 	Davis
3) Economic Affairs Committee			

SUMMARY ANALYSIS

The bill relates to the Central Florida Expressway Authority (CFX). In summary, the bill:

- Retitles Part III of Ch. 348, F.S., to reflect that the part relates to CFX instead of the former Orlando-Orange County Expressway Authority (OOCEA).
- Clarifies that authority members from Seminole, Lake, and Osceola Counties must be a county commission member, chair, or county mayor from their respective counties.
- Provides that the terms of authority members appointed by the Governor end on December 31 of the last year of service.
- Repeals an obsolete provision regarding the term ending dates of the board members of the former OOCEA.
- Removes the requirement that one of the authority members serve as the authority's secretary.
- Clarifies that CFX is a party to a 1985 lease purchase agreement between OOCEA and the Department of Transportation (DOT).
- Removes a requirement that the former OOCEA system be transferred to the state upon the completion and performance of a lease-purchase agreement.

The bill does not appear to have a fiscal impact on state and local governments.

The bill has an effective date of July 1, 2015.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Current Situation**

The Orlando Orange County Expressway Authority (OOCEA), was created in part III of Ch. 348, F.S.,<sup>1</sup> and served Orange County. It was authorized to construct, operate, and maintain roads, bridges, avenues of access, thoroughfares, and boulevards in the county, as well as outside the jurisdictional boundaries of Orange County with the consent of the county within whose jurisdiction the activities occur.<sup>2</sup>

In 2014, CS/CS/SB 230 changed OOCEA to the Central Florida Expressway Authority (CFX).<sup>3</sup> In summary, the bill:

- Created CFX and provides for the transfer of governance and control, legal rights and powers, responsibilities, terms and obligations of OOCEA to CFX.
- Provided for the composition of the governing body of CFX and the appointment of its officers.
- Provided ethics and accountability requirements of CFX board members and employees.
- Provided that the area served by CFX is within the geographical boundaries of Orange, Seminole, Lake, and Osceola Counties.
- Removed the existing OOCEA requirement that the route of a project be approved by a municipality before the right-of-way can be acquired.
- Required that CFX encourage the inclusion of local-, small-, minority-, and women-owned businesses in its procurement and contracting opportunities.
- Removed the existing OOCEA authority to waive payment and performance bonds for certain public works projects awarded pursuant to an economic development program.
- Provided that upon termination of the lease-purchase agreement of the Central Florida Expressway System, title will be retained by the state, and extends the terms of lease-purchase agreements from 40 to 99 years.
- Provided for the transfer of the Osceola County Expressway System to CFX and provides for the repeal of the Osceola County Expressway Authority Act<sup>4</sup> when the Osceola County Expressway System is transferred to CFX.

Section 348.757, F.S., authorizes CFX to enter into a lease-purchase agreement with DOT relating to and covering the former OOCEA system.<sup>5</sup> Current law requires the lease purchase agreement to provide for the leasing of the former OOCEA system, by CFX, as lessor, to DOT, as lessee must prescribe the term of such lease and rentals to be paid, and must provide that upon the completion of the faithful performance and termination of the lease purchase agreement, title in fee simple absolute to the former OOCEA system as then constituted shall be transferred in accordance with law by CFX, to the state and CFX shall deliver to DOT such deeds and conveyances as shall be necessary or convenient to vest title in fee simple absolute in the state.

In 2012, DOT and the former OOCEA entered into a Memorandum of Understanding regarding the Wekiva Parkway. As part of the negotiations, OOCEA and DOT agreed that the provisions of the lease-purchase agreement to transfer the expressway system to DOT upon satisfaction of the bonds would be deleted, and that OOCEA would retain title to the system. However, s. 348.757(2), F.S., which

<sup>1</sup> Part III of Ch. 348, F.S., consists of ss. 348.751 through 348.765, F.S.

<sup>2</sup> S. 348.754(2)(n), F.S.

<sup>3</sup> Ch. 2014-171, L.O.F.

<sup>4</sup> Part V of Ch. 348, F.S.

<sup>5</sup> S. 348.757(1), F.S.



requires OOCEA to transfer its system to the state, has been superseded by s. 348.757(9), F.S., which reflects the 2012 Memorandum of Understanding.

CFX currently owns and operates 105 centerline miles of roadway in Orange County, which includes:

- 22 miles of the Spessard L. Holland East-West Expressway (SR 408);
- 23 miles of the Martin Andersen Beachline Expressway (SR 528);
- 33 miles of the Central Florida GreeneWay (SR 417);
- 22 miles of the Daniel Webster Western Beltway (SR 429); and
- 5 miles of the John Land Apopka Expressway (SR 414).

### **Proposed Changes**

The bill changes the title of Part III of Ch. 348, F.S., from Orlando-Orange County Expressway Authority to Central Florida Expressway Authority to reflect the new name of the authority.

The bill amends s. 348.753(3), F.S., providing that the chairs of the boards of county commission from Seminole, Lake, and Osceola Counties appoint one member of the board from their respective counties, who *must* be a county commission member, chair, or county mayor.<sup>6</sup> The bill also provides that members appointed by the Governor have their terms end on December 31 of his or her last year of service. This change is intended to accommodate the January 2015 election of CFX officers. The bill also removes an obsolete provision regarding the terms of standing board members from when the make-up of the board changed in the 2014 law.

The bill amends s. 348.753(4)(a), F.S., removing the requirement that one of the members of the board serve as the authority's secretary.

The bill amends s. 348.754(2)(e), F.S., clarifying that CFX is a party to a December 23, 1985, lease purchase agreement between OOCEA and DOT.

The bill amends s. 348.757(2), F.S., removing the provision that upon completion and termination of the lease-purchase agreement that title in fee simple absolute of the former OOCEA system is transferred by the authority to the state. This reflects the 2012 Memorandum of Understanding between OOCEA and DOT, and the provisions enacted by ch. 2012-128, Laws of Florida.

The bill has an effective date of July 1, 2015.

## **B. SECTION DIRECTORY:**

- |           |  |
|-----------|--|
| Section 1 | Retitles Part III of Ch. 348, F.S.   |
| Section 2 | Amends s. 348.753, F.S., relating to the governing body of the Central Florida Expressway Authority. |
| Section 3 | Amends s. 348.754, F.S., relating to the purpose and power of CFX.                                   |
| Section 4 | Amends s. 348.757, F.S., relating to a lease-purchase agreement.                                     |
| Section 5 | Provides an effective date.  |

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

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

<sup>6</sup> Currently, s. 348.753(3), F.S., provides that appointees *may* be a county commission member or chair.

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:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 17, 2015, the Transportation & Ports Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. In summary the amendment:

- Corrected the title in part III of Ch. 348, F.S., to reflect 2014 change in the name from Orlando-Orange County Expressway Authority to Central Florida Expressway Authority.
- Removed a provision repealing a requirement that CFX obtain consent from the Secretary of DOT prior to expanding into Lake County. The provision will remain in statutes.
- Clarified that the Central Florida Expressway Authority is a party to an agreement between the Department of Transportation and the former Orlando-Orange County Expressway Authority.

This analysis is written to the committee substitute.



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A bill to be entitled  
 An act relating to the Central Florida Expressway  
 Authority; revising the title of part III of chapter  
 348, F.S.; amending s. 348.753, F.S.; requiring the  
 chairs of the boards of specified county commissions  
 to appoint one member from their respective counties  
 who is a commission member or chair or a county mayor  
 to serve on the governing body of the authority;  
 specifying that the terms of members appointed by the  
 Governor end on a specified date; removing the  
 requirement that the authority elect one of its  
 members as secretary; amending s. 348.754, F.S.;  
 specifying that the Central Florida Expressway  
 Authority is a party to a certain lease-purchase  
 agreement between the department and the Orlando-  
 Orange County Expressway Authority; amending s.  
 348.757, F.S.; removing the requirement that title in  
 fee simple absolute to the former Orlando-Orange  
 County Expressway System be transferred to the state  
 upon the completion of the faithful performance and  
 termination of a specified lease-purchase agreement;  
 providing an effective date.

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

Section 1. Part III of chapter 348, Florida Statutes,

27 consisting of sections 348.751-348.765, is retitled "Central  
 28 Florida Expressway Authority."

29 Section 2. Subsection (3) and paragraph (a) of subsection  
 30 (4) of section 348.753, Florida Statutes, are amended to read:

31 348.753 Central Florida Expressway Authority.-

32 (3) The governing body of the authority shall consist of  
 33 nine members. The chairs of the boards of the county commissions  
 34 of Seminole, Lake, and Osceola Counties shall each appoint one  
 35 member from its respective county, who must ~~may~~ be a commission  
 36 member or chair or a county mayor. The Mayor of Orange County  
 37 shall appoint a member from the Orange County Commission. The  
 38 Governor shall appoint three citizen members, each of whom must  
 39 be a citizen of either Orange County, Seminole County, Lake  
 40 County, or Osceola County. ~~The eighth member must be the Mayor~~  
 41 ~~of Orange County and. The ninth member must be the Mayor of the~~  
 42 ~~City of Orlando~~ shall also serve as members. The executive  
 43 director of the Florida Turnpike Enterprise shall serve as a  
 44 nonvoting advisor to the governing body of the authority. Each  
 45 member appointed by the Governor shall serve for 4 years, with  
 46 the member's term ending on December 31 of his or her last year  
 47 of service. Each county-appointed member shall serve for 2  
 48 ~~years. The terms of standing board members expire June 20, 2014.~~  
 49 Each appointed member shall hold office until his or her  
 50 successor has been appointed and has qualified. A vacancy  
 51 occurring during a term must be filled only for the balance of  
 52 the unexpired term. Each appointed member of the authority shall

53 | be a person of outstanding reputation for integrity,  
 54 | responsibility, and business ability, but, except as provided in  
 55 | this subsection, a person who is an officer or employee of a  
 56 | municipality or county may not be an appointed member of the  
 57 | authority. Any member of the authority is eligible for  
 58 | reappointment.

59 |       (4) (a) The authority shall elect one of its members as  
 60 | chair of the authority. The authority shall also elect one of  
 61 | its members as vice chair, ~~one of its members as secretary,~~ and  
 62 | one of its members as treasurer. The chair, vice chair,  
 63 | ~~secretary,~~ and treasurer shall hold such offices at the will of  
 64 | the authority. Five members of the authority constitute a  
 65 | quorum, and the vote of five members is necessary for any action  
 66 | taken by the authority. A vacancy in the authority does not  
 67 | impair the right of a quorum of the authority to exercise all of  
 68 | the rights and perform all of the duties of the authority.

69 |       Section 3. Paragraph (e) of subsection (2) of section  
 70 | 348.754, Florida Statutes, is amended to read:

71 |       348.754 Purposes and powers.—

72 |       (2) The authority may exercise all powers necessary,  
 73 | appurtenant, convenient, or incidental to the implementation of  
 74 | the stated purposes, including, but not limited to, the  
 75 | following rights and powers:

76 |       (e) To enter into and make lease-purchase agreements with  
 77 | the department for terms not exceeding 99 years, or until any  
 78 | bonds secured by a pledge of rentals pursuant to the agreement,

79 and any refundings pursuant to the agreement, are fully paid as  
 80 to both principal and interest, whichever is longer. The  
 81 authority is a party to a lease-purchase agreement between the  
 82 department and the Orlando-Orange County Expressway Authority  
 83 dated December 23, 1985, as supplemented by a first supplement  
 84 to the lease-purchase agreement dated November 25, 1986, and a  
 85 second supplement to the lease-purchase agreement dated October  
 86 27, 1988. The authority may not enter into other lease-purchase  
 87 agreements with the department and may not amend the existing  
 88 agreement in a manner that expands or increases the department's  
 89 obligations unless the department determines that the agreement  
 90 or amendment is necessary to permit the refunding of bonds  
 91 issued before July 1, 2013.

92 Section 4. Subsection (2) of section 348.757, Florida  
 93 Statutes, is amended to read:

94 348.757 Lease-purchase agreement.—

95 (2) The lease-purchase agreement must provide for the  
 96 leasing of the former Orlando-Orange County Expressway System,  
 97 by the authority, as lessor, to the department, as lessee, and  
 98 must prescribe the term of such lease and the rentals to be  
 99 paid, ~~and must provide that upon the completion of the faithful~~  
 100 ~~performance and the termination of the lease-purchase agreement,~~  
 101 ~~title in fee simple absolute to the former Orlando-Orange County~~  
 102 ~~Expressway System as then constituted shall be transferred in~~  
 103 ~~accordance with law by the authority, to the state and the~~  
 104 ~~authority shall deliver to the department such deeds and~~

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105 | ~~conveyances as shall be necessary or convenient to vest title in~~  
106 | ~~fee simple absolute in the state.~~

107 |       Section 5. This act shall take effect July 1, 2015.





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 4043 Write-in Candidates  
**SPONSOR(S):** Geller  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 840

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee	11 Y, 0 N	Toliver	Williamson
2) Transportation & Economic Development Appropriations Subcommittee		Cobb <i>PC</i>	Davis <i>[Signature]</i>
3) State Affairs Committee			

### SUMMARY ANALYSIS

The Florida Constitution sets forth residency requirements for legislators, county commissioners, justices and judges, and the governor, lieutenant governor, and members of the cabinet. The constitutional residency requirement for legislators, county commissioners, justices and judges has been interpreted by Florida courts to mean that residency within the district represented by the office sought is required only at the time of election.

Section 99.0615, F.S., requires a write-in candidate to reside within the district represented by the office sought at the time of qualification. Two recent Florida District Courts of Appeal have held the statute unconstitutional because it conflicts with the residency requirements of those offices within the Florida Constitution, which requires residency at the time of election and not the time of qualification.

This bill repeals s. 99.0615, F.S., which was found unconstitutional by the First and Fourth District Courts of Appeal.

The bill does not appear to have a fiscal impact on state or local governments.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Residency Requirements for Candidates**

The Florida Constitution sets forth eligibility requirements, which includes residency requirements, for legislators,<sup>1</sup> county commissioners,<sup>2</sup> judges,<sup>3</sup> and the governor, the lieutenant governor, and members of the cabinet.<sup>4</sup> The Florida Supreme Court has held that the legislature is prohibited from imposing any additional eligibility requirements upon candidates for these offices;<sup>5</sup> however, the legislature is allowed to mandate certain qualifications solely for the purpose of entry onto the ballot, such as full and public disclosure of financial interests, taking an oath, and paying filing fees.<sup>6</sup>

The Florida Constitution sets forth the following residency requirements:

- A legislator must be an elector and resident of the district from which elected, and must have resided in the state for two years prior to the election.<sup>7</sup>
- A county commissioner must be elected from the district from which he or she resides.<sup>8</sup>
- A justice or judge must reside in the territorial jurisdiction of the court from which elected.<sup>9</sup>
- The governor, lieutenant governor, and members of the cabinet must be an elector who has resided in the state for the seven years preceding the election.<sup>10</sup>

The constitutional residency requirement for legislators, county commissioners, and justices and judges has been interpreted by Florida courts to mean that residency within the district represented by the office sought is required only at the time of election.<sup>11</sup>

The Florida Statutes also provide residency requirements in certain instances. Section 1001.361, F.S., provides that notwithstanding any local law or county charter, each candidate for district school board member must be a resident of the district school board member residence area at the time of qualification. Section 1001.463, F.S., provides that the office of district school superintendent is automatically vacated if the superintendent moves from the district he or she represents.

As for municipal elections, s. 100.3605, F.S., provides that the Florida Election Code governs the conduct of a municipality's election in the absence of an applicable special act, charter, or ordinance provision. As such, the residency requirement for city commissioners is at the time of assuming office, unless otherwise provided by special act, charter, or ordinance provision.<sup>12</sup>

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<sup>1</sup> Article III, s. 15(c), FLA. CONST.

<sup>2</sup> Article VIII, s. 1(e), FLA. CONST.

<sup>3</sup> Article V, s. 8, FLA. CONST.

<sup>4</sup> Article IV, s. 5, FLA. CONST.

<sup>5</sup> *State v. Grassi*, 532 So.2d 1055(Fla. 1988).

<sup>6</sup> *Matthews v. Steinberg*, 153 So.3d 295, 297 (Fla. 1st DCA 2014) citing *Norman v. Ambler*, 46 So.3d 178, 182-83 (Fla. 1st DCA 2010).

<sup>7</sup> Article III, s. 15(c), FLA. CONST.

<sup>8</sup> Article VIII, s. 1(e), FLA. CONST.

<sup>9</sup> Article V, s. 8, FLA. CONST.

<sup>10</sup> Article IV, s. 5(b), FLA. CONST.

<sup>11</sup> *Norman*, 46 So.3d at 183 (residency of legislators); *Grassi*, 532 So.2d at 1056 (residency of county commissioners); *Miller v. Mendez*, 804 So.2d 1243, 1246-47 (Fla. 2001) (residency of judges).

<sup>12</sup> Department of State agency analysis of HB 4043 (on file with the Government Operations Subcommittee).

## **Residency Requirements for Write-in Candidates**

The Florida Statutes provide a residency requirement for write-in candidates. Section 99.0615, F.S., requires a write-in candidate to reside within the district represented by the office sought at the time of qualification.

### Litigation Concerning Residency Requirements for Write-in Candidates

In September 2014, the Florida Fourth District Court of Appeal held in *Francois v. Brinkmann* that s. 99.0615, F.S., was unconstitutional because “the timing of its residency requirement for write-in candidates conflicts with the timing of the residency requirement for county commission candidates as established by Article VIII, section 1(e) of the Florida Constitution.”<sup>13</sup> The case involved a county commission primary where five candidates were on the ballot and an additional candidate, Mr. Francois, entered the race as a write-in candidate.<sup>14</sup> Mr. Francois did not live in the district represented by the office sought at the time of filing his papers to qualify as a write-in candidate.<sup>15</sup> In *Francois*, the court reasoned that s. 99.0615, F.S., imposed qualifications in contravention to those specified in the constitution and, therefore, the statute was unconstitutional.<sup>16</sup>

One month following the *Francois* decision, the Florida First District Court of Appeal also held s. 99.0615, F.S., unconstitutional in *Matthews v. Steinberg*.<sup>17</sup> The *Matthews* case involved a write-in candidate for state representative who did not “reside within the district he wished to represent at the time he filed his qualifying paperwork with the Division of Elections.”<sup>18</sup> The *Matthews* court, like the *Francois* court,<sup>19</sup> found that the requirement that residency occur at the time of qualification within s. 99.0615, F.S., was in direct contravention of the Florida Constitution’s requirement of residency at the time of election and, therefore, was unconstitutional.<sup>20</sup>

### **Effect of the Bill**

The bill repeals s. 99.0615, F.S., which was found unconstitutional by the First and Fourth District Courts of Appeal.

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

Section 1: Repeals s. 99.0615, F.S., relating to write-in candidate residency requirements.

Section 2: Provides an effective date of upon becoming a law.

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<sup>13</sup> *Francois v. Brinkmann*, 147 So.3d 613, 616 (Fla. 4th DCA 2014); appeal filed with the Florida Supreme Court (*Brinkmann v. Francois*, SC14-1899).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Francois*, 147 So.3d at 616.

<sup>17</sup> *Matthews*, 153 So.3d 295; appeal filed with the Florida Supreme Court (*Steinberg v. Matthews*, SC14-2202).

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at 297 citing *Francois*, 147 So.3d at 615 (“The statutory requirement directly contravenes and adds to the constitutional fiat that legislators reside in the district at the time of election.”)

<sup>20</sup> *Id.* at 298

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to impact state government revenues.

2. Expenditures:

The bill does not appear to impact state government expenditures.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to impact local government revenues.

2. Expenditures:

The bill does not appear to impact local government expenditures.

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

This bill does not appear to have a direct economic impact on the private sector.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill is exempt from the mandate requirements because it is amending the elections laws.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

The bill does not appear to require any additional rulemaking authority for the Division of Elections, Department of State.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

HB 4043

2015

1                   A bill to be entitled  
2           An act relating to write-in candidates; repealing s.  
3           99.0615, F.S., relating to a requirement that a write-  
4           in candidate reside within the district of the office  
5           sought at the time of qualification; providing an  
6           effective date.

7

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

9


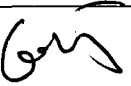
10           Section 1. Section 99.0615, Florida Statutes, is repealed.

11           Section 2. This act shall take effect upon becoming a law.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 7067      PCB EDTS 15-03      Economic Development  
**SPONSOR(S):** Economic Development & Tourism Subcommittee, La Rosa  
**TIED BILLS:**                      **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Economic Development & Tourism Subcommittee	11 Y, 0 N	Collins	Duncan
1) Transportation & Economic Development Appropriations Subcommittee		Proctor 	Davis 
2) Economic Affairs Committee			

### SUMMARY ANALYSIS

The bill contains provisions that modify the definitions, processes, and administration of economic development incentive tax refund and grant programs; assists small business development; encourages high-tech and second stage business development; modifies the New Markets Development Program to increase accountability; and creates a new state-administered enterprise zone certification program.

As it relates to economic development incentive programs, the bill:

- requires "cumulative capital investment" to be considered as part of the evaluation of incentive applications and clarifies that such capital investment does not include state or local government funds;
- clarifies that the model used to determine a project's "economic benefits" as developed by the Office of Economic and Demographic Research must include all state funds spent to benefit a business;
- requires additional review and evaluation of a project following an incentive agreement amendment or modification and prohibits incentive agreements with terms longer than 10 years;
- specifies that the average wage used to determine incentive eligibility is the average wage of the county where the project is located;
- creates a new approval process for performance-based cash incentive programs;
- defines rural areas as "rural areas of opportunity" across multiple incentive programs;
- establishes a job creation component within the Quick Action Closing Fund program;
- reauthorizes Qualified Defense Contractor and Space Flight Business Tax Refund program through June 30, 2017; and
- repeals the Professional Golf Hall of Fame and International Game Fish Association World Center funding programs.

The bill also:

- exempts certain new developments from having to comply with impact fee, concurrency, or proportionate share requirements for transportation impacts for three years;
- creates the Startup Florida Initiative directing EFI to foster and encourage high-tech startup and second stage business development;
- makes technical changes to the New Markets Development program, limits the sources of financing for qualified investments, and requires that DEO submit an annual report on the program to the Legislature;
- makes changes to the Florida Development Finance Corporation (FDFC) relating to the need for FDFC to enter into interlocal agreements with public entities to fulfill its purposes and the FDFC's board of directors;
- extends and renews certain permit extensions previously authorized by the Legislature; and
- creates a new state-administered enterprise zone certification program.

On March 27, 2015, the Revenue Estimating Conference estimated the certified enterprise zone and tax provisions of the bill to have an indeterminate negative revenue impact to the state and local governments. Please see fiscal section for additional information.

The bill provides an effective date of July 1, 2015.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

**STORAGE NAME:** h7067a.TEDAS.DOCX

**DATE:** 3/27/2015



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **ECONOMIC DEVELOPMENT INCENTIVES**

Enterprise Florida, Inc., (EFI) is the primary point of contact for businesses with relocation, expansion, or retention opportunities. As part of the early project development process, EFI sells the value of doing business in the state. When a business is contemplating an expansion or relocation, EFI evaluates the competitive nature of the project in order to determine if incentives are needed and, if so, the appropriate programs for the project. A strong commitment by the local community can also help define the level of commitment on behalf of the state.<sup>1</sup>

During the project evaluation process, the needs of the project are identified, and an incentive package is developed. It is during this stage that the Department of Economic Opportunity (DEO) analyzes the risk profile of the company involved, the particular project, and the recommended incentive package prepared by EFI to ensure it is in the best interest of the state. Once the incentive package is finalized, DEO and/or the other appropriate state bodies issue the formal approvals.<sup>2</sup>

The state's economic development incentives utilize tax refunds and performance-based cash awards. To receive an incentive, businesses must first enter into a contract with DEO which outlines performance expectations such as specific job creation goals, a schedule by which new jobs should be created, an average wage to be paid for the new jobs, and a schedule by which new capital investment should be made. After the business has commenced the project and begun hiring, it will submit an annual claim form and documentation of taxes paid. The state verifies the claim data with the company's quarterly reemployment assistance and payroll reports and verifies the tax documentation. If the state confirms the contractual obligations have been met and any required local financial support has been received, a tax refund check is sent to the business. Businesses not filing claims or not meeting the performance obligations of its contract may be terminated from the program.

Businesses receiving economic development incentive grant awards must also enter into performance-based contracts with the state, which outline specific milestones for performance and payment. All of the state's incentive grant awards contain penalties for non-performance, and the state may actively pursue the recapture of funds in cases where a business has failed to meet the terms of its contract.

##### **Present Situation**

##### **Qualified Target Industry Tax Refund Program (QTI)**

- The QTI was established to serve to attract new high quality, high wage jobs for Floridians.<sup>3</sup>
- Tax refunds are made to qualifying, pre-approved businesses creating new jobs within Florida's target industries.
- All QTI projects include a performance-based contract with the state, which outlines specific milestones that must be achieved and verified by the state prior to payment of refunds.
- Local Financial Support: Twenty percent of the award must come from the local city or county government.<sup>4</sup>

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<sup>1</sup> Florida Department of Economic Opportunity, *2014 Annual Incentives Report*, pg. 3, (Dec. 30, 2014).

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

<sup>3</sup> See s. 288.061(1), F.S.

<sup>4</sup> See s. 288.106(1)(j), F.S.

Prior to June 30, 2014, DEO was authorized to reduce this requirement by one-half for a qualified target industry business located in the counties of Bay, Escambia, Franklin, Gadsden, Gulf, Jefferson, Leon, Okaloosa, Santa Rosa, Wakulla or Walton. The reduction in local match was determined by DEO and based on a determination that the project facilitates economic development, growth, or new employment within the previously referenced counties, and was in the best interest of the state.<sup>5</sup>

- **Economic Recovery Extension:** For the period of January 2, 2009, through June 30, 2012, a qualified target industry business could submit a request to DEO for an economic recovery extension. The request was required to provide quantitative evidence that negative economic conditions in the business's industry, the effects of a named hurricane or tropical storm, or specific acts of terrorism have affected the business and prevented it from complying with the terms and conditions of its incentive agreement with the state. An approved economic recovery extension allowed DEO to prorate a business's tax refund and renegotiate the terms of the incentive agreement. Additionally, DEO was authorized to extend the duration of the incentive agreement up to two years.<sup>6</sup>
- **Job and Wage Requirements:** A project must propose to create at least 10 new jobs, or in the case of a business expansion must result in a net increase in employment of at least 10 percent at that business. The jobs proposed to be created or retained must pay an average annual wage of at least 115% of the average private sector wage in the area where the business is located, or the statewide private sector average wage.
- The amount of the refund is based on the average wages paid by the business, number of jobs created, and where in the state the eligible business chooses to locate or expand. The minimum tax refund is \$3,000 per employee, and the maximum amount is \$11,000 per employee over the term of the incentive agreement. Jobs created in rural communities and enterprise zones, as well as those paying higher annual average wages, are eligible for more incentives.
- Since the inception of the QTI program, 1,264 applications have been approved, 1,110 contracts have been executed, and 122 agreements have been completed. Of those 1,264 projects, 322 remain active, meaning they are eligible to receive refunds through the QTI program. In fiscal year 2013-2014, \$55,324,300 in QTI incentives were awarded.<sup>7</sup>

### **Qualified Defense Contractor and Space Flight Tax Refund**

- The Qualified Defense Contractor and Space Flight tax refund program was established to attract new high quality, high wage jobs for Floridians in the defense and space industries.<sup>8</sup>
- Tax refunds are made to qualifying, pre-approved businesses bidding on new competitive contracts or consolidating existing defense or space contracts.<sup>9</sup>
- **Local Community Support:** This incentive is a partnership between the state and local community - 20 percent of the award comes from the local city or county government.<sup>10</sup>
- All Qualified Defense Contractor and Space Flight tax refund program projects include a performance-based contract with the state, which outlines specific milestones that must be achieved and verified by DEO prior to payment of refunds.<sup>11</sup>
- **Jobs and Wages:** The program requires that jobs created by a Qualified Defense Contractor and Space Flight tax refund program project have an average annual wage of at least 115% of

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<sup>5</sup> Section 288.106(4)(f), F.S.

<sup>6</sup> Section 288.106(5)(b), F.S.

<sup>7</sup> *Id.*, pg. 11

<sup>8</sup> *See s.* 288.1045, F.S.

<sup>9</sup> *See s.* 288.1045(2), F.S.

<sup>10</sup> Section 288.1045(1)(j), F.S.

<sup>11</sup> Section 288.1045(4), F.S. *See supra* note 1 at 9.

the average private sector wage in the area where the business is located, or the statewide private sector average wage.

The amount of the tax refund is based on the average wages paid by the business, number of jobs created, and where in the state the eligible business chooses to locate or expand. The minimum tax refund is \$3,000 per employee, and the maximum amount is \$8,000 per employee over the term of the incentive agreement.<sup>12</sup>

- Since the Qualified Defense Contractor and Space Flight tax refund program's inception 33 Qualified Defense Contractor and Space Flight tax refund program applications have been approved. Of those 33 approved applications 5 remain active. In fiscal year 2013-2014, \$3,208,000 in Qualified Defense Contractor and Space Flight tax refund program incentives were awarded.<sup>13</sup> Approved applicants may receive up to 25 percent of their total tax refund, not to exceed \$2.5 million, in any given fiscal year.<sup>14</sup>
- Applicants may no longer be certified as eligible for the Qualified Defense Contractor and Space Flight tax refund program as of June 30, 2014.<sup>15</sup>

### Quick Action Closing Fund (QAC)

- The Legislature created the Quick Action Closing Fund (QAC) in 1999 as a discretionary "deal closing" tool in highly competitive negotiations where the state's traditional incentives are not enough to win the deal. The program was created in reaction to the announcement that the space shuttle program was being discontinued by NASA with expected job losses that would negatively impact families, companies, the state and regional economies.<sup>16</sup>
- Jobs and Wages: To be eligible to receive a QAC award, an applicant must be a business that operates within a targeted industry,<sup>17</sup> must propose a project that has a positive return on investment (ROI) of at least five to one,<sup>18</sup> must be induced by the award to locate or expand within the state<sup>19</sup> and must pay an average annual wage of at least 125 percent of the average private sector average.<sup>20</sup>
- Local Community Support: The project must be supported by the local community in which the project will be located.<sup>21</sup>
- DEO and EFI jointly review applications<sup>22</sup> and determine the eligibility of each project. Waivers of eligibility criteria may be granted based on extraordinary circumstances,<sup>23</sup> in order to mitigate the impact of the conclusion of the space shuttle program,<sup>24</sup> or if the project would significantly benefit the local or regional economy in a rural area of opportunity.<sup>25</sup>
- DEO is required to evaluate proposals for high-impact business facilities based on the following criteria.<sup>26</sup>

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<sup>12</sup> Section 288.1045(2)(b), F.S.

<sup>13</sup> See *supra* note 1 at 11.

<sup>14</sup> Section 288.1045(2)(b), F.S.

<sup>15</sup> Section 288.1045(7), F.S.

<sup>16</sup> See s. 288.1088(1)(b), F.S.

<sup>17</sup> As identified by s. 288.106(2)(q), F.S.

<sup>18</sup> Section 288.1088(2)(b), F.S.

<sup>19</sup> Section 288.1088(2)(c), F.S.

<sup>20</sup> Section 288.1088(2)(d), F.S.

<sup>21</sup> Section 288.1088(2)(e), F.S.

<sup>22</sup> See s. 288.061, F.S.

<sup>23</sup> Section 288.1088(3)(a)1., F.S.

<sup>24</sup> Section 288.1088(3)(a)2., F.S.

<sup>25</sup> Section 288.1088(3)(a)3., F.S.

<sup>26</sup> Privately developed rural infrastructure projects are evaluated on the types of business activities and jobs stimulated by the state's investment, not for the number of jobs created or average annual wages. S. 288.1088(3)(b)2., F.S.

- a description of the type of facility or infrastructure, its operations, and the product or service associated with the facility;<sup>27</sup>
  - the number of full-time equivalent jobs that will be created by the facility and the total estimated average annual wages of those jobs;<sup>28</sup>
  - the cumulative amount of capital investment to be made in the facility;<sup>29</sup>
  - a statement of any special impacts the facility is expected to stimulate in a particular business sector in the state or region or in the state's universities or colleges;<sup>30</sup>
  - a statement of the role the award will play in the decision of the company to locate or expand in the state; and<sup>31</sup>
  - a report evaluating the quality and value of the company submitting the proposal.<sup>32</sup>
- Performance-Based Approval Process
    - Within seven business days of evaluating a project, DEO must recommend to the Governor that a project be approved or disapproved for an award. Approved projects may be awarded as follows:<sup>33</sup>
      - The Governor is authorized to award projects less than \$2 million without Legislative approval.
      - For project awards between \$2 million and \$5 million, the Governor must provide a written description and evaluation of a project award to the chair and vice chair of the Legislative Budget Commission (LBC) at least 10 days prior to giving final approval for a project award.
      - For project award over \$5 million must be approved by the LBC prior to funds being released.
    - Following approval, DEO is required to enter into a contract with the business, which specifies the conditions for payment of funds.<sup>34</sup>
    - The contract must include the total amount of funds awarded, the performance conditions for the project,<sup>35</sup> a baseline of current service with a measure of enhanced capability following the project, methodology for measuring performance, the schedule of payments, and sanctions for failure to meet performance conditions.<sup>36</sup>

### **Innovation Incentive Program**

- The Innovation Incentive Program was established to provide financial resources so that the state can "respond expeditiously to extraordinary economic opportunities and to compete effectively for high-value research and development, innovation business, and alternative and renewal energy projects."<sup>37</sup>
- To be eligible for consideration to receive an Innovation Incentive Program award, an innovation business, a research and development entity, or an alternative and renewable energy company

<sup>27</sup> Section 288.1088(3)(b)1., F.S.

<sup>28</sup> Section 288.1088(3)(b)2., F.S.

<sup>29</sup> Section 288.1088(3)(b)3., F.S.

<sup>30</sup> Section 288.1088(3)(b)4., F.S.

<sup>31</sup> Section 288.1088(3)(b)5., F.S.

<sup>32</sup> Section 288.1088(3)(b)6., F.S.

<sup>33</sup> Section 288.1088(3)(c), F.S.

<sup>34</sup> Section 288.1088(3)(d), F.S.

<sup>35</sup> Performance conditions include net new employment in the state, average salary, and total capital investment. *See s. 288.1088(3)(d), F.S.*

<sup>36</sup> Section 288.1088(3)(d), F.S.

<sup>37</sup> Section 288.1089(1), F.S.

must submit a written application to DEO before making a decision to locate new operations in the state or expand an existing operation in the state.<sup>38</sup>

- **Jobs and Wages:** To qualify for review by DEO, the applicant must establish that the jobs created by the project must pay an estimated annual wage of at least 130 percent of the average private sector wage.<sup>39</sup>
- **Waiver of Wage Requirement:** DEO is authorized to waive the average wage requirement at the request of Enterprise Florida, Inc., for a project located in a rural area, a brownfield area, or an enterprise zone, when the merits of the individual project or the specific circumstances in the community in relationship to the project warrant such action.<sup>40</sup>
- **Research and development projects must provide the state at least a break-even return-on-investment (ROI) within a 20-year period.**<sup>41</sup>
- **Local Support:** A one-to-one match from the local community. The match requirement may be reduced or waived in rural areas of opportunity or reduced in rural areas, brownfield areas, and enterprise zones.<sup>42</sup>
- **Performance-Based Approval Process**
  - DEO must make a recommendation to the Governor to approve or deny an Innovation Incentive Program award.
  - If the project is recommended, DEO must include in their recommendation proposed performance conditions that the applicant must meet in order to obtain incentive funds and any other conditions that are required to be met before the receipt of any incentive funds.
  - The Governor must:
    - Approve or deny the award based on the valuation and recommendation received from DEO; and
    - Consult with the President of the Senate and the Speaker of the House of Representatives prior to approving an award. The funds may not be released until the award has been reviewed and approved by the Legislative Budget Commission.
- Upon approval, DEO and the award recipient must enter into an agreement that specifies the amount of the award, the performance conditions and measures, and a schedule of payments and sanctions for failure to comply with performance conditions, including clawback provisions.<sup>43</sup> Agreements signed on or after July 1, 2009, must also include, among other things, provisions related to job creation, reinvestment of royalty revenues, reporting requirements, and a process for amending the agreement.<sup>44</sup>

### **High-Impact Sector Performance Incentive**

- The High-Impact Sector Performance Incentive<sup>45</sup> is a grant reserved for major facilities operating in designated portions of high-impact sectors including clean energy, life sciences, financial services, information technology, silicon technology, transportation equipment manufacturing, or a corporate headquarters facility.

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<sup>38</sup> Section 288.1089(3), F.S.

<sup>39</sup> Section 288.1089(4)(a), F.S.

<sup>40</sup> *Id.*

<sup>41</sup> Section 288.1089(4)(b), F.S.

<sup>42</sup> Section 288.1089(4)(b)4., F.S.

<sup>43</sup> Section 288.1089(8)(a), F.S.

<sup>44</sup> Section 288.1089(8)(b), F.S.

<sup>45</sup> Ch. 97-278, L.O.F.

- This performance-based cash award is paid in two equal installments, one upon commencement of operations and the other upon commencement of full operations.<sup>46</sup>
- An “eligible high-impact business” is a business in one of the high-impact sectors identified by EFI, and certified by DEO, which is making a cumulative investment in the state of at least \$50 million and creating at least 50 new full-time equivalent jobs, or a research and development facility making a cumulative investment of at least \$25 million and creating at least 25 new full-time equivalent jobs. Such investment and employment must be achieved in a period not to exceed 3 years after the date the business is certified as a qualified high-impact business.<sup>47</sup>
- DEO reviews an application<sup>48</sup> received from an eligible business for consideration as a qualified high-impact business before the business has made a decision to locate or expand a facility in this state. The business must provide the following information:
  - A complete description of the type of facility, business operations, and product or service associated with the project.
  - The number of full-time equivalent jobs that will be created by the project and the average annual wage of those jobs.
  - The cumulative amount of investment to be dedicated to this project within 3 years.
  - A statement concerning any special impacts the facility is expected to stimulate in the sector, the state, or regional economy and in state universities and community colleges.
  - A statement concerning the role the grant will play in the decision of the applicant business to locate or expand in this state.
  - Any additional information requested by the department.<sup>49</sup>
- In negotiating the amount of a High-Impact Sector Performance Incentive award, DEO must consider the following guidelines in conjunction with other relevant applicant impact and cost information and analysis:<sup>50</sup>
  - A qualified high-impact business making a cumulative investment of \$50 million and creating 50 jobs may be eligible for a total grant between \$500,000 and \$1 million.
  - A qualified high-impact business making a cumulative investment of \$100 million and creating 100 jobs may be eligible for a total grant between \$1 million and \$2 million.
  - A qualified high-impact business making a cumulative investment of \$800 million and creating 800 jobs may be eligible for a total grant between \$10 million and \$12 million.
  - A qualified high-impact business engaged in research and development making a cumulative investment of \$25 million and creating 25 jobs may be eligible for a total grant between \$700,000 and \$1 million.
  - A qualified high-impact business engaged in research and development making a cumulative investment of \$75 million and creating 75 jobs may be eligible for a total grant between \$2 million and \$3 million.
  - A qualified high-impact business engaged in research and development making a cumulative investment of \$150 million and creating 150 jobs may be eligible for a total grant between \$3.5 million and \$4.5 million.
- The total amount of active performance grants scheduled for payment by DEO in any single fiscal year may not exceed the lesser of \$30 million or the amount appropriated by the Legislature for that fiscal year for qualified high-impact business performance grants.<sup>51</sup>

<sup>46</sup> See *supra* note 1 at 10.

<sup>47</sup> Section 288.108(2)(c), F.S.

<sup>48</sup> In accordance with Section 288.061, F.S.

<sup>49</sup> Section 288.108(5), F.S.

<sup>50</sup> Section 288.108(3)(b), F.S.

- Within 10 business days after DEO receives the submitted High-Impact Sector Performance Incentive application, the executive director of DEO must approve or disapprove the application and issue a letter of certification which includes a justification of that decision, unless the business requests an extension of that time.<sup>52</sup>
- DEO has the authority to grant awards to qualifying High-Impact Sector Performance Incentive projects without approval by the Governor or Legislative Budget Commission.<sup>53</sup>
- Performance-Based Award
  - Upon approval, DEO and the award recipient must enter into an agreement which specifies the conditions for payment of the qualified high-impact business performance grant.
  - The agreement includes the total amount of the qualified high-impact business facility performance grant award, the performance conditions that must be met to obtain the award, including the employment, average salary, investment, the methodology for determining if the conditions have been met, and the schedule of performance grant payments.<sup>54</sup>

## **Incentive Application Process**

### **Economic Benefits and Cumulative Capital Investment**

Current law requires DEO to review and evaluate each economic development incentive application for the economic benefits of the proposed award of state incentives. The Office of Economic and Demographic Research (EDR) is required to establish the methodology and model used to calculate those economic benefits.<sup>55</sup>

Economic benefits mean the direct, indirect, and induced gains in state revenues as a percentage of the state's investment.<sup>56</sup> State investment means any state grants, tax exemptions, tax refunds, tax credits, or other state incentives provided to a business under a program administered by DEO, including the capital investment tax credit.<sup>57</sup> The cumulative capital investment means the total capital investment in land, buildings, and equipment made in connections with a qualifying project from the beginning of construction of the project to the commencement of operations.<sup>58</sup>

The current methodology and model developed by EDR, which only represents state investments directly under the control of EFI or DEO<sup>59</sup>, is used across all economic development incentive programs required by law to be evaluated for economic benefits.<sup>60</sup>

### **Employ Florida Marketplace**

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<sup>51</sup> Section 288.108(4)(a), F.S.

<sup>52</sup> See s. 288.108(5), F.S.; and s.288.061(3), F.S.

<sup>53</sup> See s. 288.108(3-5), F.S.

<sup>54</sup> Section 288.108(5)(c), F.S.

<sup>55</sup> Section 288.061(2), F.S.

<sup>56</sup> Section 200.005(1), F.S.

<sup>57</sup> Section 288.076((1)(e), F.S.

<sup>58</sup> Section 220.191(1)(b), F.S.

<sup>59</sup> 2013 Review of the Department of Economic Opportunity's Legacy Economic Impact Model (on file with the House Transportation & Economic Development Appropriations Subcommittee).

<sup>60</sup> See s. 288.0001, F.S. The Innovation Incentive Program is not required to be evaluated for economic benefits. Innovation Incentive Program projects are required to have a cumulative break-even economic benefit within a 20-year period except for certain exceptions. See s. 288.1089(4)(b)(3), F.S.

The Employ Florida Marketplace<sup>61</sup> is an automated job-matching or job bank system, implemented by CareerSource Florida, Inc., (formerly Workforce Florida, Inc.), which is accessible to employers, job seekers, and others via the Internet.

Receiving more than 9 million hits per day, EmployFlorida.com also offers labor market statistics, access to training grant information and contact information for any of the state's Regional Workforce Boards and CareerSource Centers. Throughout the life cycle of the Employ Florida Marketplace, nearly 6.5 million individuals have registered in the system, posting more than 4 million resumes and receiving more than 181 million services to assist them with either re-entering the workforce or finding better employment opportunities. In addition, over 200,000 employers have registered in the Employ Florida Marketplace, posting over 2.1 million job openings and receiving nearly 9.7 million employer services.<sup>62</sup>

### **Term of Incentive Agreement**

Following approval of an incentive package, DEO executes an incentive agreement or contract between the business<sup>63</sup> and the state. The contract or agreement with the applicant must specify the total amount of the award, the performance conditions that must be met to obtain the award, the schedule for payment, and sanctions that would apply for failure to meet performance conditions. DEO may enter into one agreement covering all of the state incentives that are being provided to the applicant.<sup>64</sup> The law does not dictate the length of term for incentive agreements between a business and the state, nor does it address the usage of escrow accounts for the holding of funds for future performance payments.

### **Incentive Agreement Amendments**

Under current law, contact or agreements executed for the Qualified Defense and Space Contractor Refund Program, QTI, and the Innovation Incentive Program may be amended under certain circumstances.

### **Professional Golf Hall of Fame**

The World Golf Hall of Fame is a 501(c)(3) nonprofit institution located in St. Augustine, Florida. The hall of fame's mission is to preserve the history of the game of golf and the legacies of its players. Originally, formed in 1974 in Pinehurst, North Carolina, the hall of fame relocated to Florida in 1998<sup>65</sup> and was certified as a professional golf hall of fame facility pursuant to s. 288.1168, F.S., by the Governor's Office of Tourism, Trade, and Economic Development (OTTED)<sup>66</sup> that same year. It is the only golf hall of fame in the U.S. recognized by the Professional Golfers' Association Tour, Inc. (PGA). In addition to serving as a golf museum, the facility provides educational programs for local K-12 schools and has a collaborative relationship with several universities in northeast Florida. The hall of fame also works closely with St. Johns County on various community events, including golf festivals and farmers markets. The hall of fame facility is located on privately-owned land and the facility is privately owned and managed.<sup>67</sup>

Section 288.1168, F.S., establishes the Professional Golf Hall of Fame Facility funding program which allows DEO to certify applicants as professional golf hall of fame facilities. To be eligible:

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<sup>61</sup> Employ Florida Marketplace; available at: [www.employflorida.com](http://www.employflorida.com) (last visited Feb. 12, 2015).

<sup>62</sup> *Id.*

<sup>63</sup> In some instances local governments may enter into a contract with DEO for a project.

<sup>64</sup> Section 288.061(3)(a), F.S.

<sup>65</sup> World Golf Hall of Fame, *Our History*; available at: <http://www.worldgolfhalloffame.org/about-the-museum/our-history/> (last accessed on Feb. 14, 2015)

<sup>66</sup> DEO assumed the responsibilities of OTTED in 2011 pursuant to ch. 2011-142.

<sup>67</sup> Office of Program Policy Analysis and Government Accountability, *Florida Economic Development Program Evaluations – Year 2, Report No. 15-01*, pg. 51; Jan. 1, 2015



- the applicant facility must be the only professional golf hall of fame in the U.S. recognized by the PGA;<sup>68</sup>
- the applicant is a unit of local government or private sector group that has contracted to construct or operate the professional golf facility on land owned by a unit of local government;
- the municipality or county (if located in an unincorporated area) in which the facility is located, has passed a resolution that states the application serves a public purpose;<sup>69</sup>
- there are projections that the facility will attract a paid attendance of more than 300,000 annually;<sup>71</sup>
- there is an independent analysis which demonstrates that the amount of sales tax generated by sales at the facility will at least equal \$2 million annually;<sup>72</sup>
- the applicant has submitted an agreement to provide \$2 million in national and international media promotion of the hall of fame facility, Florida, and Florida tourism, through the PGA, or its affiliates during the period of time that the facility receives state funds;<sup>73</sup>
- documentation exists that demonstrates the applicant has provided, or is capable of providing, more than one-half of the costs associated with the improvement and development of the facility;<sup>74</sup> and
- the application is signed by an official senior executive of the applicant and is notarized according to state law.<sup>75</sup>

Certified applicants are eligible to receive monthly disbursements from the state in amount equal to \$166,667 for up to 300 months (a total of \$50,000,100).<sup>76</sup>

Every ten years the hall of fame facility must be recertified by demonstrating that it is open, continues to be the only professional golf hall of fame in the country recognized by the PGA, and is meeting at least one of the minimum projections established at the time of original certification: 300,000 annual visitors or \$2 million in annual sales tax revenue. The facility submitted its first 10-year recertification application and reported that annual attendance from 1998 through 2009 had varied between 230,000 and 290,000 visitors, and the facility did not exceed the \$2 million sales tax threshold until 2005. Because the facility did not meet the statutory requirements for recertification in 2009, OTTED required the PGA to increase its required annual advertising contribution from \$2 million to \$2.5 million in lieu of a reduction in state funds. The additional \$500,000 in advertising was to be allocated for generic Florida advertising as determined by the department.<sup>77</sup>

### **International Game Fish Association World Center**

The International Game Fish Association (IGFA) is a nonprofit organization founded in 1939 that focuses on the conservation of game fish and the promotion of responsible and ethical angling practices. The association is housed at the IGFA Museum and Hall of Fame in Dania Beach, Florida. The facility was certified by the state as an IGFA World Center facility in February 2000.

<sup>68</sup> Section 288.1168(1)(a), F.S.

<sup>69</sup> Section 288.1168(1)(b), F.S.

<sup>70</sup> Section 288.1168(1)(c), F.S.

<sup>71</sup> Section 288.1168(1)(d), F.S.

<sup>72</sup> Section 288.1168(1)(e), F.S.

<sup>73</sup> Section 288.1168(1)(f), F.S.

<sup>74</sup> Section 288.1168(1)(g), F.S.

<sup>75</sup> Section 288.1168(1)(h), F.S.

<sup>76</sup> Section 212.20(6)(d)6.c., F.S.

<sup>77</sup> *Id.*

Section 288.1169, F.S., establishes the IGFA World Center facility funding program which allows DEO to certify applicants as IGFA World Center facilities. To be eligible:

- the IGFA World Center must be the only fishing museum, hall of fame, and international administrative headquarters in the U.S. recognized by the IGFA, and that one or more private sector entities have committed to donate to the IGFA land upon which the facility will operate;<sup>78</sup>
- IGFA is a nonprofit Florida corporation that has contracted to construct and operate the facility;<sup>79</sup>
- the municipality or county (if located in an unincorporated area) in which the facility is located has passed a resolution that states the facility serves a public purpose;<sup>80</sup>
- there are existing projections that the facility and co-located privately-owned facilities will attract an attendance of more than 1.8 million annually;<sup>81</sup>
- there is an independent analysis which demonstrates that the amount of sales tax generated by sales at the facility will at least equal \$1 million annually;<sup>82</sup>
- there are existing projections that the project will attract more than 300,000 out-of-state visitors annually;<sup>83</sup>
- the applicant has submitted an agreement to provide \$500,000 annually in national and international media promotion of the facility during the period of time that it receives state funds;<sup>84</sup>
- documentation exists that demonstrates the applicant has provided, or is capable of providing, more than one-half of the cost related to the improvements and the development of the facility;<sup>85</sup> and
- the application is signed by senior officials of the IFGA and is notarized according to state law.<sup>86</sup>

Certified applicants are eligible to receive monthly disbursements from the state in amount equal to \$83,333 for up to 168 months (a total of \$13,999,944).<sup>87</sup> The state made its last disbursement to the facility in February 2014.<sup>88</sup>

Every ten years the world center facility must be recertified by demonstrating that it is open, continues to be the only international administrative headquarters, fishing museum, and hall of fame in the country recognized by the IGFA, and is meeting at least one of the minimum projections established at the time of original certification: 300,000 annual visitors or \$1 million in annual sales tax revenue. The facility reported an average of \$3.8 million in annual sales tax revenues generated from 2000 through 2010, and it was recertified in 2011.<sup>89</sup>

### **Effect of Proposed Changes**

#### **Waivers (QTI, QAC, Innovation Incentive Program)**

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<sup>78</sup> Section 288.1169(2)(a), F.S.

<sup>79</sup> Section 288.1169(2)(b), F.S.

<sup>80</sup> Section 288.1169(2)(c), F.S.

<sup>81</sup> Section 288.1169(2)(d), F.S.

<sup>82</sup> Section 288.1169(2)(e), F.S.

<sup>83</sup> Section 288.1169(2)(f), F.S.

<sup>84</sup> Section 288.1169(2)(g), F.S.

<sup>85</sup> Section 288.1169(2)(h), F.S.

<sup>86</sup> Section 288.1169(2)(i), F.S.

<sup>87</sup> Section 212.20(6)(d)6.d., F.S.

<sup>88</sup> Office of Program Policy Analysis and Government Accountability, *Florida Economic Development Program Evaluations – Year 2, Report No. 15-01*, pg. 52; Jan. 1, 2015

<sup>89</sup> *Id.*

The bill amends QTI, QAC, and Innovation Incentive Program, to prohibit DEO from granting waivers to projects that do not pay an average wage of at least 105 percent of average wage of the county in which the project is located or will be located.

The bill amends QAC to provide that a QAC project may receive no more than two waivers of eligibility criteria. Additionally, the bill prohibits DEO from granting a waiver for a QAC project that does not produce an economic benefit ratio of at least two to one. The bill also prohibits DEO from granting a waiver for inducement and for a QAC project that does not qualify as a target industry project.<sup>90</sup>

#### **Average Wage (Qualified Defense Contractor and Space Flight tax refund program, QAC, Innovation Incentive Program)**

The bill amends the economic development incentive application process for the Qualified Defense Contractor and Space Flight tax refund program, QAC, and Innovation Incentive Program to provide that “average private sector wage in the area” means the average of all private sector wages and salaries in the county in which the project is located or will be located, rather than the state or the standard metropolitan area.

#### **Local Financial Support (Qualified Defense Contractor and Space Flight tax refund program, QTI, High-Impact Sector Performance Incentive , QAC, Innovation Incentive Program)**

The bill amends the Qualified Defense Contractor and Space Flight tax refund program and QTI to create uniform local financial support requirements and waivers across these incentive programs and activities, and provides for a more clear definition of support from local communities for the QAC, and High-Impact Sector Performance Incentive.

#### Qualified Defense Contractor and Space Flight tax refund program and QTI program

The bill authorizes DEO to;

- Reduce the required local financial support amount from 20% to 10%.
- Eliminate the required local financial support amount for a project located within a rural area of opportunity (RAO).

The bill requires a local government that requests a waiver to provide DEO with a resolution adopted by the governing body of the local government notifying DEO of its request, as well as a statement by a state-certified public accountant that describes the financial constraints preventing the local government from providing the required local financial support amount.

The bill provides that a qualified applicant may not receive more than 80% of the total tax refunds approved by DEO from state funds.

#### High-Impact Sector Performance Incentive and QAC (Performance-Based Grant Incentives)

The bill defines “support by the local community” (QAC) and “local financial support” (High-Impact Sector Performance Incentive) as financial, in-kind, or other quantifiable contributions from local sources that, combined, equal 20% or more of the total investment in the project by state and local sources.

#### Innovation Incentive Program (Performance-Based Grant Incentive)

A local government that requests a waiver reducing or eliminating the one-to-one match requirement of the program must provide DEO with a written statement, prepared by a state-certified public accountant

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<sup>90</sup> Target industries are defined within s. 288.106, F.S.

describing the financial constraints preventing the local government from providing the required local financial support amount.

### **Performance-Based Grant Approval Process (High-Impact Sector Performance Incentive, QAC, Innovation Incentive Program)**

The bill creates a new uniform approval process for High-Impact Sector Performance Incentive, QAC, and Innovation Incentive Program as follows:

Within seven business days after evaluating an incentive application, DEO must recommend to the Governor approval or disapproval of a project. The recommendation must include a memorandum of understanding (MOU) between the department and the applicant which provides:

- the total proposed award amount; the award's performance conditions;<sup>91</sup>
- a baseline of current service and a measure of enhanced capability;
- the methodology used for validating performance;
- a schedule of payments; and
- sanctions for failure to meet performance conditions.

For projects less than \$2 million:

- The Governor is authorized to approve the award. However, a written description and evaluation of the project and the MOU must be provided to the chairman and vice chairman of the Legislative Budget Commission, the President of the Senate (President), and the Speaker of the House of Representatives (Speaker) within one business day after approval.

For projects \$2 million and more:

- The Governor must provide a written description and evaluation of the project and the MOU to the chairman and vice chairman of the Legislative Budget Commission, the President, and the Speaker at least 14 days prior to granting approval. Any of those four individuals may advise the Executive Office of the Governor (EOG) in writing that the award exceeds the authority of the EOG or is contrary to legislative policy or intent. If the EOG be so advised, the EOG shall instruct the DEO to change its action on the project.

The bill eliminates the requirement that projects of \$5 million and more be approved by the Legislative Budget Commission.

### **QTI**

The bill amends QTI to remove provisions related to economic recovery extensions and local financial support reductions for certain counties. These provisions have expired.

### **Quick Action Closing Fund**

The bill amends QAC to provide that in order for a business to be eligible for a QAC award, the business must create at least 10 new jobs if the business is newly established, or must increase the number of jobs by at least 10% if the business is expanding.

The required economic benefit ratio must be at least 4 to 1, rather than 5 to 1.

### **Qualified Defense Contractor and Space Flight Business Tax Refund Program Reauthorization**

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<sup>91</sup> Such performance conditions must include, but are not limited to, net new employment in the state, average salary, and total capital investment incurred by the business.

The bill amends the Qualified Defense Contractor and Space Flight tax refund program to allow DEO to certify eligible applicants under the Qualified Defense Contractor and Space Flight tax refund program until June 30, 2017.

## **Incentive Application Process**

### Economic Benefit

The bill amends the definition of economic benefits and the incentive application process to specify that all state funds spent or forgone to benefit a business must be considered the state's investment for the purposes of establishing the economic benefits of a project.

EDR is directed to establish guidelines for the appropriate use of the economic benefits model used to determine economic benefits. EDR must also develop an amended definition of "economic benefits," for the purposes of creating the model and methodology used for the economic benefits model that includes all state funds spent or forgone to benefit a business.

### Cumulative Capital Investment

The bill amends the capital investment tax credit, the incentive application process, and the return on investment reporting requirements to limit the definition of "cumulative capital investment," to the total capital investment made by or on behalf of a business in conjunction with a qualifying project that does not include appropriated funds from the General Appropriations Act or any funds provided by a state agency or local government. Additionally, "cumulative capital investment" must be considered as part of the evaluation process involving economic development incentive applications.

### Employ Florida Marketplace

The bill amends incentive application process to require that all vacant jobs created as a result of an executed state incentive agreement be posted on the state's job bank system, Employ Florida Marketplace.

## **Term of Incentive Agreements**

The bill amends the incentive application process to prohibit DEO from entering into incentive agreements with businesses for terms longer than ten years.

## **Incentive Agreement Amendments**

The bill amends the incentive application process to require DEO to evaluate the projected economic benefits of a project prior to awarding a contract and reevaluate the projected economic benefits of a project each time an amendment or modification is made to a contract. Should a reevaluation result in the reduction of a project's projected economic benefits, DEO is precluded from executing a contract amendment or modification unless the state incentives outlined in the original contract are reduced by an amount proportionate to the reduction in the projected economic benefits. DEO is required to notify the Legislature any time an incentive contract is amended or modified.

The bill also amends the High-Impact Sector Performance Incentive, Quick Action Closing Fund, and the Innovation Incentive Program to provide that if an amended incentive agreement under one of these programs results in a 0.5 or greater reduction in the economic benefit ratio of a project, then the contract or amendment must be reapproved by the new performance-based grant incentive approval process provided for by the bill. DEO may not amend or modify a contract if the economic benefit ratio would be reduced below 2 to 1.

## **Rural Areas Definition (Qualified Defense Contractor and Space Flight tax refund program, Innovation Incentive Program, and QTI)**

The bill amends Qualified Defense Contractor and Space Flight tax refund program, QTI, and Innovation Incentive Program to replace various definitions of rural areas with “rural area of opportunity” as defined within s. 288.0656, F.S.<sup>92</sup>

## **Economic Development Program Repeals**

### Professional Golf Hall of Fame

The bill repeals s. 288.1168, F.S., which authorizes the Professional Golf Hall of Fame facility funding program as well as s. 212.20(6)(d)6.c., F.S., which allocates monthly payments of \$166,667 for the program for a total of 300 months.

### International Game Fish Association World Center

The bill repeals s. 288.1169, F.S., which authorizes the International Game Fish Association World Center facility program as well as s. 212.20(6)(d)6.d., F.S., which allocates monthly payments of \$83,333 for the program for a total of 168 months.

## **ENTERPRISE FLORIDA, INC.**

### Present Situation

#### **Enterprise Florida, Inc. (EFI) Board Composition**

The board of directors of EFI is comprised of 19 members from the public and private sectors. Appointed members include the following:

- The Governor or the Governor’s designee;
- The Commissioner of Education or the commissioner’s designee;
- The Chief Financial Officer or his or her designee;
- The Attorney General or his or her designee;
- The Commissioner of Agriculture or his or her designee;
- The chairperson of the board of directors for CareerSource Florida, Inc.;
- The Secretary of State or his or her designee; and
- Twelve members from the private sector, six of whom are appointed by the Governor, three of whom are appointed by the President of the Senate, and three of whom are appointed by the Speaker of the House of Representatives. Members appointed by the Governor are subject to Senate confirmation.<sup>93</sup>

The twelve members appointed by the Governor, the President of the Senate, and the Speaker of the House of Representatives are appointed to 4-year terms and must include at least one director for each of the following areas of expertise:<sup>94</sup>

- International business;
- Tourism marketing;
- The space or aerospace industry;

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<sup>92</sup>“Rural area of opportunity” means a rural community, or a region composed of rural communities, designated by the Governor, which has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact. Section 288.0656(2)(d), F.S.

<sup>93</sup> Section 288.901(5)(a), F.S.

<sup>94</sup> Section 288.901(5)(b), F.S.

- Managing or financing a minority-owned business;
- Manufacturing;
- Finance and accounting; and
- Sports marketing.

The board of directors may also appoint at-large members to the board from the private sector, each of whom may serve a term of up to three years. At-large members have the same powers and duties of the other members of the board.<sup>95</sup>

In addition, the board also consists of a member of the Senate, appointed by the President of the Senate, and a member of the House of Representatives, appointed by the Speaker of the House of Representatives, both serving as ex officio members.<sup>96</sup>

The board must meet at least four times each year, upon the call of the chairperson, at the request of the vice chairperson, or at the request of a majority of the membership. A majority of the total number of current voting members constitutes a quorum.<sup>97</sup>

The board of directors is directed to integrate its efforts in business recruitment and expansion, job creation, marketing the state for tourism and sports, and promoting economic opportunities for minority-owned businesses, and promoting economic opportunities for rural and distressed urban communities with those of DEO to create an aggressive, agile, and collaborative effort to reinvigorate the state's economy.<sup>98</sup> The board may also:<sup>99</sup>

- secure funding for its programs and activities from federal, state, local, and private sources and from fees charged for services and published materials;
- solicit, receive, hold, invest, and administer any grant, payment, or gift of funds or property and make expenditures;
- make and enter into contracts and other instruments necessary or convenient with its powers and functions;
- elect or appoint officers, employees, and agents as required for its activities and for its divisions;
- carry forward any unexpended state appropriations into succeeding fiscal years;
- create and dissolve advisory councils, working groups, task forces, or other similar organizations, as necessary to carry out its mission;
- establish an executive committee consisting of the chairperson or a designee, the vice chairperson, and as many additional members of the board of directors as the board deems appropriate (with a minimum of five members);
- sue and be sued, and appear and defend all actions and proceedings;
- adopt, use, and alter a common corporate seal for EFI and its divisions;
- adopt, amend, and repeal bylaws;
- acquire, enjoy, use, and dispose of patents, copyrights, and trademarks and any licenses, royalties, and other rights or interests;<sup>100</sup>

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<sup>95</sup> Section 288.901(6), F.S.

<sup>96</sup> Section 288.901(7), F.S.

<sup>97</sup> Section 288.901(8), F.S.

<sup>98</sup> Section 288.9015(1), F.S.

<sup>99</sup> Section 288.9015(2), F.S.

<sup>100</sup> Section 288.9015(2)(k), F.S.

- use the state seal when appropriate for standard corporate identity applications; and
- procure insurance or require bond against any loss in connection with the property of EFI.

### **Effect of Proposed Changes**

The bill amends s. 288.901, F.S, to require that at least one of the twelve private sector representatives appointed by either the Governor, the President of the Senate, or the Speaker of the House of Representatives possess expertise in the field of rural economic development.

## **NEW MARKETS DEVELOPMENT PROGRAM**

### **Present Situation**

In 2009, the Florida Legislature passed the New Markets Development Program Act (NMDP or program).<sup>101</sup> The program, which is modeled after the federal New Markets Tax Credit Program, allows taxpayers to earn credits against specified taxes by making qualified investments in qualified community development entities that, in turn, invest in businesses in low-income communities to create and retain jobs in such communities.<sup>102</sup>

Qualified community development entities apply to DEO for approval of a proposed investment as a qualified investment.<sup>103</sup> A qualified community development entity is a federally-certified Community Development Entity, which has entered into an allocation agreement with the U.S. Department of Treasury with respect to tax credits and is authorized under the allocation agreement to serve Florida businesses.<sup>104</sup> A qualified investment is an equity investment in, or a long-term debt security issued by, a qualified community development entity that is issued solely in exchange for cash and is approved by DEO.<sup>105</sup> Often, the equity investor will make its investment with the help of a loan.<sup>106</sup>

The applications, which DEO reviews and approves on a first-come first-serve basis,<sup>107</sup> must include the following:

- the name, address, and tax identification number of the qualified community development entity;
- proof of certification as a qualified community development entity under 26 U.S.C. s. 45D;
- a copy of an allocation agreement executed by the qualified community development entity, or its controlling entity, and the Community Development Financial Institutions Fund, which authorizes the entity to serve businesses in this state;
- a verified statement by the chief executive officer of the entity that the allocation agreement remains in effect;
- a description of the proposed amount, structure, and purchaser of an equity investment or long-term debt security;
- the name and tax identification number of any person authorized to claim a tax credit earned as a result of the purchase of the proposed qualified investment;

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<sup>101</sup> Chapter 2009-50, L.O.F.

<sup>102</sup> Section 288.9912, F.S.

<sup>103</sup> Section 288.9914, F.S.

<sup>104</sup> Section 288.9913(6), F.S.

<sup>105</sup> Section 288.9913(7), F.S.

<sup>106</sup> The loan allows the taxpayer to make a larger investment, to in turn receive a greater amount of tax credits through the program.

Current law does not dictate where the loan must come from. Accordingly, the loan may come from an affiliate of the qualified active low income community business.

<sup>107</sup> Section 288.9914(3), F.S.



- a detailed explanation of the proposed use of the proceeds from a proposed qualified investment;
- a nonrefundable application fee of \$1,000, payable to the department; and
- a statement that the entity will invest only in the industries designated by the department.<sup>108</sup>

Once DEO has approved the qualified investment, the taxpayer is eligible to receive tax credits, and the qualified community development entities can invest the proceeds received from the qualified investment in a qualified active low-income community business (up to \$10 million per qualified active low-income community business).<sup>109</sup> A qualified active low-income community business is a business that, among other requirements, derives at least 50 percent of its total gross income from within a low-income community.<sup>110</sup> A low-income community means a population census tract within the state with a particular poverty rate or average median family income (depending on where the tract is).<sup>111</sup>

### **Tax Credit**

Taxpayers that make a qualified investment in qualified community development entities may receive tax credits against the corporate income tax found in s. 220.11, F. S. or the insurance premium tax found in s. 624.509, F.S.<sup>112</sup> The taxpayer may not claim the credit in the first two years after the investment.<sup>113</sup> In year three after the investment, the credit is worth seven percent of the qualified investment, and from the fourth year through the seventh year the credit is worth eight percent.<sup>114</sup> As in the federal program, over seven years the credit totals 39 percent of the total qualified investment in the qualified community development entity.<sup>115</sup> Therefore, a taxpayer with qualified investments approved for both the federal and state programs could receive 78 percent of the purchase price of the investment in tax credits over seven years.

Any unused portion of the tax credit may be carried forward for future tax years; however, all tax credits expire on December 31, 2022.<sup>116</sup> Moreover, the department may not approve a cumulative amount of qualified investments that may result in the claim of more than \$216.34 million in tax credits during the existence of the program or more than \$36.6 million in tax credits in a single state fiscal year.<sup>117</sup>

### **Time Limits**

Qualified community development entities must be aware of the following time limits relating to qualified investment applications and issuance:

- The department must approve or deny an application for a proposed investment to become a qualified investment within 30 days after receipt. If the department intends to deny an application, the department must inform the applicant of the basis of the proposed denial. The applicant then has 15 days after it receives such notice to submit a revised application to the department. The department must issue a final order approving or denying the revised application within 30 days after receipt of the revised application.<sup>118</sup>

<sup>108</sup> Section 288.9914(2), F.S.

<sup>109</sup> Section 288.9915, F.S.

<sup>110</sup> Section 288.9913(5), F.S.

<sup>111</sup> Section 288.9913(3), F.S.

<sup>112</sup> Section 288.9916(1), F.S.

<sup>113</sup> *Id.*

<sup>114</sup> *Id.*

<sup>115</sup> *Id.*

<sup>116</sup> Section 288.9922, F.S.

<sup>117</sup> Section 288.9914(3)(c), F.S.

<sup>118</sup> Section 288.9914(3), F.S.

- A qualified community development entity must issue a qualified investment in exchange for cash within 60 days after it receives the order approving an investment as a qualified investment.<sup>119</sup>
- A qualified community development entity must provide the department with evidence of the receipt of the cash they received in exchange for the qualified investment within 30 business days after receipt.<sup>120</sup>
- Within 30 days after a credit allowance date, a qualified community development entity that has issued a qualified investment shall submit extensive information to the department relating to all investments they made in qualified active low-income community businesses since the last credit allowance date.<sup>121</sup>

Current law does not specify the type of day—calendar, business or otherwise—by which the New Markets Development Program intends the time limits to be measured.

### **Annual Report**

Section 288.9918, F.S., requires qualified community development entities that have issued a qualified investment to submit an annual report to the department by January 31 after the end of each year that includes a “credit allowance date,” or date on which a qualified investment is made and the six subsequent anniversaries of that date. A summary of the minimum requirements qualified community development entities must include in the report is as follows:

- the identity of the types of industries in which qualified low-income community investments were made;
- the names of the counties in which the qualified active low-income businesses are located which received qualified low-income community investments;
- the number of jobs created and retained by qualified active low-income community businesses receiving qualified low-income community investments, including verification that the average wages paid meet or exceed 115 percent of the federal poverty income guidelines for a family of four;
- a description of the relationships that the qualified community development entity has established with community-based organizations and local community development offices and organizations and a summary of the outcomes resulting from those relationships; and
- any other information and documentation required by the department to verify continued certification as a qualified community development entity under 26 U.S.C. s. 45D.<sup>122</sup>

In addition, by April 30 after the end of each year that includes a credit allowance date, each qualified community development entity shall submit to the department annual financial statements for the preceding tax year, audited by an independent certified public accountant.<sup>123</sup>

### **Effect of Proposed Changes**

The bill makes the following changes to the New Markets Development Program Act:

The bill amends certain time limits in the program relating to qualified investment applications and issuance and specifies that the time limits be measured in *calendar days*.

<sup>119</sup> Section 288.9914(5), F.S.

<sup>120</sup> Section 288.9914(6), F.S.

<sup>121</sup> Section 288.9917, F.S.

<sup>122</sup> Section 288.9918(1), F.S.

<sup>123</sup> Section 288.9918(2), F.S.

The bill requires the department to submit to the Legislature, within the department's annual report, a detailed analysis of the data that the department currently receives annually from qualified community development entities pursuant to s. 288.9918., F.S. The first annual report the department submits that includes such analysis must analyze the data the department has received from the qualified community development entities since the program's inception.

The bill creates s. 288.9923, F.S., to specify that any qualified low-income community business that receives a qualified low-income community investment from a qualified community development entity may not directly or indirectly:

- own or have the right to acquire an ownership interest in a qualified community development entity or member or affiliate of a qualified community development entity, including the holder of the qualified investment (i.e., the taxpayer or equity investor); or
- loan to or invest in a qualified community development entity or member or affiliate of a qualified community development entity, including the holder of the qualified investment, where the proceeds of such loan or investment are directly or indirectly used to fund or refinance the purchase of a qualified investment.

The bill clarifies that a qualified community development entity that fails to meet the new capital requirement created by the bill will be subject to the recapture of funds provision of the program.

## **STARTUP FLORIDA INITIATIVE**

### **Present Situation**

In June 2014, the U.S. Chamber of Commerce Foundation issued its fifth annual *Enterprising States* report<sup>124</sup> which uses a performance set of metrics to identify the top 10 state performers in each of five economic development policy areas (talent pipeline, exports and international trade, business climate, infrastructure, and technology and entrepreneurship). The 2013 edition of the *Enterprising States* report<sup>125</sup> noted:

Recognizing the importance of new business, small business, and stage-2 gazelle firms, economic development policy execution is rapidly shifting toward programs and investments targeting these firms and away from high-cost incentive packages designed to convince large firms to relocate. States are investing in business accelerator programs, co-location and assistance programs for the self-employed, and economic gardening initiatives that provide high-end research and advisement services for growing companies.<sup>126</sup>

Florida ranked 10th in the entrepreneurship policy area in 2013 as it received high scores in business birthrate and increase in self-employed workers.<sup>127</sup> However, the state did not score as well in areas of high-tech and STEM industry entrepreneurship<sup>128</sup>, which led to a drop in the rankings in 2014. States that were ranked in the top 10 in 2013 and 2014 include Maryland, Colorado, Virginia, Washington, Utah, Texas, and Massachusetts.<sup>129</sup>

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<sup>124</sup> U.S. Chamber of Commerce Foundation, *Enterprising States 2014*, available at: [http://www.uschamberfoundation.org/sites/default/files/legacy/foundation/Enterprising%20States%202014\\_0.pdf](http://www.uschamberfoundation.org/sites/default/files/legacy/foundation/Enterprising%20States%202014_0.pdf) (last accessed on Feb. 15, 2015)

<sup>125</sup> U.S. Chamber of Commerce Foundation, *Enterprising States 2013*, available at: <http://www.uschamberfoundation.org/sites/default/files/legacy/foundation/ES2013.pdf> (last accessed on Feb. 15, 2015)

<sup>126</sup> *Id.*, pg. 20

<sup>127</sup> *Id.*, pg. 41

<sup>128</sup> U.S. Chamber of Commerce Foundation, *Enterprising States 2014*, available at: [http://www.uschamberfoundation.org/sites/default/files/legacy/foundation/Enterprising%20States%202014\\_0.pdf](http://www.uschamberfoundation.org/sites/default/files/legacy/foundation/Enterprising%20States%202014_0.pdf), pg. 27, (last accessed on Feb. 15, 2015)

<sup>129</sup> *Id.*

In December 2014, the Small Business & Entrepreneurship Council released the 19th annual Small Business Policy Index report,<sup>130</sup> which ranks the states on policy measures and costs impacting small business and entrepreneurship. The report listed Florida as the 5th most friendly state to small business and entrepreneurship based on metrics that included a variety tax rates, energy regulation, health savings accounts, workers' compensation costs, total crime rate, state and local government debt, spending trends, per capital spending, and education reform.<sup>131</sup>

The Kauffman Index of Entrepreneurial Activity<sup>132</sup>, published in April 2014, identified Florida as having one of the highest rates of entrepreneurship in the nation in 2013 with 340 per 100,000 adults creating businesses each month. That placed the state 10<sup>th</sup> among the 50 states and the District of Columbia.<sup>133</sup> The report also found the Miami-Fort Lauderdale-Miami Beach metropolitan area had the third highest entrepreneurial activity among the fifteen largest metropolitan areas in the nation during 2013.<sup>134</sup>

### **Florida Economic Gardening Institute (GrowFL)**

In 2009, the Executive Office of the Governor's Office of Tourism, Trade, and Economic Development<sup>135</sup> contracted with the University of Central Florida (UCF) to implement the Economic Gardening Technical Assistance Pilot Program.<sup>136</sup> UCF then established the Florida Economic Gardening Institute (GrowFL) in 2009 to focus on assisting second-stage growth companies throughout the state.

The GrowFL Program provides strategies, resources, and support to second-stage companies for next level growth through strategic research, peer learning, and leadership development. These activities are targeted to support the second-stage CEOs with operational and revenue-increasing strategies to improve business performance. As of June 30, 2013, GrowFL assisted companies representing 13,493 jobs across the state with an estimated sales output of \$1.14 billion contributing \$2.33 billion to the state economy.<sup>137</sup>

### **The Florida Institute for the Commercialization of Public Research**

The Florida Institute for the Commercialization of Public Research (Institute) was created by the Legislature in 2007<sup>138</sup> as a non-profit organization tasked with working collaboratively with the technology licensing and commercialization offices of Florida's publicly 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. Competing with 38 states that have similar

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<sup>130</sup> Small Business & Entrepreneurship Council, *Small Business Policy Index 2014*, available at: <http://www.sbecouncil.org/wp-content/uploads/2014/12/SBPI2014Final.pdf>, (last accessed on Feb. 15, 2015)

<sup>131</sup> *Id.*

<sup>132</sup> Ewing Marion Kauffman Foundation, *Kauffman Index of Entrepreneurial Activity*, April 2014, available at:

[http://www.kauffman.org/~media/kauffman\\_org/research%20reports%20and%20covers/2014/04/kea\\_2014\\_report.pdf](http://www.kauffman.org/~media/kauffman_org/research%20reports%20and%20covers/2014/04/kea_2014_report.pdf) (last accessed on Feb. 15, 2015)

<sup>133</sup> *Id.*, pg. 21

<sup>134</sup> *Id.*, pg. 24

<sup>135</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>136</sup> Section 288.1082, F.S.

<sup>137</sup> Florida Economic Gardening Institute at the University of Central Florida, *About GrowFL*, Available at: <http://www.growfl.com/about> (last accessed on Feb. 24, 2015)

<sup>138</sup> Section 288.9625, F.S.

initiatives, Institute programs seek to enhance Florida's entrepreneurship and innovation ecosystem at the early stages, encouraging company growth and assisting in the creation of high-wage, high-skill jobs. The Institute evaluates roughly 100 potential new company creation opportunities annually in science and technology-based industry fields.<sup>139</sup>

### **Effect of Proposed Changes**

The bill amends s. 288.901, F.S., to direct EFI to "foster and encourage high-tech startup and second stage business development within the state."

The bill creates s. 288.913, F.S. which establishes the "Startup Florida Initiative" that declares successful high-tech startup and second stage businesses as critical to the state's economic growth. The initiative requires EFI to develop a statewide strategic plan for fostering and encouraging high-tech startup and second stage businesses in coordination with its economic development partners. The strategic plan must include actionable steps to provide technical support to local and regional economic development organizations to enhance high-tech startup and second stage business growth at the local and regional levels. The plan must evaluate the accessibility of the state's economic development incentive and loan programs to high-tech startups and second stage businesses. Finally, the plan must analyze industrywide best practices, competitor state programs related to startup, entrepreneurship, and second stage business programs, and survey high-tech startups and second stage businesses and support organizations both within and outside the state. The strategic plan must be delivered to the Governor, President of the Senate, and the Speaker of the House of Representatives by January 1, 2016.

The bill defines the term "advanced technology products" to mean specified high-tech products produced by a business employing a high proportion of scientists, engineers, and technicians. The term "high-tech startup" is defined to mean a business unit having existed for less than five years and employing less than 10 employees that produces a high proportion of advanced technology products. A "second stage business" is defined as a business unit that employs between 10 and 50 employees, generates between \$1 million and \$25 million in annual revenue, and produces a high proportion of advanced technology products.

The initiative requires EFI to market the state's economic development activities related to high-tech startups and second stage businesses. EFI is required to provide information regarding its activities related to the development of high-tech startups and second stage businesses in its annual report.

## **SMALL BUSINESS DEVELOPMENT CONCURRENCY AND PROPORTIONATE SHARE**

### **Present Situation**

#### **Transportation Concurrency and Proportionate Share**

Concurrency requires public facilities and services to be available "concurrent" with the impacts of new development. Under Florida law, concurrency for sanitary sewer, solid waste, drainage, and potable water is required,<sup>140</sup> and concurrency for transportation, schools, and parks and recreation is optional.<sup>141</sup> However, if a local government decides to implement concurrency for one of the optional facilities, it must do so according to state law.<sup>142</sup>

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<sup>139</sup> The Florida Institute for the Commercialization of Public Research, *2013-2014 Annual Report*; available at: [http://www.florida-institute.com/sites/default/files/FICPR\\_AR\\_2014.pdf](http://www.florida-institute.com/sites/default/files/FICPR_AR_2014.pdf) (last accessed on Feb. 24, 2015)

<sup>140</sup> Section 163.3180(1), F.S.

<sup>141</sup> Section 163.3180, F.S.

<sup>142</sup> Section 163.3180(1), F.S.

A local government that implements transportation concurrency must define what constitutes an adequate level of service (LOS) for its transportation system, adopt a plan and improvement program to achieve and maintain adequate LOS standards, and measure whether the service needs of a new development exceed existing capacity of the transportation system.<sup>143</sup> Unless and until LOS standards are met, a local government may not issue a development permit without an applicable exception.<sup>144</sup>

If adequate transportation facilities are not currently available to support the impacts of a proposed development (i.e., if LOS standards are not currently met), the local government may require the developer to contribute his or her “proportionate share.” Proportionate share is a tool local governments use to require developers to contribute to or build facilities necessary to offset a new development’s impacts to ensure LOS standards are met.<sup>145</sup> The State provides requirements that local governments must follow when implementing proportionate share, including specific formulas local governments must use when calculating proportionate share and criteria for when developers have satisfied proportionate share.<sup>146</sup> One such requirement prevents local governments from ordering a developer to contribute to or construct transportation facilities where the developer’s costs exceed the developer’s proportionate share of the improvements necessary to mitigate the development’s impact.<sup>147</sup>

### Impact Fees

Local governments and certain special districts may use their constitutional or statutory home rule powers to enact “impact fees.”<sup>148</sup> Impact fees are total or partial payments charged to cover the cost of additional infrastructure necessary as a result of new development. As local governments tailor impact fees to meet the infrastructure needs of new growth, impact fee calculations vary from jurisdiction to jurisdiction and from fee to fee. Impact fees also vary extensively depending on local costs, capacity needs, resources, and a local government’s determination to charge the full cost of a fee’s earmarked purposes.

The Legislature has found that impact fees are an important source of revenue for local governments to use in funding the infrastructure necessitated by growth.<sup>149</sup> However, due to the growth of impact fee collections and local governments’ reliance on impact fees, the Legislature imposes minimum standards local governments must comply with when adopting impact fees.<sup>150</sup>

At minimum, a county, municipality, or special district that adopts an impact fee must abide by the following statutory requirements:

- require that the calculation of the impact fee be based on the most recent and localized data;
- provide for accounting and reporting of impact fee collections and expenditures;
- limit administrative charges for the collection of impact fees to actual costs; and
- require that notice be provided no less than 90 days before the effective date of an ordinance or resolution imposing a new or increased impact fee.<sup>151</sup>

In addition to the Legislature’s requirements, Florida courts have held that impact fees must meet the “dual rational nexus test.”<sup>152</sup> That is, there must be (1) a reasonable connection between the need for

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<sup>143</sup> Section 163.3180(5), F.S.

<sup>144</sup> *E.g.* s. 163.3180(5)(h)1.b., F.S., which exempts public transit facilities from concurrency.

<sup>145</sup> Section 163.3180(5)(h), F.S.

<sup>146</sup> *Id.*

<sup>147</sup> *Id.*

<sup>148</sup> *See* s. 163.31801, F.S.

<sup>149</sup> Section 163.31801, F.S.

<sup>150</sup> *Id.*

<sup>151</sup> Section 163.31801(3), F.S.

infrastructure improvements and the population growth generated by new development and (2) a reasonable connection between the expenditure of fees collected and the benefit to the development from those expenditures.<sup>153</sup>

58 Florida jurisdictions had impact fees in place as of the 2012 National Impact Fee Survey.<sup>154</sup>

### **Effect of Proposed Changes**

The bill creates a three year window exempting certain new development from satisfying transportation concurrency requirements and contributing to its corresponding proportionate share. The bill also exempts certain transportation impact fees from being imposed on new development.

The exemption window will apply to any new business development beginning on or after July 1, 2015, and before July 1, 2018. The exemption does not apply to business developments that consist of more than 6,000 square feet or new business developments that will include a business that employs more than 12 full-time employees. In addition, to maintain the exemption, a new business development must receive a certificate of occupancy on or before July 1, 2019.

The exemption window will not apply to a new development in a local government's jurisdiction where such local government, by super-majority vote of its governing body, revokes the exemption. The exemption window will also not apply if the exemption alters a local government's financing contracts or bonds, or the developer elects to not have the exemption applied.

## **FLORIDA DEVELOPMENT FINANCE CORPORATION**

### **Present Situation**

In 1993, the Florida Legislature created the Florida Development Finance Corporation ("FDFC") to enhance economic activity and development throughout the state by assisting in the financing of certain projects and facilitating the commercial interaction and cooperation between public and private organizations.<sup>155</sup> To undertake such responsibility, s. 288.9605, F.S., grants FDFC many powers, some of which include the following:

- to enter into interlocal agreements with public agencies for the exercise of any power, privilege, or authority consistent with the purposes of FDFC's enacting law;
- to issue revenue bonds for the purpose of financing and refinancing any capital projects for approved applicants;
- to issue bond anticipation notes in connection with the issuance and sale of such revenue bonds;
- to invest funds held in reserve or sinking funds or any such funds not required for immediate disbursement in property or securities in such manner as the board determines, subject to the authorizing resolution on any bonds issued, and to terms established in an investment agreement; and
- to borrow money and apply for and accept advances, loans, grants, contributions, and any other form of financial assistance from the Federal government or the state, county, or other public body or from any sources, public or private, pursuant to the purposes of FDFC's enacting law.

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<sup>152</sup> See *Hollywood, Inc. v. Broward County*, 431 So. 2d 606, 611-12 (Fla. 4th DCA 1983); *St. Johns County v. N.E. Fla. Builders Assoc.*, 583 So. 2d 635 (Fla. 1991).

<sup>153</sup> *Id.*

<sup>154</sup> The 2012 National Impact Fee Survey is available at [www.impactfees.com/publications%20pdf/2012\\_survey.pdf](http://www.impactfees.com/publications%20pdf/2012_survey.pdf) (last visited Feb. 15, 2015).

<sup>155</sup> See s. 288.9602, F.S.

Specifically, one of FDFC's primary functions is to issue revenue bonds throughout Florida to in turn offer low interest financing to qualified, financially sound, manufacturing and 501(c)(3) non-profit organizations.<sup>156</sup> FDFC may not issue a bond without the authorization of a public agency, which authorization is granted through an interlocal agreement.<sup>157</sup> Additional information about the revenue bonds includes as follows:

- tax exempt bond issuance amounts can be up to \$10,000,000 per project for qualifying manufacturers;
- total capital investment in a community cannot exceed \$20,000,000 in a six-year period;
- smaller size bond issuance fees may be around 4% to 5% of the bond amount, and larger size bond issuance fees may be around 2% to 3% of the bond amount;
- bond rates can be fixed or variable; and
- taxable bonds do not have a dollar issuance limit.<sup>158</sup>

To receive such financing from FDFC, businesses must submit applications (along with an application fee) to FDFC.<sup>159</sup> In addition to manufacturers, 501(c)(3) organizations that have been financed with FDFC issued revenue bonds include charter and private schools, homes for the aged, daycare facilities, and recreation centers.<sup>160</sup>

### **Effect of Proposed Changes**

The bill:

- removes the need for FDFC to enter into interlocal agreements with public entities throughout the state to fulfil its purposes;
- specifies that FDFC's board of directors is able to take binding action during the pendency of one or more vacancies on the board;
- removes the requirement that FDFC receive authorization by a public entity to issue bonds; and
- removes the requirement that FDFC submit an annual report to all the public entities with which FDFC has entered into an interlocal agreement.

## **TWO-YEAR EXTENSIONS FOR BUILDING AND DEVELOPMENT PERMITS**

### **Present Situation**

In 2009, the Legislature provided a retroactive two-year extension and renewal from the date of expiration for the following permits or development orders:

- any permit issued by the Department of Environmental Protection (DEP) or a water management district (WMD) under Part IV of ch. 373, F.S.;

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<sup>156</sup> Information obtained from Enterprise Florida, Inc. website at: <http://www.enterpriseflorida.com/small-business/florida-development-finance-corporation/> (last visited on Feb. 22, 2015).

<sup>157</sup> Section 288.9606(1), F.S.

<sup>158</sup> Information obtained from "General FDFC Brochure" on file with staff and available on Enterprise Florida, Inc.'s website at : <http://www.enterpriseflorida.com/small-business/florida-development-finance-corporation/> (last visited on Feb. 22, 2015).

<sup>159</sup> Information obtained from Enterprise Florida, Inc. website at: <http://www.enterpriseflorida.com/small-business/florida-development-finance-corporation/> (last visited on Feb. 22, 2015).

<sup>160</sup> *Id.*



- any development order issued by the Department of Community Affairs<sup>161</sup> pursuant to s. 380.06, F.S.; and
- any development order, building permit, or other land use approval issued by a local government that expired on or after September 1, 2008, but before January 1, 2012.<sup>162</sup>

The extension applied to phase, commencement, and buildout dates, including a buildout date extension previously granted under s. 380.016(19)(c), F.S., for development orders and land use approvals, including but not limited to certificates of concurrency and development agreements.

Those requesting an extension were required to notify the authorizing agency in writing. The notification was required to specify which permit was intended to be extended, and the timeframe for acting on the authorization. Requests were due no later than December 31, 2009.<sup>163</sup>

The extension did not apply to a permit or authorization:

- under a programmatic or regional general permit issued by the United States Army Corps of Engineers;
- for owners and operators who are determined to be in significant noncompliance with the conditions of a permit eligible for an extension; or
- that would delay or prevent compliance with a court order if extended.

The rules in place at the time the initial permit or authorization was issued applied to the extension. Modifications to the permits and authorizations were also governed by rules in place at the time the permit or authorization was issued. However, a modification could not extend the time limit beyond two years.<sup>164</sup>

In 2010,<sup>165</sup> the Legislature reauthorized the two-year time extension granted in 2009 because the underlying law was being challenged in court.<sup>166</sup> Entities requesting an extension and renewal of the permit were required to notify the authorizing agency in writing.<sup>167</sup>

Chapter 2010-147, L.O.F., also extended and renewed the expiration date for permits that expired between September 1, 2008, and January 1, 2012. This extension was in addition to the extension granted in 2009 and applied to the same types of permits. The permit holder was required to request the extension in writing from DEP no later than December 31, 2010. The request was to include the authorization the permit holder intended to use the extension for and the timeframe for acting on the authorization.<sup>168</sup>

In 2011, the Legislature extended and renewed the permits that were previously extended in 2009 and 2010 for an additional two years from their previously scheduled expiration date. The permit holder was required to request the extension in writing from DEP no later than December 31, 2011. The request

<sup>161</sup> Most of the programs administered by the Department of Community Affairs are now administered by the Department of Economic Opportunity. *See* Ch. 2011-142, L.O.F.

<sup>162</sup> Section 14, Ch. 2009-96, L.O.F. (CS/CS/SB 360 by Policy and Steering Committee on Ways and Means; Community Affairs; Bennett and others)

<sup>163</sup> *Id.*

<sup>164</sup> *Id.*

<sup>165</sup> Sections 46 and 47, Ch. 2010-147, L.O.F. (CS/SB 1752 by Policy and Steering Committee on Ways and Means; Gaetz and others).

<sup>166</sup> CS/CS/SB 360 codified as Ch. 2009-96, L.O.F., was challenged by a group of local governments. The lawsuit, filed in Leon County Circuit Court was based on two counts: violation of the single subject provision in Article III, section 6 of the Florida Constitution and a violation of Article VII, section 18(a) charging the law constituted an unfunded mandate. *See City of Weston v. Crist*, Case No. 09-CA-2639 (Fla. 2d Cir. Ct. 2010).

<sup>167</sup> Section 46, Ch. 2010-147, L.O.F.

<sup>168</sup> Section 46, Ch. 2010-147, L.O.F.

was to include the authorization the permit holder intended to use the extension for and the timeframe for acting on the authorization.<sup>169</sup>

The legislation included a provision to extend and renew a building permit or environmental resource permit that had an expiration date of January 1, 2012, through January 1, 2014. The extension included any development order or building permit issued by a local government, including certificates or levels of services. The extension was in addition to any existing permit extension. DRI order extensions under s. 380.06(19)(c)2., F.S., were not eligible for this extension and any permit that received a cumulative extension of four years due to previous extension was not eligible for this extension.<sup>170</sup>

In 2012, the Legislature again provided that any building permit, and any permit issued by the DEP or a WMD, which has an expiration date from January 1, 2012, through January 1, 2014, is extended and renewed for two years after its previously scheduled date of expiration.<sup>171</sup> The extension included any local government-issued development order or building permit including certificates of levels of service. This permit extension did not prohibit conversion from the construction phase to the operation phase upon completion of construction. Further, any permit extensions granted pursuant to the 2012 law, section 14 of chapter 2009-96, L.O.F. (as reauthorized by section 47 of chapter 2010-147, L.O.F.), section 46 of chapter 2012-147, L.O.F., or section 74 or section 79 of chapter 2011-139, L.O.F., could not exceed four years in total.

In 2014, the Legislature provided for an additional two year permit extension—for permits with expiration dates between January 1, 2014 and January 1, 2016.<sup>172</sup> Other than the date change, the 2014 extension mirrored the 2012 extension described above.<sup>173</sup>

### **Effect of Proposed Changes**

The bill creates an unnumbered section of Florida law to extend and renew the permit extensions from previous years. The bill extends the expiration date by two years for any environmental resource permit issued by DEP or a WMD with an expiration date from January 1, 2016, through January 1, 2018. The extension includes local government-issued development orders or building permits, including certificates of level of service. The bill does not prohibit the conversion from the construction phase to the operation phase upon completion of construction. The extension is in addition to any existing permit extensions; however, the total permit extension time for this bill or the 2009,<sup>174</sup> 2010,<sup>175</sup> 2011,<sup>176</sup> 2012,<sup>177</sup> and 2014<sup>178</sup> extensions cannot exceed four years in total.

The bill requires that the dates for commencement and completion of any required mitigation associated with a phased construction project are also extended so that mitigation occurs in the same timeframe relative to the phase as originally permitted. The eligible permit holder must notify the authorizing agency in writing by December 31, 2015.

The extension provided by the bill does not apply to the following permits:

- a permit or authorization under a programmatic or regional permit issued by the United States Army Corps of Engineers;

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<sup>169</sup> Section 79, Ch. 2011-139, L.O.F.

<sup>170</sup> *Id.*

<sup>171</sup> Section 24, Ch. 2012-205, L.O.F.

<sup>172</sup> Section 46, Ch. 2014-218, L.O.F.

<sup>173</sup> *Id.*

<sup>174</sup> Section 14, Ch. 2009-96, L.O.F.

<sup>175</sup> Sections 46 or 47, Ch. 2010-47, L.O.F.

<sup>176</sup> Sections 73 or 79, Ch. 2011-139, L.O.F.

<sup>177</sup> Section 24, Ch. 2012-205, L.O.F.

<sup>178</sup> Section 46, Ch. 2014-218, L.O.F.

- a permit or authorization held by an owner or operator determined to be in significant noncompliance with the conditions of the permit or authorization; or
- a permit authorization that would be out of compliance with a court order if extended.

The bill provides that permits extended under this section are subject to the rules in effect at the time the permit was issued, unless the rules would create an immediate threat to public safety or health. This provision applies to any modification of the plans, terms, and conditions of the permit, which lessens the environmental impact. A modification cannot extend the time limit beyond two additional years.

The bill does not prevent a county or municipality from requiring a property owner that has requested an extension to maintain and secure the property in a safe and sanitary condition in compliance with applicable laws.

## FLORIDA ENTERPRISE ZONE PROGRAM

### Present Situation

The 1982 Florida Legislature created the Florida Enterprise Zone Program (Program) to encourage private investment in economically distressed areas by providing access to certain incentives and benefits to businesses within such areas. DEO oversees the Program at the state level and approves zone designation applications, and local governments administer enterprise zones locally. The Program is codified in sections 290.001-290.016, F.S. as the “Florida Enterprise Zone Act” (Act).

The following chart displays the history of the Program.<sup>179</sup> Notably, the Legislature has required all zones to reapply for designation as enterprise zones upon the Program’s sunset on two separate occasions—in 1994 and 2005.

Year	Activity
1982	The Florida Legislature created the Florida Enterprise Zone Program to be administered by the Department of Community Affairs.
1994	The Florida Legislature repealed existing enterprise zones, created requirements for designation of new zones, and established a sunset date of June 20, 2005.
1995	Local governments submitted competitive applications for new enterprise zone designations. 19 new enterprise zones were designated.
1996	Administrative responsibilities of the Program transferred from the Department of Community Affairs to the Governor’s Office of Tourism, Trade and Economic Development (OTTED).
2005	The Florida Legislature extended the Program for 10 years and provided existing enterprise zones an opportunity to have their zones re-designated.
2006	OTTED approved 53 re-designations and 9 new designations.
2010	The Legislature amended the definition of “Real property” in the enterprise zone statute to exclude condominiums from the building materials sales tax refund, which significantly cut the amount of the state’s investment in the Program.
2011	As a result of reorganization, DEO is responsible for administering the Program.

<sup>179</sup> Florida Department of Economic Opportunity, *Florida Enterprise Zone Briefing Document*, October 22, 2014, p.2.  
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<b>2012</b>	DEO approved three additional enterprise zones, which brought the total number of enterprise zones to 65.
	DEO approved 4 enterprise zone Boundary Amendment Requests.
<b>2013</b>	DEO approved 10 enterprise zone Boundary Amendment Requests.

In FY 2013-14, the state awarded \$15,767,111 in state incentives to 1,497 businesses and individuals in enterprise zones throughout the state.<sup>180</sup> Local governments report that they awarded \$11,373,610 over the same period.<sup>181</sup> In addition, during fiscal years 2009-10 through 2011-12, seven zones received 84% of the incentives received state wide. The Program currently has a negative return on investment (ROI) to the state of -0.05.<sup>182</sup>

Florida has 65 enterprise zones in 52 of the state's 67 counties. The Act is set to repeal on December 31, 2015.<sup>183</sup>

### **Designation Process**

Sections 290.0055-290.0067, F.S. lay out the requirements and procedure for an area to receive designation as an enterprise zone.

Ultimately, a governing body of a county or municipality or the governing bodies of a county and one or more municipalities jointly is responsible for applying to the department for designation of an area as an enterprise zone.<sup>184</sup> However, the governing body must first ensure that it has the Florida Legislature's authorization to apply.<sup>185</sup>

If the governing body has or is granted such authorization, the governing body seeking designation of an area as an enterprise zone must follow certain procedures and ensure the area meets certain requirements.<sup>186</sup>

Prior to applying for designation, the governing body must pass a resolution which:

- finds that the area "chronically exhibits extreme and unacceptable levels of poverty, unemployment, physical deterioration, and economic disinvestment,"<sup>187</sup>
- "determines that the rehabilitation, conservation, or redevelopment" of such area is necessary for the public health, safety, and welfare of the governing body's residents;<sup>188</sup> and
- "determines that the revitalization of such area can occur only if the private sector can be induced to invest its own resources in productive enterprises that build or rebuild the economic viability of the area."<sup>189</sup>

In addition, the area must suffer from "pervasive poverty, unemployment, and general distress" as defined in s. 290.0058, F.S., must not exceed 20 square miles, and must have a continuous boundary,

<sup>180</sup> OPPAGA Research Memorandum, "Florida's Enterprise Zone Program," January 5, 2015.

<sup>181</sup> *Id.*

<sup>182</sup> 2013-2014 EDR Return on Investment Analysis

<sup>183</sup> Section 290.016, F.S.

<sup>184</sup> Section 290.0065, F.S.

<sup>185</sup> *Id.*

<sup>186</sup> Section 290.0055(1), F.S.

<sup>187</sup> *Id.*

<sup>188</sup> *Id.*

<sup>189</sup> *Id.*

or consist of not more than three contiguous parcels.<sup>190</sup> Moreover, the selected area must not exceed the following mileage limitations relative to its population:<sup>191</sup>

<b>Community Population</b>	<b>Mileage Limitation</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 governing body or bodies must also create an “enterprise zone development agency” and adopt a strategic plan, pursuant to sections 290.0056 and 290.0057, respectively.<sup>192</sup>

Section 290.0056, F.S. requires an enterprise zone development agency to have a board of commissioners of at least eight, and no more than 13. Broadly, the agency has the following powers and responsibilities:

- to assist in the development, implementation, and annual review and update of the strategic plan or measureable goals;
- to oversee the progress in implementing the strategic plan or measurable goals;
- to identify and recommend to the governing body ways to remove regulatory barriers;
- to identify the financial needs of, and local resources or assistance available to, eligible businesses within the zone;
- to promote the enterprise zone incentives to residents and businesses within the zone;
- to recommend boundary changes of the zone to the governing body;
- to work with nonprofit organizations that provide development consulting; and
- to ensure the enterprise zone coordinator (who the agency appoints) receives annual training and works with Enterprise Florida, Inc.

Section 290.0057, F.S. requires that an enterprise zone development plan (or strategic plan) accompany an application. At a minimum, the plan must:

- describe the community’s goals for revitalizing the area;
- describe how the community will address concerns related to its social and human resources, including transportation, housing, community development, public safety, education, and the environment;
- identify key community goals and barriers to such goals;
- outline how the community is a full partner in the process of developing and implementing the plan;
- commit the local governing body to enact and maintain local fiscal and regulatory incentives;
- identify the amount of available local and private resources and potential private/public partnerships;
- indicate how the enterprise zone tax incentives and other local, state, and federal resources will be utilized;

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<sup>190</sup> Section 290.0055(4)(a), F.S.

<sup>191</sup> *Id.*

<sup>192</sup> Section 290.0055(1)(b),(c), F.S.

- identify funding requested under any state or federal program to support the proposed plan; and
- identify baselines, methods, and benchmarks for measuring the plan's success.

The department determines which nominated areas are most appropriate for designation as enterprise zones by competitively ranking applications as follows:

- pervasive poverty, unemployment, and general distress are weighted 35 percent;
- the strategic plan and local fiscal and regulatory incentives are weighted 40 percent; and
- prospects for new investment are weighted 25 percent.<sup>193</sup>

The department may revoke the designation of an enterprise zone if the department determines that a governing body or bodies failed to follow its strategic plan.<sup>194</sup> In addition, an enterprise zone will lose its designation automatically if the governing body or bodies fails to enact and maintain its committed-to local fiscal and regulatory incentives pursuant to s. 290.0057(1)(e) for two consecutive years.<sup>195</sup>

### Enterprise Zone State Incentives

Businesses located within enterprise zones<sup>196</sup> have access to various incentives. As demonstrated below, certain incentives differ for businesses within "rural enterprise zones." A rural enterprise zone is "an enterprise zone that is nominated by a county having a population of 75,000 or fewer, or a county having a population of 100,000 or fewer which is contiguous to a county having a population of 75,000 or fewer, or by a municipality in such a county, or by such a county and one or more municipalities."<sup>197</sup>

The Florida Department of Revenue (DOR) is responsible for processing all incentive applications. Available state incentives for businesses located within enterprise zones include the following:

- *Sales Tax Refund for Building Materials*<sup>198</sup>  
A refund is available for sales taxes paid on the purchase of certain building materials used to rehabilitate real property located in a zone. The amount refunded is the lesser of 97 percent of the sales tax paid on the building materials or \$5,000 (or \$10,000 if at least 20 percent of the employees of the business are residents of an enterprise zone).
- *Sales Tax Refund for Business Machinery and Equipment*<sup>199</sup>  
A refund is available for sales taxes paid on the purchase of certain business property, (e.g., tangible personal property such as office equipment, warehouse equipment, and some industrial machinery and equipment), which is used exclusively in a zone for at least three years. The amount refunded is the lesser of 97 percent of the sales tax paid on the business property or \$5,000 (or \$10,000 if at least 20 percent of the employees of the business are residents of an enterprise zone).
- *Enterprise Zone Jobs Tax Credit (Sales & Use Tax)*<sup>200</sup>  
Businesses located within a zone that collect and pay Florida sales and use taxes, are allowed a monthly credit against their sales tax due on wages paid to certain new employees. The credit is calculated as 20 or 30 percent of wages paid to new employees, unless the business is

<sup>193</sup> Section 290.0065(2), F.S.

<sup>194</sup> Section 290.0066(1), F.S.

<sup>195</sup> *Id.*

<sup>196</sup> One incentive—the Community Contribution Tax Credit Program—is also available to Florida businesses located outside of zones.

<sup>197</sup> Section 290.004(5), F.S.

<sup>198</sup> Section 212.08(5)(g), F.S.

<sup>199</sup> Section 212.08(5)(h), F.S.

<sup>200</sup> Section 212.096, F.S.

located in a rural enterprise zone, in which case the credit is calculated as 30 or 45 percent of wages paid to new employees.

- *Sales Tax Exemption for Electrical Energy*<sup>201</sup>  
A 50 percent sales tax exemption is available to qualified businesses located in a zone on the purchase of electrical energy. The exemption is only available if the municipality in which the business is located has passed an ordinance to exempt qualified enterprise zone businesses from 50 percent of the municipal utility tax.
- *Enterprise Zone Jobs Tax Credit (Corporate Income Tax)*<sup>202</sup>  
Businesses located in a zone that pay Florida Corporate Income Tax are allowed a corporate income tax credit for wages paid to certain new employees. The credit is calculated as 20 or 30 percent of wages paid to new employees, unless the business is located in a rural enterprise zone, in which case the credit is calculated as 30 or 45 percent of wages paid to new employees.
- *Enterprise Zone Property Tax Credit (Corporate Income Tax)*<sup>203</sup>  
Certain new or expanded businesses located in an enterprise zone are allowed a credit on the Florida Corporate Income Tax calculated from the amount of ad valorem tax paid on the new or improved property for each eligible location. The maximum amount of credit allowed in any one year is \$25,000 or \$50,000 if more than 20 percent of the business' employees reside in an enterprise zone.
- *Exemption for a Licensed Child Care Facility operating in an Enterprise Zone*<sup>204</sup>  
An exemption from ad valorem property taxes is available for certain childcare facilities operating in an enterprise zone.
- *Community Contribution Tax Credit Program*<sup>205</sup>  
Businesses located anywhere in Florida are eligible for certain tax credits for eligible donations made to approved community development projects.

In addition to state incentives, counties and municipalities may offer businesses enterprise zone benefits, including:

- reduction in occupational license fees;
- reduction in building permit or land development fees;
- utility tax abatement;
- façade/commercial rehabilitation grants;
- local option economic development property tax exemptions;
- ad valorem tax exemptions; and
- local funds for capital projects.

Florida's Enterprise Zone Program also provides indirect benefits to businesses located within enterprise zones by enhancing the incentives for other economic development programs available to such businesses. Examples include as follows:

- Qualified Target Industry Tax Refund Program

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<sup>201</sup> Section 212.08(15), F.S.

<sup>202</sup> Section 220.181, F.S.

<sup>203</sup> Section 220.182, F.S.

<sup>204</sup> Section 196.095, F.S.

<sup>205</sup> Section 212.08(5)(p), s. 220.183, F.S., and s. 624.5105, F.S.

- Increases per job tax refund from \$3,000 per job to up to \$6,000
- Waives certain job creation requirements
- Economic Development Transportation Projects (Road Fund)
  - Increases per job award from up to \$7,000 to up to \$10,000
  - Waives Capital Investment Cap (which prevents awards from exceeding an investment)

The following chart displays how much the state spends on each incentive and which incentives businesses in enterprise zones took most advantage of between July 1, 2013 and June 30, 2014.

State Incentive	Tax Incentive Type	Approved Amount	Number of Approvals
Sales Tax Exemption for Electrical Energy	Sales Tax	\$751,485	79
Property Tax Credit	Corporate Income Tax	\$1,191,181	17
Building Materials Sales Tax Refund	Sales Tax	\$1,194,130	317
Business Equipment Sales Tax Refund	Sales Tax	\$1,561,339	834
Jobs Tax Credit	Corporate Income Tax	\$4,237,163	47
Jobs Tax Credit	Sales Tax	\$6,831,758	203
<b>TOTALS</b>		<b>\$15,767,116</b>	<b>1,497</b>

### 2015 OPPAGA Research Memorandum

The Office of Program Policy Analysis and Government Accountability (OPPAGA) released a research memorandum on January 5, 2015, which analyzed the performance of Florida's Enterprise Zone Program. Specifically, the report analyzed changes in seven selected enterprise zones over a three year period and compared such zones to similar non-zone areas. The report also included findings from an OPPAGA survey sent to all enterprise zone stakeholders, requesting feedback on the Program.

The report's summary findings were as follows: For economic indicators (median home value, median household income, unemployment rate, and poverty rate), the seven enterprise zones generally underperformed when compared to similar non-zone areas. For social indicators (infant mortality, educational attainment, crime rate, and population density), the seven enterprise zones showed mixed results, with few zones outperforming comparison non-zone areas for some indicators.

Most businesses that responded to the OPPAGA survey did not know that they are located in an enterprise zone, and very few had taken advantage of Program incentives. According to stakeholders, incentive eligibility thresholds constitute a significant barrier to program participation, especially for small businesses.

In its closing, the report offers the following three options for legislative consideration:

- 1) Require local governments to reapply for enterprise zone designation and periodically monitor performance goals. Such performance goals should be objectively measurable;
- 2) To make program incentives more accessible to small businesses, the Legislature could create a tiered program with eligibility requirements and incentive amounts based on business size; and
- 3) Target program incentives to encourage job creation. To focus the program on job creation, the Legislature could eliminate all Program incentives except jobs tax credits. Under this option, the



Legislature could also amend current law to allow businesses to claim part-time employees and non-zone residents for jobs tax credits (which would also assist small businesses).

## **2014 and 2015 Office of Economic and Demographic Research (EDR) Reports<sup>206</sup>**

EDR released a report on Florida's Enterprise Zone Program in January, 2014, which evaluated the program's return on investment (ROI) to the state and performed a property tax analysis of the zones. The highlights of the report's finding were as follows:

- The program produces a negative ROI to the state (-.05) for a number of reasons. Most importantly, the Program converts previously taxable activity to non-taxable activity.
- Unless bundled with other incentives, enterprise zone incentives are an insufficient inducement to relocate to Florida.
- The analysis supported the conclusion that enterprise zones have a direct and positive impact on property values over an extended period of time and that there is a potential benefit to local governments through increased ad valorem revenue.

EDR released a subsequent report on the program on January 1, 2015, which: expanded on its previous property value analysis of enterprise zones; discussed ways to improve the program's ROI; discussed approaches to improve the program's induced and indirect benefits; discussed alternatives to the program's structure; and analyzed the option of shifting the funding responsibility for the program to local governments. A brief summary of the report's findings and analyses for each topic is as follows:

### **Extended Analysis of Property Tax Values**

- The greatest long term benefit to property values is largely concentrated in commercial and industrial parcels in urban enterprise zones.
- Rural enterprise zones generally do not benefit from long term increases in property values as is seen in the urban zones.
- Residential properties do not detectably benefit from being in a zone, whether the zone is rural or urban.
- To the extent there is benefit to property values in a zone, such value would accrue to local governments, not the state.

### **Improving the Program's ROI<sup>207</sup>**

- Require specific capital investment (such as construction)
- Create a specific new/retained job requirement
- Create a high wage requirement
- Create a job training requirement
- Target industries with high multipliers (i.e., industries that create more economic activity)
- Create a market or resource independence requirement. That is, do not provide incentives to businesses that would have created or retained jobs regardless of the incentive. Such businesses include those that are dependent on Florida's population growth or resources.
- Target businesses with strong export capability or that bring in federal dollars
- Target businesses that would not have existed "but for" the incentive

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<sup>206</sup> The Report is an expansion of a 2014 EDR report.

<sup>207</sup> Note: increasing the ROI will not necessarily cure blight or improve a severely distressed area.

- Limit the state investment to no more than needed to accomplish the Program's goals. One avenue to accomplish this would be to consider local participation in the Program's funding.

#### Approaches to Improve the Program's Induced and Indirect Benefits

- Improve direct effects of the Program primarily through facilitating new business establishments in targeted industries, promoting higher salaries, and promoting additional capital expenditures
- Requiring incentive-recipients to demonstrate backward linkages. An industry has significant backward linkages when its production of output requires substantial intermediate inputs from many local industries.
- Incentivize the creation of strong pools of local suppliers in key locations. Suppliers will in turn attract businesses that would benefit from the suppliers' output (thereby creating a stronger web of backward linkages).

#### Alternatives to the Program's Structure

- Consider encouraging the inclusion of arts and culture in some (not too many) enterprise zones. These "creative districts" are defined as "well-recognized, labeled, mixed-use areas of a city in which a high concentration of cultural facilities serves as the anchor of attraction and robust economic activity."
- Consider creating "industry specific zones" that foster clusters of specific industries such as healthcare, high technology, manufacturing or research and development. (This is in stark contrast to current zone formations, which are predominantly residential in use.)
- Consider tying enterprise zones to "foreign trade zones" (or free trade zones) where goods may be landed, handled, manufactured or reconfigured, and re-exported without incurring customs duties. Over 200 communities in the US have free trade zones, 20 of which are in Florida. The free trade zones could provide a good foundation for enterprise zone incentives to build upon.
- Consider making zone geographically compact. This could help focus attention on the Legislature's most important policy goals.

#### Shifting Funding Responsibility to Local Governments

- Consider shifting funding responsibility of the Program to Local Governments. To assist local governments with such responsibility, the Legislature could expand the authorized uses of the Local Government Infrastructure Surtax<sup>208</sup> and Small County Surtax<sup>209</sup> to include enterprise zone funding, or replace the Emergency Fire Rescue Services and Facilities Surtax<sup>210</sup> with a surtax to fund local economic development efforts.

### **Effect of Proposed Changes**

The bill creates ss. 290.50 and 290.60, F.S., which establishes the Local Enterprise Zone program and the Enterprise Zone Certification program respectively.

### **Local Enterprise Zone Program**

<sup>208</sup> All of Florida's 67 counties may levy the Local Government Infrastructure Surtax, for up to one percent, subject to referendum approval. 17 counties currently levy the surtax.

<sup>209</sup> 31 of Florida's counties are eligible to levy the Small County Surtax, for up to one percent, by extraordinary vote of the county commission if the proceeds are used for operating purposes. If the proceeds are used to service bonded indebtedness, it requires referendum approval. Currently, 29 of the eligible 31 counties levy the surtax.

<sup>210</sup> 65 Florida counties are authorized to levy the Emergency Fire Rescue Services and Facilities Surtax for up to one percent, subject to referendum approval. Only those counties that have already imposed two separate discretionary surtaxes without expiration are restricted from levying the surtax. However, no county in the past five and one-half years has levied the surtax.

A local government may adopt a resolution establishing a local enterprise zone program through which it grants exemptions from specified local taxes, fees, permits, and licenses for newly established<sup>211</sup> or expanding businesses<sup>212</sup> located within designated enterprise zone areas. A local government that establishes a local enterprise zone program must submit a copy of the resolution creating the program to DEO within 20 days.

A local enterprise zone program must exempt all newly established or expanding businesses from the following taxes and fees imposed by the local government for a minimum of 24 consecutive months:

- business taxes;
- impact fees;
- business, professional, and occupational regulatory fees;
- green utility fees;
- building permit fees;
- special assessments, including, but not limited to, services associated with beach renourishment and restoration, downtown redevelopment, solid waste disposal, fire and rescue services, fire protection, parking facilities, sewer improvements, stormwater management services, street improvements, and water and sewer line extensions;
- sign ordinance requirements, permits, and fees; and
- tree and landscape ordinance requirements, permits, and fees.

For 24 consecutive months following the creation of a designated enterprise zone area, a local government may not issue a citation for a civil code or ordinance infraction on any business located within the designated enterprise zone. Additionally, newly established businesses may not be cited for civil code or ordinance infractions during the first 24 months of operation. For 24 months following an expansion that results in a 10% or greater increase in the number of full time employees, an expanding business may also be exempt from such citations. However, violations of civil code or ordinance which pose a direct threat to the health and safety of the public are not exempted.

### **Enterprise Zone Certification Program**

The governing body of a county or municipality or the governing bodies of a county and one or more municipalities together may submit an application to DEO for certification of an area as an enterprise zone. Applications must be submitted to the department no later than January 1 of each year, and must include:

- an aerial map and legal description of the proposed enterprise zone area;
- demographic information regarding the proposed zone area;<sup>213</sup>
- verification that the applicant makes available on its website a list of all local tax, license, and fee data related to the creation of a new business, the expansion of an existing business, and the operation of an existing business located within the applicant's jurisdiction;
- a list and description of the local financial incentives that have been or will be enacted by the applicant for the purpose of assisting in the redevelopment of the enterprise zone; and

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<sup>211</sup> Defined within the bill as "any business entity authorized to do business within the state that has established new operations in a designated enterprise zone area within the previous 12 months."

<sup>212</sup> Defined within the bill as "a business entity authorized to do business in the state that increases its total number of full-time employees by at least 10 percent and is located within a designated enterprise zone area."

<sup>213</sup> Such information must include unemployment, poverty, crime, income, and property value metrics. DEO is required to consult with EDR to develop or identify standard sources and metrics, and plus such information on its website.

- a copy of the resolution adopted by the local governing body creating the local enterprise zone program and designating the enterprise zone area.

All timely submitted and completed applications will be certified by DEO and assigned a unique identification number by June 30 of each year. Previously certified enterprise zones are not required to reapply.

DEO is required to develop a marketing and advertising plan in coordination with local governments for the purpose of highlighting the benefits of the program and encouraging increased business activity within certified enterprise zones.

Before October 1 of each year each local government containing a certified enterprise zone within its jurisdiction is required to submit the following information for inclusion in the department's annual report:

- the number and types of businesses established within the certified enterprise zone during the previous fiscal year;
- the number of jobs created within the certified enterprise zone during the previous fiscal year;
- a detailed description of the local and state financial incentives granted to businesses located within the certified enterprise zone during the previous fiscal year;
- a detailed description of the local regulatory incentives granted to businesses within the certified enterprise zone during the previous fiscal year; and
- any other information requested by DEO.

A certified enterprise zone will be decertified if the resolution creating the local enterprise zone program is repealed by the local government or the local government submits written notification to the department, along with a resolution adopted by the governing body of the local government after a public hearing, requesting that the certified enterprise zone be decertified.

#### B. SECTION DIRECTORY:

- Section 1: Amends s. 20.60, F.S., revising required elements of a report prepared by the Department of Economic Opportunity.
- Section 2: Amends s. 163.3180, F.S., prohibiting a local government from applying transportation concurrency within its jurisdiction unless certain conditions are met.
- Section 3: Amends s. 163.31801, F.S., prohibiting a county, municipality, or special district from applying certain impact fees or other fees within its jurisdiction unless certain conditions are met.
- Section 4: Amends s. 212.20, F.S., conforming provisions to changes made by the act.
- Section 5: Amends s. 220.191, F.S., excluding certain funds from the definition of "cumulative capital investment."
- Section 6: Amends s. 288.005, F.S., revising the definition of "economic benefits" to include all state funds.
- Section 7: Amends s. 288.061, F.S., revising evaluation and contract requirements of the economic development incentive application process.
- Section 8: Amends s. 288.076, F.S., conforming a cross-reference; revising the definition of "state investment" to include all state funds spent or forgone to benefit a business.

- Section 9: Amends s. 288.1045, F.S., relating to the Qualified Defense Contractor and Space Flight Business tax refund program.
- Section 10: Amends s. 288.106, F.S., relating to the Qualified Target Industry tax refund program.
- Section 11: Amends s. 288.108, F.S., relating to the High-Impact Performance Incentive.
- Section 12: Amends s. 288.1088, F.S., relating to the Quick Action Closing Fund.
- Section 13: Amends s. 288.1089, F.S., relating to the Innovation Incentive Program.
- Section 14: Repeals ss. 288.1168 and 288.1169, F.S., relating to the Professional Golf Hall of Fame and the International Game Fish Association World Center.
- Section 15: Amends s. 288.901, F.S., relating to Enterprise Florida, Inc.
- Section 16: Amends s. 288.9602, F.S., relating to the Florida Development Finance Corporation.
- Section 17: Amends s. 288.9604, F.S., relating to the Florida Development Finance Corporation.
- Section 18: Amends s. 288.9605, F.S., relating to the Florida Development Finance Corporation.
- Section 19: Amends s. 288.9606, F.S., relating to the Florida Development Finance Corporation.
- Section 20: Amends s. 288.9610, F.S., relating to the Florida Development Finance Corporation.
- Section 21: Amends s. 288.991, F.S., relating to the New Markets Development Program
- Section 22: Amends s. 288.9914, F.S., relating to the New Markets Development Program
- Section 23: Amends s. 288.9917, F.S., relating to the New Markets Development Program.
- Section 24: Amends s. 288.9920, F.S., relating to the New Markets Development Program.
- Section 25: Creates s. 288.9923, F.S., relating to the New Markets Development Program.
- Section 26: Creates s. 288.913, F.S., relating to the Startup Florida Initiative
- Section 27: Amends s. 189.033, F.S., conforming a cross-reference.
- Section 28: Amends s. 196.012, F.S., conforming a cross-reference.
- Section 29: Amends s. 288.001, F.S., conforming a cross-reference.
- Section 30: Amends s. 288.11625, F.S., conforming a cross-reference.
- Section 31: Amends s. 288.11631, F.S., conforming a cross-reference.
- Section 32: Creates an unnumbered section of Florida law relating to the extension of certain permits subject to certain expiration dates.
- Section 33: Creates s. 288.50, F.S., providing for the creation and operation of local enterprise zone designation programs.

- Section 34: Creates s. 290.60, F.S., providing for the Department of Economic Opportunity to certify and decertify designated local enterprise zone areas.
- Section 35: Amends s. 20.60, F.S., and others, relating to cross references for the certified enterprise zone program.
- Sections 36 – 57: Amends s. 163.521, F.S., and others, relating to certified enterprise zones.
- Section 58: Provides an effective date of July 1, 2015.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The bill removes the monthly distribution of \$166,667 from DOR to the Professional Golf Hall of Fame. This will have an annual positive impact of \$2 million to the state.

The bill provides for a two year extension for building and development permits that is in addition to any existing permit extensions; however, the total permit extension time for this bill or the 2009,<sup>214</sup> 2010,<sup>215</sup> 2011,<sup>216</sup> 2012,<sup>217</sup> and 2014<sup>218</sup> extensions cannot exceed four years in total. This may have an indeterminate negative impact on the state through lost revenues from permit fees not collected for renewals and extensions.

On March 27, 2015, the Revenue Estimating Conference estimated the certified enterprise zone and tax provisions of the bill to have an indeterminate negative revenue impact to the state.

#### 2. Expenditures:

The bill contains an extension to the Qualified Defense Contractor and Space Flight tax refund program to allow DEO to certify applications through June 30, 2017. This may have an estimated \$2.6 million impact per year to the state.

The bill requires an annual analysis and report on the New Markets Development Program Act which may have an indeterminate but likely insignificant negative fiscal impact on DEO.

The bill requires EFI, working in consultation with the Institute for the Commercialization of Public Research and the Florida Economic Gardening Institute, to develop a statewide strategic plan, develop and implement a marketing plan, and provide an annual report for high-technology startup and second-stage business growth and development. EFI has advised this may have a negative fiscal impact on their operations and that an additional FTE and funding to contract for development of a statewide strategic plan may be needed.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

The fiscal impact on local governments depends upon the use of the various economic development incentives and programs addressed in the bill.

<sup>214</sup> Section 14, Ch. 2009-96, L.O.F.

<sup>215</sup> Sections 46 or 47, Ch. 2010-47, L.O.F.

<sup>216</sup> Sections 73 or 79, Ch. 2011-139, L.O.F.

<sup>217</sup> Section 24, Ch. 2012-205, L.O.F.

<sup>218</sup> Section 46, Ch. 2014-218, L.O.F.

For instance, there would be a negative impact to local revenues due to certain new developments being exempt from complying with impact fee, concurrency, or proportionate share requirements for transportation impacts for three years, unless the local government revokes the exemptions by a super majority vote.

In addition, there would be a negative impact to local revenues if a local government adopts a resolution establishing a local enterprise zone program through which it grants exemptions from specified local taxes, fees, permits, and licenses for newly established or expanding businesses.

On March 27, 2015, the Revenue Estimating Conference estimated the certified enterprise zone and tax provisions of the bill to have an indeterminate negative revenue impact to local governments.

2. Expenditures:

The fiscal impact on local governments depends upon the use of the various economic development incentives and programs addressed in the bill.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The provisions of this bill may positively impact various business sectors throughout the state.

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:

DEO may require rulemaking authority to establish the new enterprise zone certification program.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 3, 2015, the House Economic Development & Tourism Subcommittee adopted two amendments and reported the bill favorably.

Amendment No. 1:

- corrected a scrivener's error;

- clarified that the exemption to municipal code and ordinance violations outlined within the new enterprise zone certification program does not apply to violations that pose a direct threat to the health and safety of the public; and
- made numerous updates to enterprise zone references throughout statute to reflect the new enterprise zone certification program.

Amendment No. 2 pertained to the New Markets Development program and clarified that a Qualified Community Development Entity that fails to meet the new capital requirement created by the bill will be subject to the recapture of funds provision of the program.

This analysis is drafted to the bill as passed by the Economic Development & Tourism Subcommittee.



1                                   A bill to be entitled  
2           An act relating to economic development; amending s.  
3           20.60, F.S.; revising required elements of a report  
4           prepared by the Department of Economic Opportunity;  
5           amending s. 163.3180, F.S.; prohibiting a local  
6           government from applying transportation concurrency  
7           within its jurisdiction unless certain conditions are  
8           met; providing exceptions; providing applicability;  
9           providing for expiration of the prohibition; amending  
10          s. 163.31801, F.S.; prohibiting a county,  
11          municipality, or special district from applying  
12          certain impact fees or other fees within its  
13          jurisdiction unless certain conditions are met;  
14          providing exceptions; providing applicability;  
15          providing for expiration of the prohibition; amending  
16          s. 212.20, F.S.; conforming provisions to changes made  
17          by the act; amending s. 220.191, F.S.; excluding  
18          certain funds from the definition of "cumulative  
19          capital investment"; revising definition of the term  
20          "qualifying project" to include a new or expanded  
21          headquarters facility that locates in a certified  
22          enterprise zone, for purposes of the capital  
23          investment tax credit; amending s. 288.005, F.S.;  
24          revising definition of the term "economic benefits" to  
25          include all state funds; amending s. 288.061, F.S.;  
26          revising evaluation and contract requirements of the

27 economic development incentive application process;  
 28 amending s. 288.076, F.S.; conforming a cross-  
 29 reference; revising definition of the term "state  
 30 investment" to include all state funds spent or  
 31 forgone to benefit a business; amending s. 288.1045,  
 32 F.S.; revising provisions of the qualified defense  
 33 contractor and space flight business tax refund  
 34 program; revising definitions; revising, providing  
 35 limitations on, and authorizing waivers from local  
 36 financial support requirements; authorizing specified  
 37 tax refund payments to qualified applicants in a rural  
 38 area of opportunity or certified enterprise zone;  
 39 authorizing certain qualified applicants to receive a  
 40 tax refund by providing certain information to the  
 41 Department of Economic Opportunity; delaying the  
 42 expiration date of the qualified defense contractor  
 43 and space flight business tax refund program; amending  
 44 s. 288.106, F.S.; revising provisions of the tax  
 45 refund program for qualified target industry  
 46 businesses; revising definitions; defining the term  
 47 "certified enterprise zone"; revising, providing  
 48 limitations on, and authorizing waivers from local  
 49 financial support requirements; revising provisions  
 50 applicable to a rural area of opportunity; authorizing  
 51 a qualified target industry business to receive tax  
 52 refund payments if a project in a certified enterprise

53 zone meets specified requirements; providing  
 54 limitations; authorizing the department to waive  
 55 certain wage requirements for projects in a certified  
 56 enterprise zone; repealing provisions regarding  
 57 economic recovery extensions of certain tax refund  
 58 agreements; amending s. 288.108, F.S.; revising  
 59 provisions relating to high-impact businesses;  
 60 defining the term "local financial support";  
 61 authorizing certain waivers from local financial  
 62 support requirements; revising application  
 63 requirements and requiring the Department of Economic  
 64 Opportunity to certify high-impact business grant  
 65 applications; providing requirements for the Governor  
 66 relating to such applications; providing contract and  
 67 department validation requirements for such  
 68 applications; amending s. 288.1088, F.S.; revising  
 69 provisions regarding the Quick Action Closing Fund;  
 70 revising project eligibility requirements; providing  
 71 limitations on and authorizing waivers from local  
 72 financial support requirements; revising contract  
 73 requirements for certain projects eligible for funding  
 74 through the Quick Action Closing Fund; revising  
 75 approval requirements for amendments or modifications  
 76 of contract requirements for such projects; revising  
 77 requirements of the Governor relating to certain  
 78 projects eligible for funding through the Quick Action

79 Closing Fund; amending s. 288.1089, F.S.; revising  
 80 provisions relating to the Innovation Incentive  
 81 Program; revising definitions; defining the term  
 82 "certified enterprise zone"; revising provisions  
 83 applicable to a rural areas of opportunity;  
 84 authorizing the department to waive certain wage  
 85 requirements for projects in a rural area of  
 86 opportunity or certified enterprise zone; requiring an  
 87 innovation business project located in a certified  
 88 enterprise zone to meet specified requirements;  
 89 limiting wage requirement waivers under specified  
 90 circumstances; requiring certain innovation projects  
 91 located in a rural area of opportunity or certified  
 92 enterprise zone to meet specified requirements;  
 93 authorizing and providing limitations on waivers from  
 94 local financial support requirements relating to the  
 95 program; revising requirements of the Governor and the  
 96 Department of Economic Opportunity relating to certain  
 97 projects eligible for funding through the program;  
 98 revising contract requirements for such projects;  
 99 revising approval requirements for amendments or  
 100 modifications of contract requirements for such  
 101 projects; repealing ss. 288.1168 and 288.1169, F.S.,  
 102 relating to state agency funding of the professional  
 103 golf hall of fame facility and the International Game  
 104 Fish Association World Center facility, respectively;

105 | amending s. 288.901, F.S.; providing that it is a  
 106 | purpose of Enterprise Florida, Inc., to foster and  
 107 | encourage high-technology startup and second-state  
 108 | business development; revising expertise requirements  
 109 | of members of the board of directors of Enterprise  
 110 | Florida, Inc.; amending ss. 288.9602, 288.9605, and  
 111 | 288.9610, F.S.; revising provisions relating to the  
 112 | Florida Development Finance Corporation to remove  
 113 | references to interlocal agreements made pursuant to  
 114 | the Florida Interlocal Cooperation Act and to remove  
 115 | requirements that the corporation enter into such  
 116 | agreements; amending s. 288.9604, F.S.; providing that  
 117 | actions taken by the board of directors of the Florida  
 118 | Development Finance Corporation are valid without  
 119 | regard to vacancies on the board; amending s.  
 120 | 288.9606, F.S.; deleting a requirement that the  
 121 | Florida Development Finance Corporation receive  
 122 | authority to issue revenue bonds from a public agency;  
 123 | authorizing the corporation to issue revenue bonds or  
 124 | other evidences of indebtedness; revising requirements  
 125 | for such issuance; conforming provisions to changes  
 126 | made by the act; amending s. 288.991, F.S.; revising a  
 127 | short title; amending ss. 288.9914 and 288.9917, F.S.;  
 128 | specifying that certain timeframes relating to  
 129 | Department of Economic Opportunity qualified  
 130 | investment applications are measured in calendar days;

131 amending s. 288.9920, F.S.; authorizing the recapture  
 132 of certain tax credits from qualified active low-  
 133 income community businesses which violate certain  
 134 ownership or investment restrictions after a specified  
 135 date; creating s. 288.9923, F.S.; restricting certain  
 136 qualified active low-income community businesses from  
 137 holding certain ownership or investment interests in  
 138 specified qualified community development entities or  
 139 affiliates after a specified period; providing  
 140 applicability; creating s. 288.913, F.S.; creating the  
 141 Startup Florida Initiative; providing legislative  
 142 findings; providing definitions; requiring Enterprise  
 143 Florida, Inc., to develop a statewide strategic plan  
 144 for high-technology startup and second-stage business  
 145 growth and development; providing requirements for the  
 146 plan; requiring Enterprise Florida, Inc., to market  
 147 the plan inside and outside the state; requiring  
 148 Enterprise Florida, Inc., to provide information about  
 149 the plan in its annual report; amending ss. 189.033,  
 150 288.11625, and 288.11631, F.S.; conforming cross-  
 151 references; extending and renewing certain permits  
 152 subject to certain expiration dates; providing  
 153 applicability of the extension to certain related  
 154 activities; providing for extension of commencement  
 155 and completion dates; requiring permitholders to  
 156 notify authorizing agencies of intent to use the

157 extension and anticipated time of the extension;  
 158 specifying nonapplicability to certain permits;  
 159 providing applicability of certain rules to extended  
 160 permits; preserving the authority of counties and  
 161 municipalities to impose certain security and sanitary  
 162 requirements on property owners under certain  
 163 circumstances; requiring permitholders to notify  
 164 permitting agencies of intent to use the extension;  
 165 creating s. 290.50, F.S.; providing requirements for  
 166 the creation and operation of a designated local  
 167 enterprise zone program; creating s. 290.60, F.S.;  
 168 providing requirements for the Department of Economic  
 169 Opportunity to certify and decertify a local  
 170 enterprise zone; authorizing the department to adopt  
 171 rules; requiring the department to develop certain  
 172 marketing information; requiring the department's  
 173 annual report to contain certain information; amending  
 174 s. 159.27, F.S.; revising definition of the term  
 175 "project" to include a commercial project in a  
 176 certified enterprise zone for purposes of certain bond  
 177 financing provisions; defining the term "commercial  
 178 project in a certified enterprise zone"; amending s.  
 179 159.803, F.S.; revising definition of the term  
 180 "priority project" to include any project to be  
 181 located in a certified enterprise zone for purposes of  
 182 certain bond financing provisions; amending s.

183 163.2517, F.S.; authorizing a local government to  
 184 designate a certified enterprise zone as an urban  
 185 infill and redevelopment area using specified factors;  
 186 amending s. 163.503, F.S.; defining the term  
 187 "certified enterprise zone" for purposes of the Safe  
 188 Neighborhoods Act; amending s. 163.521, F.S.;  
 189 authorizing certain local governments to request  
 190 funding for capital improvements in a neighborhood  
 191 improvement district located in a certified enterprise  
 192 zone; amending s. 163.522, F.S.; directing a county or  
 193 municipality containing a certified enterprise zone to  
 194 consider creating a neighborhood improvement district  
 195 within such zone; amending s. 166.231, F.S.;  
 196 authorizing a municipality to enact ordinances  
 197 relating to public service tax exemptions for  
 198 certified enterprise zones; conditioning applicability  
 199 of such ordinance upon state certification of such  
 200 zones; deleting the future expiration of the  
 201 authorization; amending s. 196.012, F.S.; conforming a  
 202 cross-reference; revising definitions of the terms  
 203 "new business" and "expansion of an existing business"  
 204 to include a business or organization located within a  
 205 certified enterprise zone; defining the term  
 206 "certified enterprise zone" for purposes of certain  
 207 property tax exemptions; amending s. 196.095, F.S.;  
 208 providing an exemption from certain property tax for a



209 licensed child care facility operating in a certified  
 210 enterprise zone; providing application and review  
 211 requirements for such exemption; amending s. 196.1995,  
 212 F.S.; authorizing a board of county commissioners or  
 213 other governing body to call a referendum regarding  
 214 certain ad valorem tax exemptions for new and  
 215 expanding businesses in a certified enterprise zone;  
 216 providing requirements for such referendum;  
 217 conditioning applicability of an approved referendum  
 218 upon state certification of a certified enterprise  
 219 zone; providing limitations; amending s. 205.022,  
 220 F.S.; defining the term "certified enterprise zone"  
 221 for purposes of local business taxes; amending s.  
 222 205.054, F.S.; authorizing an exemption of 50 percent  
 223 of business taxes for certain businesses located in a  
 224 certified enterprise zone; providing applicability;  
 225 conditioning exemption upon state certification of a  
 226 certified enterprise zone; deleting the future  
 227 expiration of the authorization; amending s. 212.02,  
 228 F.S.; defining the term "certified enterprise zone"  
 229 for purposes of the Florida Revenue Act of 1949;  
 230 deleting the future expiration of the definition;  
 231 amending s. 212.08, F.S.; revising exemptions relating  
 232 to building materials used in redevelopment projects  
 233 to include housing projects and mixed-use projects  
 234 located in a certified enterprise zone; revising

235 | eligibility criteria for community contribution tax  
 236 | credits to include certain projects located within a  
 237 | certified enterprise zone; amending s. 220.183, F.S.;  
 238 | revising eligibility criteria for community  
 239 | contribution tax credit projects to include projects  
 240 | located within a certified enterprise zone; amending  
 241 | s. 288.0001, F.S.; revising required elements of an  
 242 | analysis prepared by the Office of Economic and  
 243 | Demographic Research and the Office of Program Policy  
 244 | Analysis and Government Accountability to include the  
 245 | enterprise zone certification program; conforming a  
 246 | cross-reference; making a technical change; amending  
 247 | s. 288.018, F.S.; authorizing the Department of  
 248 | Economic Opportunity to contract for the development  
 249 | of a web portal or website regarding certified  
 250 | enterprise zones; providing requirements for such  
 251 | portals or websites; amending s. 288.047, F.S.;  
 252 | requiring Workforce Florida, Inc., to set aside 30  
 253 | percent of certain Quick-Response Training Program  
 254 | revenues to fund instructional programs for businesses  
 255 | located in a certified enterprise zone; amending ss.  
 256 | 288.11621 and 288.11631, F.S.; revising evaluation  
 257 | criteria for state funding of a certain spring  
 258 | training franchises' facilities to include the  
 259 | facilities' location in a certified enterprise zone;  
 260 | amending s. 339.2821, F.S.; revising evaluation

261 criteria for economic development transportation  
 262 projects to include a project's location within a  
 263 certified enterprise zone; amending s. 403.973, F.S.;  
 264 authorizing regional permit action teams to expedite  
 265 the review of permit applications and local  
 266 comprehensive plan amendments submitted by businesses  
 267 located in a certified enterprise zone that meet  
 268 specified criteria; amending ss. 624.509 and 624.5091,  
 269 F.S.; authorizing the transfer of certain excess tax  
 270 credits related to employees whose place of employment  
 271 is located within a certified enterprise zone, up to a  
 272 specified percentage; providing applicability;  
 273 amending s. 624.5105, F.S.; requiring certain projects  
 274 eligible for a community contribution tax credit to be  
 275 located in a certified enterprise zone; providing an  
 276 effective date.

277  
 278 Be It Enacted by the Legislature of the State of Florida:  
 279

280 Section 1. Subsection (10) of section 20.60, Florida  
 281 Statutes, is amended to read:

282 20.60 Department of Economic Opportunity; creation; powers  
 283 and duties.—

284 (10) The department, with assistance from Enterprise  
 285 Florida, Inc., shall, by November 1 of each year, submit an  
 286 annual report to the Governor, the President of the Senate, and

287 the Speaker of the House of Representatives on the condition of  
 288 the business climate and economic development in the state.

289 (a) The report must include the identification of problems  
 290 and a prioritized list of recommendations.

291 (b) The report must incorporate annual reports of other  
 292 programs, including:

293 1. The displaced homemaker program established under s.  
 294 446.50.

295 2. Information provided by the Department of Revenue under  
 296 s. 290.014.

297 3. ~~Information provided by enterprise zone development~~  
 298 ~~agencies under s. 290.0056 and~~ An analysis of the activities and  
 299 accomplishments of each certified enterprise zone.

300 4. The Economic Gardening Business Loan Pilot Program  
 301 established under s. 288.1081 and the Economic Gardening  
 302 Technical Assistance Pilot Program established under s.  
 303 288.1082.

304 5. A detailed report of the performance of the Black  
 305 Business Loan Program and a cumulative summary of quarterly  
 306 report data required under s. 288.714.

307 6. The Rural Economic Development Initiative established  
 308 under s. 288.0656.

309 7. A detailed analysis of the information provided by  
 310 community development entities pursuant to the New Markets  
 311 Development Program Act in s. 288.9918. The first annual report  
 312 that includes such analysis shall analyze all data the

313 department has received from community development entities  
 314 since the inception of the New Markets Development Program Act.

315 Section 2. Subsection (7) is added to section 163.3180,  
 316 Florida Statutes, to read:

317 163.3180 Concurrency.—

318 (7) (a) Notwithstanding any other provision of law,  
 319 ordinance, or resolution, before July 1, 2018, a local  
 320 government may only apply transportation concurrency within its  
 321 jurisdiction or require a proportionate-share contribution or  
 322 construction for a new business development if authorized by  
 323 supermajority vote of the local government's governing  
 324 authority. This paragraph does not apply to:

325 1. Proportionate-share contribution or construction  
 326 assessed on an existing business development before July 1,  
 327 2015.

328 2. A new business development that consists of more than  
 329 6,000 square feet and has a classification other than  
 330 residential.

331 3. A new business development that will include a business  
 332 that employs more than 12 full-time employees.

333 (b) In order to maintain the exemption from transportation  
 334 concurrency and proportionate-share contribution or construction  
 335 pursuant to paragraph (a), a new business development must  
 336 receive a certificate of occupancy on or before July 1, 2019. If  
 337 the certificate of occupancy is not received by July 1, 2019,  
 338 the local government may apply transportation concurrency and

339 require the appropriate proportionate-share contribution or  
 340 construction for the business development that would otherwise  
 341 be applied. An outstanding obligation related to the  
 342 proportionate-share contribution or construction runs with the  
 343 land and is enforceable against any person claiming a fee  
 344 interest in the land subject to the obligation.

345 (c) This subsection does not apply if such application  
 346 results in a reduction of previously pledged revenue of a local  
 347 government for outstanding bonds or notes or to a local  
 348 government with a mobility fee-based funding system in place on  
 349 or before January 1, 2015.

350 (d) A developer may, upon written notification to the  
 351 local government, elect to have the local government apply  
 352 transportation concurrency and proportionate-share contribution  
 353 or construction to a business development.

354 (e) This subsection expires July 1, 2019.

355 Section 3. Subsection (6) is added to section 163.31801,  
 356 Florida Statutes, to read:

357 163.31801 Impact fees; short title; intent; definitions;  
 358 ordinances levying impact fees.—

359 (6) (a) Notwithstanding any other provision of law,  
 360 ordinance, or resolution, before July 1, 2018, a county,  
 361 municipality, or special district may only impose a new or  
 362 existing impact fee or a new or existing fee associated with the  
 363 mitigation of transportation impacts on a new business  
 364 development if authorized by supermajority vote of the governing

365 body of the county, municipality, or special district. This  
 366 paragraph does not apply to:

367 1. An impact fee or fee associated with the mitigation of  
 368 transportation impacts previously enacted by law, ordinance, or  
 369 resolution assessed on an existing business development before  
 370 July 1, 2015.

371 2. A new business development that consists of more than  
 372 6,000 square feet and has a classification other than  
 373 residential.

374 3. A new business development that will include a business  
 375 that employs more than 12 full-time employees.

376 (b) The governing authority of a county, municipality, or  
 377 special district imposing an impact fee in existence on July 1,  
 378 2014, must reauthorize the imposition of the fee pursuant to  
 379 this subsection.

380 (c) In order to maintain the exemption from impact fees  
 381 and fees associated with the mitigation of transportation  
 382 impacts pursuant to paragraph (a), a new business development  
 383 must receive a certificate of occupancy on or before July 1,  
 384 2019. If the certificate of occupancy is not received by July 1,  
 385 2019, the county, municipality, or special district may impose  
 386 the appropriate impact fees and fees associated with the  
 387 mitigation of transportation impacts on the business development  
 388 that would otherwise be applied. An outstanding obligation  
 389 related to impact fees and fees associated with the mitigation  
 390 of transportation impacts on the business development runs with

391 the land and is enforceable against any person claiming a fee  
 392 interest in the land subject to the obligation.

393 (d) This subsection does not apply if such application  
 394 results in a reduction of previously pledged revenue of a  
 395 county, municipality, or special district for outstanding bonds  
 396 or notes or to a county, municipality, or special district with  
 397 a mobility fee-based funding system in place on or before  
 398 January 1, 2015.

399 (e) A developer may, upon notification to the county,  
 400 municipality, or special district, elect to have impact fees and  
 401 fees associated with the mitigation of transportation impacts  
 402 imposed on a business development.

403 (f) This subsection expires July 1, 2019.

404 Section 4. Paragraph (d) of subsection (6) of section  
 405 212.20, Florida Statutes, is amended to read:

406 212.20 Funds collected, disposition; additional powers of  
 407 department; operational expense; refund of taxes adjudicated  
 408 unconstitutionally collected.-

409 (6) Distribution of all proceeds under this chapter and  
 410 ss. 202.18(1)(b) and (2)(b) and 203.01(1)(a)3. is as follows:

411 (d) The proceeds of all other taxes and fees imposed  
 412 pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)  
 413 and (2)(b) shall be distributed as follows:

414 1. In any fiscal year, the greater of \$500 million, minus  
 415 an amount equal to 4.6 percent of the proceeds of the taxes  
 416 collected pursuant to chapter 201, or 5.2 percent of all other



417 taxes and fees imposed pursuant to this chapter or remitted  
 418 pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in  
 419 monthly installments into the General Revenue Fund.

420 2. After the distribution under subparagraph 1., 8.8854  
 421 percent of the amount remitted by a sales tax dealer located  
 422 within a participating county pursuant to s. 218.61 shall be  
 423 transferred into the Local Government Half-cent Sales Tax  
 424 Clearing Trust Fund. Beginning July 1, 2003, the amount to be  
 425 transferred shall be reduced by 0.1 percent, and the department  
 426 shall distribute this amount to the Public Employees Relations  
 427 Commission Trust Fund less \$5,000 each month, which shall be  
 428 added to the amount calculated in subparagraph 3. and  
 429 distributed accordingly.

430 3. After the distribution under subparagraphs 1. and 2.,  
 431 0.0956 percent shall be transferred to the Local Government  
 432 Half-cent Sales Tax Clearing Trust Fund and distributed pursuant  
 433 to s. 218.65.

434 4. After the distributions under subparagraphs 1., 2., and  
 435 3., 2.0603 percent of the available proceeds shall be  
 436 transferred monthly to the Revenue Sharing Trust Fund for  
 437 Counties pursuant to s. 218.215.

438 5. After the distributions under subparagraphs 1., 2., and  
 439 3., 1.3517 percent of the available proceeds shall be  
 440 transferred monthly to the Revenue Sharing Trust Fund for  
 441 Municipalities pursuant to s. 218.215. If the total revenue to  
 442 be distributed pursuant to this subparagraph is at least as

443 great as the amount due from the Revenue Sharing Trust Fund for  
 444 Municipalities and the former Municipal Financial Assistance  
 445 Trust Fund in state fiscal year 1999-2000, no municipality shall  
 446 receive less than the amount due from the Revenue Sharing Trust  
 447 Fund for Municipalities and the former Municipal Financial  
 448 Assistance Trust Fund in state fiscal year 1999-2000. If the  
 449 total proceeds to be distributed are less than the amount  
 450 received in combination from the Revenue Sharing Trust Fund for  
 451 Municipalities and the former Municipal Financial Assistance  
 452 Trust Fund in state fiscal year 1999-2000, each municipality  
 453 shall receive an amount proportionate to the amount it was due  
 454 in state fiscal year 1999-2000.

455 6. Of the remaining proceeds:

456 a. In each fiscal year, the sum of \$29,915,500 shall be  
 457 divided into as many equal parts as there are counties in the  
 458 state, and one part shall be distributed to each county. The  
 459 distribution among the several counties must begin each fiscal  
 460 year on or before January 5th and continue monthly for a total  
 461 of 4 months. If a local or special law required that any moneys  
 462 accruing to a county in fiscal year 1999-2000 under the then-  
 463 existing provisions of s. 550.135 be paid directly to the  
 464 district school board, special district, or a municipal  
 465 government, such payment must continue until the local or  
 466 special law is amended or repealed. The state covenants with  
 467 holders of bonds or other instruments of indebtedness issued by  
 468 local governments, special districts, or district school boards

469 before July 1, 2000, that it is not the intent of this  
 470 subparagraph to adversely affect the rights of those holders or  
 471 relieve local governments, special districts, or district school  
 472 boards of the duty to meet their obligations as a result of  
 473 previous pledges or assignments or trusts entered into which  
 474 obligated funds received from the distribution to county  
 475 governments under then-existing s. 550.135. This distribution  
 476 specifically is in lieu of funds distributed under s. 550.135  
 477 before July 1, 2000.

478 b. The department shall distribute \$166,667 monthly to  
 479 each applicant certified as a facility for a new or retained  
 480 professional sports franchise pursuant to s. 288.1162. Up to  
 481 \$41,667 shall be distributed monthly by the department to each  
 482 certified applicant as defined in s. 288.11621 for a facility  
 483 for a spring training franchise. However, not more than \$416,670  
 484 may be distributed monthly in the aggregate to all certified  
 485 applicants for facilities for spring training franchises.  
 486 Distributions begin 60 days after such certification and  
 487 continue for not more than 30 years, except as otherwise  
 488 provided in s. 288.11621. A certified applicant identified in  
 489 this sub-subparagraph may not receive more in distributions than  
 490 expended by the applicant for the public purposes provided in s.  
 491 288.1162(5) or s. 288.11621(3).

492 ~~e. Beginning 30 days after notice by the Department of~~  
 493 ~~Economic Opportunity to the Department of Revenue that an~~  
 494 ~~applicant has been certified as the professional golf hall of~~

495 ~~fame pursuant to s. 288.1168 and is open to the public, \$166,667~~  
 496 ~~shall be distributed monthly, for up to 300 months, to the~~  
 497 ~~applicant.~~

498 ~~d. Beginning 30 days after notice by the Department of~~  
 499 ~~Economic Opportunity to the Department of Revenue that the~~  
 500 ~~applicant has been certified as the International Game Fish~~  
 501 ~~Association World Center facility pursuant to s. 288.1169, and~~  
 502 ~~the facility is open to the public, \$83,333 shall be distributed~~  
 503 ~~monthly, for up to 168 months, to the applicant. This~~  
 504 ~~distribution is subject to reduction pursuant to s. 288.1169. A~~  
 505 ~~lump sum payment of \$999,996 shall be made after certification~~  
 506 ~~and before July 1, 2000.~~

507 c.e. The department shall distribute up to \$83,333 monthly  
 508 to each certified applicant as defined in s. 288.11631 for a  
 509 facility used by a single spring training franchise, or up to  
 510 \$166,667 monthly to each certified applicant as defined in s.  
 511 288.11631 for a facility used by more than one spring training  
 512 franchise. Monthly distributions begin 60 days after such  
 513 certification or July 1, 2016, whichever is later, and continue  
 514 for not more than 20 years to each certified applicant as  
 515 defined in s. 288.11631 for a facility used by a single spring  
 516 training franchise or not more than 25 years to each certified  
 517 applicant as defined in s. 288.11631 for a facility used by more  
 518 than one spring training franchise. A certified applicant  
 519 identified in this sub-subparagraph may not receive more in  
 520 distributions than expended by the applicant for the public

521 purposes provided in s. 288.11631(3).

522 ~~d.f.~~ Beginning 45 days after notice by the Department of  
 523 Economic Opportunity to the Department of Revenue that an  
 524 applicant has been approved by the Legislature and certified by  
 525 the Department of Economic Opportunity under s. 288.11625 or  
 526 upon a date specified by the Department of Economic Opportunity  
 527 as provided under s. 288.11625(6)(d), the department shall  
 528 distribute each month an amount equal to one-twelfth of the  
 529 annual distribution amount certified by the Department of  
 530 Economic Opportunity for the applicant. The department may not  
 531 distribute more than \$7 million in the 2014-2015 fiscal year or  
 532 more than \$13 million annually thereafter under this sub-  
 533 subparagraph.

534 7. All other proceeds must remain in the General Revenue  
 535 Fund.

536 Section 5. Paragraphs (b) and (g) of subsection (1) of  
 537 section 220.191, Florida Statutes, are amended to read:

538 220.191 Capital investment tax credit.-

539 (1) DEFINITIONS.-For purposes of this section:

540 (b) "Cumulative capital investment" means the total  
 541 capital investment in land, buildings, and equipment made by or  
 542 on behalf of the qualifying business in connection with a  
 543 qualifying project during the period from the beginning of  
 544 construction of the project to the commencement of operations.  
 545 The term does not include funds granted to or spent on behalf of  
 546 the qualifying business by the state, a local government, or

547 other governmental entity; funds appropriated in the General  
 548 Appropriations Act; or funds otherwise provided to the  
 549 qualifying business by a state agency, local government, or  
 550 other governmental entity.

551 (g) "Qualifying project" means a facility in this state  
 552 meeting one or more of the following criteria:

553 1. A new or expanding facility in this state which creates  
 554 at least 100 new jobs in this state and is in one of the high-  
 555 impact sectors identified by Enterprise Florida, Inc., and  
 556 certified by the Department of Economic Opportunity pursuant to  
 557 s. 288.108(6), including, but not limited to, aviation,  
 558 aerospace, automotive, and silicon technology industries.

559 However, between July 1, 2011, and June 30, 2014, the  
 560 requirement that a facility be in a high-impact sector is waived  
 561 for any otherwise eligible business from another state which  
 562 locates all or a portion of its business to a Disproportionally  
 563 Affected County. For purposes of this section, the term  
 564 "Disproportionally Affected County" means Bay County, Escambia  
 565 County, Franklin County, Gulf County, Okaloosa County, Santa  
 566 Rosa County, Walton County, or Wakulla County.

567 2. A new or expanded facility in this state which is  
 568 engaged in a target industry designated pursuant to the  
 569 procedure specified in s. 288.106(2) and which is induced by  
 570 this credit to create or retain at least 1,000 jobs in this  
 571 state, provided that at least 100 of those jobs are new, pay an  
 572 annual average wage of at least 130 percent of the average

573 private sector wage in the area as defined in s. 288.106(2), and  
 574 make a cumulative capital investment of at least \$100 million.  
 575 Jobs may be considered retained only if there is significant  
 576 evidence that the loss of jobs is imminent. Notwithstanding  
 577 subsection (2), annual credits against the tax imposed by this  
 578 chapter may not exceed 50 percent of the increased annual  
 579 corporate income tax liability or the premium tax liability  
 580 generated by or arising out of a project qualifying under this  
 581 subparagraph. A facility that qualifies under this subparagraph  
 582 for an annual credit against the tax imposed by this chapter may  
 583 take the tax credit for a period not to exceed 5 years.

584 3. A new or expanded headquarters facility in this state  
 585 which locates in a certified ~~an~~ enterprise zone and brownfield  
 586 area and is induced by this credit to create at least 1,500 jobs  
 587 which on average pay at least 200 percent of the statewide  
 588 average annual private sector wage, as published by the  
 589 Department of Economic Opportunity, and which new or expanded  
 590 headquarters facility makes a cumulative capital investment in  
 591 this state of at least \$250 million.

592 Section 6. Subsection (1) of section 288.005, Florida  
 593 Statutes, is amended to read:

594 288.005 Definitions.—As used in this chapter, the term:

595 (1) "Economic benefits" means the direct, indirect, and  
 596 induced gains in state revenues as a percentage of the state's  
 597 investment. The state's investment includes all state funds  
 598 spent or forgone to benefit the business, including, but not

599 limited to, state funds appropriated to public and private  
 600 entities, state grants, tax exemptions, tax refunds, tax  
 601 credits, and other state incentives.

602 Section 7. Subsection (2) and paragraph (a) of subsection  
 603 (3) of section 288.061, Florida Statutes, are amended to read:

604 288.061 Economic development incentive application  
 605 process.—

606 (2) (a) ~~Beginning July 1, 2013,~~ The department shall review  
 607 and evaluate each economic development incentive application for  
 608 the economic benefits of the proposed award of state incentives  
 609 proposed for the project. Such review shall occur before the  
 610 department approves an economic development incentive  
 611 application and each time an approved incentive agreement or  
 612 contract is amended, extended, or otherwise altered by the  
 613 department or Enterprise Florida, Inc. The department shall  
 614 notify the Legislature within 5 business days after any contract  
 615 amendment or use of an incentive contract extension. Except as  
 616 otherwise provided in this chapter, the department may not  
 617 execute an amendment to an incentive agreement or contract for a  
 618 project the economic benefits of which have been reduced unless  
 619 the award of state incentives outlined in the incentive  
 620 agreement or contract have been reduced by a proportionate  
 621 amount. When evaluating an economic development incentive  
 622 application, the department may not attribute to the business  
 623 any capital investment made by the business using state funds.

624 (b) As used in this subsection, the term "economic



625 | benefits" has the same meaning as provided in s. 288.005. The  
 626 | Office of Economic and Demographic Research shall establish the  
 627 | methodology and model used to calculate the economic benefits  
 628 | and shall establish guidelines for appropriate application of  
 629 | the model. For purposes of this requirement, an amended  
 630 | definition of "economic benefits" may be developed by the Office  
 631 | of Economic and Demographic Research but must include all state  
 632 | funds spent or forgone to benefit a business, including, but not  
 633 | limited to, state funds appropriated to public and private  
 634 | entities, state grants, tax exemptions, tax refunds, tax  
 635 | credits, other state incentives, and any other source of state  
 636 | funds which should reasonably be known to the department at the  
 637 | time of approval.

638 |       (c) For the purpose of calculating the economic benefits  
 639 | of a project, the department may not attribute to the business  
 640 | any capital investment made by the business using state funds.

641 |       (d) For the purpose of evaluating economic development  
 642 | incentive applications, the department shall consider the  
 643 | cumulative capital investment, as defined in s. 220.191.

644 |       (3) Within 10 business days after the department receives  
 645 | the submitted economic development incentive application, the  
 646 | executive director shall approve or disapprove the application  
 647 | and issue a letter of certification to the applicant which  
 648 | includes a justification of that decision, unless the business  
 649 | requests an extension of that time.

650 |       (a) The contract or agreement with the applicant must

651 specify the total amount of the award, the performance  
 652 conditions that must be met to obtain the award, the schedule  
 653 for payment, and sanctions that would apply for failure to meet  
 654 performance conditions. The contract or agreement with the  
 655 applicant must require that the applicant use the state's job  
 656 bank system to advertise job openings created as a result of the  
 657 state incentive agreement. The department may enter into one  
 658 agreement or contract covering all of the state incentives that  
 659 are being provided to the applicant. The contract must provide  
 660 that release of funds is contingent upon sufficient  
 661 appropriation of funds by the Legislature. The state may not  
 662 enter into a contract or agreement with a term of more than 10  
 663 years with any applicant.

664 Section 8. Paragraphs (c) and (e) of subsection (1) of  
 665 section 288.076, Florida Statutes, are amended to read:

666 288.076 Return on investment reporting for economic  
 667 development programs.—

668 (1) As used in this section, the term:

669 (c) "Project" has the same meaning as provided in s.  
 670 288.106(2)(1) ~~288.106(2)(m)~~.

671 (e) "State investment" means all state funds spent or  
 672 forgone to benefit a business, including, but not limited to,  
 673 state funds appropriated to public and private entities, state  
 674 grants, tax exemptions, tax refunds, tax credits, and any other  
 675 source of state funds which should reasonably be known to the  
 676 department at the time of approval ~~any state grants, tax~~

677 ~~exemptions, tax refunds, tax credits, or other state incentives~~  
 678 ~~provided to a business under a program administered by the~~  
 679 ~~department,~~ including the capital investment tax credit under s.  
 680 220.191.

681 Section 9. Subsection (1), paragraph (b) of subsection  
 682 (2), paragraphs (b), (c), (d), and (j) of subsection (3), and  
 683 subsection (7) of section 288.1045, Florida Statutes, are  
 684 amended, to read:

685 288.1045 Qualified defense contractor and space flight  
 686 business tax refund program.—

687 (1) DEFINITIONS.—As used in this section:

688 (a) "Applicant" means any business entity that holds a  
 689 valid Department of Defense contract or space flight business  
 690 contract, any business entity that is a subcontractor under a  
 691 valid Department of Defense contract or space flight business  
 692 contract, or any business entity that holds a valid contract for  
 693 the reuse of a defense-related facility, including all members  
 694 of an affiliated group of corporations as defined in s.  
 695 220.03(1)(b).

696 (b) "Average private sector wage in the area" means the  
 697 average of all wages and salaries in ~~the state,~~ the county, ~~or~~  
 698 ~~in the standard metropolitan area~~ in which the project business  
 699 ~~unit~~ is located.

700 (c) "Business unit" means an employing unit, as defined in  
 701 s. 443.036, that is registered with the department for  
 702 reemployment assistance purposes or means a subcategory or

703 | division of an employing unit that is accepted by the department  
 704 | as a reporting unit.

705 |       (d) "Consolidation of a Department of Defense contract"  
 706 | means the consolidation of one or more of an applicant's  
 707 | facilities under one or more Department of Defense contracts,  
 708 | from outside this state or from inside and outside this state,  
 709 | into one or more of the applicant's facilities inside this  
 710 | state.

711 |       (e) "Consolidation of a space flight business contract"  
 712 | means the consolidation of one or more of an applicant's  
 713 | facilities under one or more space flight business contracts,  
 714 | from outside this state or from inside and outside this state,  
 715 | into one or more of the applicant's facilities inside this  
 716 | state.

717 |       (f) "Contract for reuse of a defense-related facility"  
 718 | means a contract with a duration of 2 or more years for the use  
 719 | of a facility for manufacturing, assembling, fabricating,  
 720 | research, development, or design of tangible personal property,  
 721 | but excluding any contract to provide goods, improvements to  
 722 | real or tangible property, or services directly to or for any  
 723 | particular military base or installation in this state. Such  
 724 | facility must be located within a port, as defined in s. 313.21,  
 725 | and have been occupied by a business entity that held a valid  
 726 | Department of Defense contract or occupied by any branch of the  
 727 | Armed Forces of the United States, within 1 year of any contract  
 728 | being executed for the reuse of such facility. A contract for

729 reuse of a defense-related facility may not include any contract  
 730 for reuse of such facility for any Department of Defense  
 731 contract for manufacturing, assembling, fabricating, research,  
 732 development, or design.

733 (g) "Department of Defense contract" means a competitively  
 734 bid Department of Defense contract or subcontract or a  
 735 competitively bid federal agency contract or subcontract issued  
 736 on behalf of the Department of Defense for manufacturing,  
 737 assembling, fabricating, research, development, or design with a  
 738 duration of 2 or more years, but excluding any contract or  
 739 subcontract to provide goods, improvements to real or tangible  
 740 property, or services directly to or for any particular military  
 741 base or installation in this state. The term includes contracts  
 742 or subcontracts for products or services for military use or  
 743 homeland security which contracts or subcontracts are approved  
 744 by the United States Department of Defense, the United States  
 745 Department of State, or the United States Department of Homeland  
 746 Security.

747 (h) "Fiscal year" means the fiscal year of the state.

748 (i) "Jobs" means full-time equivalent positions,  
 749 including, but not limited to, positions obtained from a  
 750 temporary employment agency or employee leasing company or  
 751 through a union agreement or coemployment under a professional  
 752 employer organization agreement, that result directly from a  
 753 project in this state. This number does not include temporary  
 754 construction jobs involved with the construction of facilities

755 for the project.

756 (j) "Local financial support" means funding from local  
 757 sources, public or private, which is paid to the Economic  
 758 Development Trust Fund and which is equal to 20 percent of the  
 759 annual tax refund for a qualified applicant.

760 1. Local financial support may include excess payments  
 761 made to a utility company under a designated program to allow  
 762 decreases in service by the utility company under conditions,  
 763 regardless of when application is made.

764 2. A qualified applicant may not provide, directly or  
 765 indirectly, more than 5 percent of such funding in any fiscal  
 766 year. The sources of such funding may not include, directly or  
 767 indirectly, state funds appropriated from the General Revenue  
 768 Fund or any state trust fund, excluding tax revenues shared with  
 769 local governments pursuant to law.

770 3. A qualified applicant may not receive more than 80  
 771 percent of the total tax refunds from state funds that are  
 772 allowed such applicant under this section.

773 4. The department may grant a waiver that reduces the  
 774 required amount of local financial support for a project to 10  
 775 percent of the annual tax refund awarded to a qualified  
 776 applicant for a local government, or eliminates the required  
 777 amount of local financial support for a project for a local  
 778 government located in a rural area of opportunity, as designated  
 779 by the Governor pursuant to s. 288.0656. To be eligible to  
 780 receive a waiver that reduces or eliminates the required amount

781 of local financial support, a local government shall provide the  
 782 department with:

783 a. A resolution adopted by the governing body of the  
 784 county or municipality in whose jurisdiction the project will be  
 785 located, requesting the applicant's project be waived from the  
 786 local financial support requirement.

787 b. A statement prepared by a Florida certified public  
 788 accountant, as defined in s. 473.302, that describes the  
 789 financial constraints preventing the local government from  
 790 providing the local financial support required by this section.

791 ~~(k) "Local financial support exemption option" means the~~  
 792 ~~option to exercise an exemption from the local financial support~~  
 793 ~~requirement available to any applicant whose project is located~~  
 794 ~~in a county designated by the Rural Economic Development~~  
 795 ~~Initiative, if the county commissioners of the county in which~~  
 796 ~~the project will be located adopt a resolution requesting that~~  
 797 ~~the applicant's project be exempt from the local financial~~  
 798 ~~support requirement. Any applicant that exercises this option is~~  
 799 ~~not eligible for more than 80 percent of the total tax refunds~~  
 800 ~~allowed such applicant under this section.~~

801 (k)(1) "New Department of Defense contract" means a  
 802 Department of Defense contract entered into after the date  
 803 application for certification as a qualified applicant is made  
 804 and after January 1, 1994.

805 (1)(m) "New space flight business contract" means a space  
 806 flight business contract entered into after an application for

807 certification as a qualified applicant is made after July 1,  
808 2008.

809        (m)~~(n)~~ "Nondefense production jobs" means employment  
810 exclusively for activities that, directly or indirectly, are  
811 unrelated to the Department of Defense.

812        (n)~~(o)~~ "Project" means any business undertaking in this  
813 state under a new Department of Defense contract, consolidation  
814 of a Department of Defense contract, new space flight business  
815 contract, consolidation of a space flight business contract, or  
816 conversion of defense production jobs over to nondefense  
817 production jobs or reuse of defense-related facilities.

818        (o)~~(p)~~ "Qualified applicant" means an applicant that has  
819 been approved by the department to be eligible for tax refunds  
820 pursuant to this section.

821        (p)~~(q)~~ "Space flight business" means the manufacturing,  
822 processing, or assembly of space flight technology products,  
823 space flight facilities, space flight propulsion systems, or  
824 space vehicles, satellites, or stations of any kind possessing  
825 the capability for space flight, as defined by s. 212.02(23), or  
826 components thereof, and includes, in supporting space flight,  
827 vehicle launch activities, flight operations, ground control or  
828 ground support, and all administrative activities directly  
829 related to such activities. The term does not include products  
830 that are designed or manufactured for general commercial  
831 aviation or other uses even if those products may also serve an  
832 incidental use in space flight applications.



833        (q) ~~(r)~~ "Space flight business contract" means a  
 834 competitively bid federal agency contract, federal agency  
 835 subcontract, an awarded commercial contract, or an awarded  
 836 commercial subcontract for space flight business with a duration  
 837 of 2 or more years.

838        (r) ~~(s)~~ "Taxable year" means the same as in s.  
 839 220.03(1)(y).

840        (2) GRANTING OF A TAX REFUND; ELIGIBLE AMOUNTS.—

841        (b) Upon approval by the director, a qualified applicant  
 842 shall be allowed tax refund payments equal to \$3,000 times the  
 843 number of jobs specified in the tax refund agreement under  
 844 subparagraph (4)(a)1. or equal to \$6,000 times the number of  
 845 jobs if the project is located in a rural area of opportunity  
 846 ~~county~~ or a certified ~~an~~ enterprise zone. Further, a qualified  
 847 applicant shall be allowed additional tax refund payments equal  
 848 to \$1,000 times the number of jobs specified in the tax refund  
 849 agreement under subparagraph (4)(a)1. if such jobs pay an annual  
 850 average wage of at least 150 percent of the average private  
 851 sector wage in the area or equal to \$2,000 times the number of  
 852 jobs if such jobs pay an annual average wage of at least 200  
 853 percent of the average private sector wage in the area. A  
 854 qualified applicant may not receive refunds of more than 25  
 855 percent of the total tax refunds provided in the tax refund  
 856 agreement pursuant to subparagraph (4)(a)1. in any fiscal year,  
 857 provided that no qualified applicant may receive more than \$2.5  
 858 million in tax refunds pursuant to this section in any fiscal

859 year.

860 (3) APPLICATION PROCESS; REQUIREMENTS; AGENCY  
 861 DETERMINATION.—

862 (b) Applications for certification based on the  
 863 consolidation of a Department of Defense contract or a new  
 864 Department of Defense contract must be submitted to the  
 865 department as prescribed by the department and must include, but  
 866 are not limited to, the following information:

867 1. The applicant's federal employer identification number,  
 868 the applicant's Florida sales tax registration number, and a  
 869 signature of an officer of the applicant.

870 2. The permanent location of the manufacturing,  
 871 assembling, fabricating, research, development, or design  
 872 facility in this state at which the project is or is to be  
 873 located.

874 3. The Department of Defense contract numbers of the  
 875 contract to be consolidated, the new Department of Defense  
 876 contract number, or the "RFP" number of a proposed Department of  
 877 Defense contract.

878 4. The date the contract was executed or is expected to be  
 879 executed, and the date the contract is due to expire or is  
 880 expected to expire.

881 5. The commencement date for project operations under the  
 882 contract in this state.

883 6. The number of net new full-time equivalent Florida jobs  
 884 included in the project as of December 31 of each year and the

885 average wage of such jobs.

886 7. The total number of full-time equivalent employees  
887 employed by the applicant in this state.

888 8. The percentage of the applicant's gross receipts  
889 derived from Department of Defense contracts during the 5  
890 taxable years immediately preceding the date the application is  
891 submitted.

892 9. The number of full-time equivalent jobs in this state  
893 to be retained by the project.

894 10. A brief statement concerning the applicant's need for  
895 tax refunds, and the proposed uses of such refunds by the  
896 applicant.

897 11. A resolution adopted by the governing board of the  
898 county or municipality in which the project will be located,  
899 which recommends the applicant be approved as a qualified  
900 applicant, and which indicates that the necessary commitments of  
901 local financial support for the applicant exist. ~~Prior to the~~  
902 ~~adoption of the resolution, the county commission may review the~~  
903 ~~proposed public or private sources of such support and determine~~  
904 ~~whether the proposed sources of local financial support can be~~  
905 ~~provided or, for any applicant whose project is located in a~~  
906 ~~county designated by the Rural Economic Development Initiative,~~  
907 ~~a resolution adopted by the county commissioners of such county~~  
908 ~~requesting that the applicant's project be exempt from the local~~  
909 ~~financial support requirement.~~

910 12. Any additional information requested by the

911 department.

912 (c) Applications for certification based on the conversion  
 913 of defense production jobs to nondefense production jobs must be  
 914 submitted to the department as prescribed by the department and  
 915 must include, but are not limited to, the following information:

916 1. The applicant's federal employer identification number,  
 917 the applicant's Florida sales tax registration number, and a  
 918 signature of an officer of the applicant.

919 2. The permanent location of the manufacturing,  
 920 assembling, fabricating, research, development, or design  
 921 facility in this state at which the project is or is to be  
 922 located.

923 3. The Department of Defense contract numbers of the  
 924 contract under which the defense production jobs will be  
 925 converted to nondefense production jobs.

926 4. The date the contract was executed, and the date the  
 927 contract is due to expire or is expected to expire, or was  
 928 canceled.

929 5. The commencement date for the nondefense production  
 930 operations in this state.

931 6. The number of net new full-time equivalent Florida jobs  
 932 included in the nondefense production project as of December 31  
 933 of each year and the average wage of such jobs.

934 7. The total number of full-time equivalent employees  
 935 employed by the applicant in this state.

936 8. The percentage of the applicant's gross receipts

937 derived from Department of Defense contracts during the 5  
 938 taxable years immediately preceding the date the application is  
 939 submitted.

940 9. The number of full-time equivalent jobs in this state  
 941 to be retained by the project.

942 10. A brief statement concerning the applicant's need for  
 943 tax refunds, and the proposed uses of such refunds by the  
 944 applicant.

945 11. A resolution adopted by the governing board of the  
 946 county or municipality in which the project will be located,  
 947 which recommends the applicant be approved as a qualified  
 948 applicant, and which indicates that the necessary commitments of  
 949 local financial support for the applicant exist. ~~Prior to the~~  
 950 ~~adoption of the resolution, the county commission may review the~~  
 951 ~~proposed public or private sources of such support and determine~~  
 952 ~~whether the proposed sources of local financial support can be~~  
 953 ~~provided or, for any applicant whose project is located in a~~  
 954 ~~county designated by the Rural Economic Development Initiative,~~  
 955 ~~a resolution adopted by the county commissioners of such county~~  
 956 ~~requesting that the applicant's project be exempt from the local~~  
 957 ~~financial support requirement.~~

958 12. Any additional information requested by the  
 959 department.

960 (d) Applications for certification based on a contract for  
 961 reuse of a defense-related facility must be submitted to the  
 962 department as prescribed by the department and must include, but

963 are not limited to, the following information:

964 1. The applicant's Florida sales tax registration number  
965 and a signature of an officer of the applicant.

966 2. The permanent location of the manufacturing,  
967 assembling, fabricating, research, development, or design  
968 facility in this state at which the project is or is to be  
969 located.

970 3. The business entity holding a valid Department of  
971 Defense contract or branch of the Armed Forces of the United  
972 States that previously occupied the facility, and the date such  
973 entity last occupied the facility.

974 4. A copy of the contract to reuse the facility, or such  
975 alternative proof as may be prescribed by the department that  
976 the applicant is seeking to contract for the reuse of such  
977 facility.

978 5. The date the contract to reuse the facility was  
979 executed or is expected to be executed, and the date the  
980 contract is due to expire or is expected to expire.

981 6. The commencement date for project operations under the  
982 contract in this state.

983 7. The number of net new full-time equivalent Florida jobs  
984 included in the project as of December 31 of each year and the  
985 average wage of such jobs.

986 8. The total number of full-time equivalent employees  
987 employed by the applicant in this state.

988 9. The number of full-time equivalent jobs in this state

989 | to be retained by the project.

990 |       10. A brief statement concerning the applicant's need for  
991 | tax refunds, and the proposed uses of such refunds by the  
992 | applicant.

993 |       11. A resolution adopted by the governing board of the  
994 | county or municipality in which the project will be located,  
995 | which recommends the applicant be approved as a qualified  
996 | applicant, and which indicates that the necessary commitments of  
997 | local financial support for the applicant exist. ~~Before the~~  
998 | ~~adoption of the resolution, the county commission may review the~~  
999 | ~~proposed public or private sources of such support and determine~~  
1000 | ~~whether the proposed sources of local financial support can be~~  
1001 | ~~provided or, for any applicant whose project is located in a~~  
1002 | ~~county designated by the Rural Economic Development Initiative,~~  
1003 | ~~a resolution adopted by the county commissioners of such county~~  
1004 | ~~requesting that the applicant's project be exempt from the local~~  
1005 | ~~financial support requirement.~~

1006 |       12. Any additional information requested by the  
1007 | department.

1008 |       (j) Applications for certification based upon a new space  
1009 | flight business contract or the consolidation of a space flight  
1010 | business contract must be submitted to the department as  
1011 | prescribed by the department and must include, but are not  
1012 | limited to, the following information:

1013 |       1. The applicant's federal employer identification number,  
1014 | the applicant's Florida sales tax registration number, and a

- 1015 signature of an officer of the applicant.
- 1016 2. The permanent location of the space flight business  
 1017 facility in this state where the project is or will be located.
- 1018 3. The new space flight business contract number, the  
 1019 space flight business contract numbers of the contract to be  
 1020 consolidated, or the request-for-proposal number of a proposed  
 1021 space flight business contract.
- 1022 4. The date the contract was executed and the date the  
 1023 contract is due to expire, is expected to expire, or was  
 1024 canceled.
- 1025 5. The commencement date for project operations under the  
 1026 contract in this state.
- 1027 6. The number of net new full-time equivalent Florida jobs  
 1028 included in the project as of December 31 of each year and the  
 1029 average wage of such jobs.
- 1030 7. The total number of full-time equivalent employees  
 1031 employed by the applicant in this state.
- 1032 8. The percentage of the applicant's gross receipts  
 1033 derived from space flight business contracts during the 5  
 1034 taxable years immediately preceding the date the application is  
 1035 submitted.
- 1036 9. The number of full-time equivalent jobs in this state  
 1037 to be retained by the project.
- 1038 10. A brief statement concerning the applicant's need for  
 1039 tax refunds and the proposed uses of such refunds by the  
 1040 applicant.



1041           11. A resolution adopted by the governing board of the  
 1042 county or municipality in which the project will be located  
 1043 which recommends the applicant be approved as a qualified  
 1044 applicant and indicates that the necessary commitments of local  
 1045 financial support for the applicant exist. ~~Prior to the adoption~~  
 1046 ~~of the resolution, the county commission may review the proposed~~  
 1047 ~~public or private sources of such support and determine whether~~  
 1048 ~~the proposed sources of local financial support can be provided~~  
 1049 ~~or, for any applicant whose project is located in a county~~  
 1050 ~~designated by the Rural Economic Development Initiative, a~~  
 1051 ~~resolution adopted by the county commissioners of such county~~  
 1052 ~~requesting that the applicant's project be exempt from the local~~  
 1053 ~~financial support requirement.~~

1054           12. Any additional information requested by the  
 1055 department.

1056           (7) EXPIRATION.—An applicant may not be certified as  
 1057 qualified under this section after June 30, 2017 ~~2014~~. A tax  
 1058 refund agreement existing on that date shall continue in effect  
 1059 in accordance with its terms.

1060           Section 10. Subsection (2), paragraphs (b) and (c) of  
 1061 subsection (3), paragraphs (b) and (f) of subsection (4),  
 1062 paragraph (b) of subsection (5), and subsection (8) of section  
 1063 288.106, Florida Statutes, are amended, to read:

1064           288.106 Tax refund program for qualified target industry  
 1065 businesses.—

1066           (2) DEFINITIONS.—As used in this section, the term:

1067 (a) "Account" means the Economic Development Incentives  
 1068 Account within the Economic Development Trust Fund established  
 1069 under s. 288.095.

1070 (b) "Authorized local economic development agency" means a  
 1071 public or private entity, including an entity defined in s.  
 1072 288.075, authorized by a county or municipality to promote the  
 1073 general business or industrial interests of that county or  
 1074 municipality.

1075 (c) "Average private sector wage in the area" means ~~the~~  
 1076 ~~statewide private sector average wage or~~ the average of all  
 1077 private sector wages and salaries in the county ~~or in the~~  
 1078 ~~standard metropolitan area~~ in which the project business is  
 1079 located or will be located.

1080 (d) "Business" means an employing unit, as defined in s.  
 1081 443.036, that is registered for reemployment assistance purposes  
 1082 with the state agency providing reemployment assistance tax  
 1083 collection services under an interagency agreement pursuant to  
 1084 s. 443.1316, or a subcategory or division of an employing unit  
 1085 that is accepted by the state agency providing reemployment  
 1086 assistance tax collection services as a reporting unit.

1087 ~~(f)(e)~~ "Corporate headquarters business" means an  
 1088 international, national, or regional headquarters office of a  
 1089 multinational or multistate business enterprise or national  
 1090 trade association, whether separate from or connected with other  
 1091 facilities used by such business.

1092 ~~(e)(f)~~ "Certified enterprise zone" means an area certified

1093 ~~designated~~ as an enterprise zone pursuant to s. 290.60 ~~290.0065~~.

1094 (g) "Expansion of an existing business" means the  
 1095 expansion of an existing Florida business by or through  
 1096 additions to real and personal property, resulting in a net  
 1097 increase in employment of not less than 10 percent at such  
 1098 business.

1099 (h) "Fiscal year" means the fiscal year of the state.

1100 (i) "Jobs" means full-time equivalent positions,  
 1101 including, but not limited to, positions obtained from a  
 1102 temporary employment agency or employee leasing company or  
 1103 through a union agreement or coemployment under a professional  
 1104 employer organization agreement, that result directly from a  
 1105 project in this state. The term does not include temporary  
 1106 construction jobs involved with the construction of facilities  
 1107 for the project or any jobs previously included in any  
 1108 application for tax refunds under s. 288.1045 or this section.

1109 (j) "Local financial support" means funding from local  
 1110 sources, public or private, that is paid to the Economic  
 1111 Development Trust Fund and that is equal to 20 percent of the  
 1112 annual tax refund for a qualified target industry business.

1113 1. A qualified target industry business may not provide,  
 1114 directly or indirectly, more than 5 percent of such funding in  
 1115 any fiscal year. The sources of such funding may not include,  
 1116 directly or indirectly, state funds appropriated from the  
 1117 General Revenue Fund or any state trust fund, excluding tax  
 1118 revenues shared with local governments pursuant to law.

1119        2. A qualified target industry business may not receive  
 1120 more than 80 percent of the total tax refunds from state funds  
 1121 that are allowed such business under this section.

1122        3. The department may grant a waiver that reduces the  
 1123 required amount of local financial support for a project to 10  
 1124 percent of the annual tax refund awarded to a qualified target  
 1125 industry business for a local government, or eliminates the  
 1126 required amount of local financial support for a project for a  
 1127 local government located in a rural area of opportunity, as  
 1128 designated by the Governor pursuant to s. 288.0656. To be  
 1129 eligible to receive a waiver that reduces or eliminates the  
 1130 required amount of local financial support, a local government  
 1131 shall provide the department with:

1132        a. A resolution adopted by the governing body of the  
 1133 county or municipality in whose jurisdiction the project will be  
 1134 located, requesting that the applicant's project be waived from  
 1135 the local financial support requirement.

1136        b. A statement prepared by a Florida certified public  
 1137 accountant, as defined in s. 473.302, which describes the  
 1138 financial constraints preventing the local government from  
 1139 providing the local financial support required by this section.

1140        ~~(k) "Local financial support exemption option" means the~~  
 1141 ~~option to exercise an exemption from the local financial support~~  
 1142 ~~requirement available to any applicant whose project is located~~  
 1143 ~~in a brownfield area, a rural city, or a rural community. Any~~  
 1144 ~~applicant that exercises this option is not eligible for more~~

1145 ~~than 80 percent of the total tax refunds allowed such applicant~~  
 1146 ~~under this section.~~

1147 (k)~~(l)~~ "New business" means a business that applies for a  
 1148 tax refund under this section before beginning operations in  
 1149 this state and that is a legal entity separate from any other  
 1150 commercial or industrial operations owned by the same business.

1151 (l)~~(m)~~ "Project" means the creation of a new business or  
 1152 expansion of an existing business.

1153 (m)~~(n)~~ "Qualified target industry business" means a target  
 1154 industry business approved by the department to be eligible for  
 1155 tax refunds under this section.

1156 ~~(o) "Rural city" means a city having a population of~~  
 1157 ~~10,000 or fewer, or a city having a population of greater than~~  
 1158 ~~10,000 but fewer than 20,000 that has been determined by the~~  
 1159 ~~department to have economic characteristics such as, but not~~  
 1160 ~~limited to, a significant percentage of residents on public~~  
 1161 ~~assistance, a significant percentage of residents with income~~  
 1162 ~~below the poverty level, or a significant percentage of the~~  
 1163 ~~city's employment base in agriculture-related industries.~~

1164 ~~(p) "Rural community" means:~~

1165 ~~1. A county having a population of 75,000 or fewer.~~  
 1166 ~~2. A county having a population of 125,000 or fewer that~~  
 1167 ~~is contiguous to a county having a population of 75,000 or~~  
 1168 ~~fewer.~~

1169 ~~3. A municipality within a county described in~~  
 1170 ~~subparagraph 1. or subparagraph 2.~~

1171  
 1172 ~~For purposes of this paragraph, population shall be determined~~  
 1173 ~~in accordance with the most recent official estimate pursuant to~~  
 1174 ~~s. 186.901.~~

1175 (n) ~~(g)~~ "Target industry business" means a corporate  
 1176 headquarters business or any business that is engaged in one of  
 1177 the target industries identified pursuant to the following  
 1178 criteria developed by the department in consultation with  
 1179 Enterprise Florida, Inc.:

1180 1. Future growth.—Industry forecasts should indicate  
 1181 strong expectation for future growth in both employment and  
 1182 output, according to the most recent available data. Special  
 1183 consideration should be given to businesses that export goods  
 1184 to, or provide services in, international markets and businesses  
 1185 that replace domestic and international imports of goods or  
 1186 services.

1187 2. Stability.—The industry should not be subject to  
 1188 periodic layoffs, whether due to seasonality or sensitivity to  
 1189 volatile economic variables such as weather. The industry should  
 1190 also be relatively resistant to recession, so that the demand  
 1191 for products of this industry is not typically subject to  
 1192 decline during an economic downturn.

1193 3. High wage.—The industry should pay relatively high  
 1194 wages compared to statewide or area averages.

1195 4. Market and resource independent.—The location of  
 1196 industry businesses should not be dependent on Florida markets

1197 or resources as indicated by industry analysis, except for  
 1198 businesses in the renewable energy industry.

1199 5. Industrial base diversification and strengthening.—The  
 1200 industry should contribute toward expanding or diversifying the  
 1201 state's or area's economic base, as indicated by analysis of  
 1202 employment and output shares compared to national and regional  
 1203 trends. Special consideration should be given to industries that  
 1204 strengthen regional economies by adding value to basic products  
 1205 or building regional industrial clusters as indicated by  
 1206 industry analysis. Special consideration should also be given to  
 1207 the development of strong industrial clusters that include  
 1208 defense and homeland security businesses.

1209 6. Positive economic impact.—The industry is expected to  
 1210 have strong positive economic impacts on or benefits to the  
 1211 state or regional economies. Special consideration should be  
 1212 given to industries that facilitate the development of the state  
 1213 as a hub for domestic and global trade and logistics.

1214  
 1215 The term does not include any business engaged in retail  
 1216 industry activities; any electrical utility company as defined  
 1217 in s. 366.02(2); any phosphate or other solid minerals  
 1218 severance, mining, or processing operation; any oil or gas  
 1219 exploration or production operation; or any business subject to  
 1220 regulation by the Division of Hotels and Restaurants of the  
 1221 Department of Business and Professional Regulation. Any business  
 1222 within NAICS code 5611 or 5614, office administrative services

1223 and business support services, respectively, may be considered a  
 1224 target industry business only after the local governing body and  
 1225 Enterprise Florida, Inc., make a determination that the  
 1226 community where the business may locate has conditions affecting  
 1227 the fiscal and economic viability of the local community or  
 1228 area, including but not limited to, factors such as low per  
 1229 capita income, high unemployment, high underemployment, and a  
 1230 lack of year-round stable employment opportunities, and such  
 1231 conditions may be improved by the location of such a business to  
 1232 the community. By January 1 of every 3rd year, beginning January  
 1233 1, 2011, the department, in consultation with Enterprise  
 1234 Florida, Inc., economic development organizations, the State  
 1235 University System, local governments, employee and employer  
 1236 organizations, market analysts, and economists, shall review  
 1237 and, as appropriate, revise the list of such target industries  
 1238 and submit the list to the Governor, the President of the  
 1239 Senate, and the Speaker of the House of Representatives.

1240 (o)~~(r)~~ "Taxable year" means taxable year as defined in s.  
 1241 220.03(1)(y).

1242 (3) TAX REFUND; ELIGIBLE AMOUNTS.—

1243 (b)1. Upon approval by the department, a qualified target  
 1244 industry business shall be allowed tax refund payments equal to  
 1245 \$3,000 multiplied by the number of jobs specified in the tax  
 1246 refund agreement under subparagraph (5)(a)1., or equal to \$6,000  
 1247 multiplied by the number of jobs if the project is located in a  
 1248 rural area of opportunity ~~community~~ or a certified ~~an~~ enterprise



1249 zone.

1250       2. A qualified target industry business shall be allowed  
 1251 additional tax refund payments equal to \$1,000 multiplied by the  
 1252 number of jobs specified in the tax refund agreement under  
 1253 subparagraph (5)(a)1. if such jobs pay an annual average wage of  
 1254 at least 150 percent of the average private sector wage in the  
 1255 area, or equal to \$2,000 multiplied by the number of jobs if  
 1256 such jobs pay an annual average wage of at least 200 percent of  
 1257 the average private sector wage in the area.

1258       3. A qualified target industry business shall be allowed  
 1259 tax refund payments in addition to the other payments authorized  
 1260 in this paragraph equal to \$1,000 multiplied by the number of  
 1261 jobs specified in the tax refund agreement under subparagraph  
 1262 (5)(a)1. if the local financial support is equal to that of the  
 1263 state's incentive award under subparagraph 1.

1264       4. In addition to the other tax refund payments authorized  
 1265 in this paragraph, a qualified target industry business shall be  
 1266 allowed a tax refund payment equal to \$2,000 multiplied by the  
 1267 number of jobs specified in the tax refund agreement under  
 1268 subparagraph (5)(a)1. if the business:

1269       a. Falls within one of the high-impact sectors designated  
 1270 under s. 288.108; or

1271       b. Increases exports of its goods through a seaport or  
 1272 airport in the state by at least 10 percent in value or tonnage  
 1273 in each of the years that the business receives a tax refund  
 1274 under this section. For purposes of this sub-subparagraph,

1275 seaports in the state are limited to the ports of Jacksonville,  
 1276 Tampa, Port Everglades, Miami, Port Canaveral, Ft. Pierce, Palm  
 1277 Beach, Port Manatee, Port St. Joe, Panama City, St. Petersburg,  
 1278 Pensacola, Fernandina, and Key West.

1279 (c) A qualified target industry business may not receive  
 1280 refund payments of more than 25 percent of the total tax refunds  
 1281 specified in the tax refund agreement under subparagraph  
 1282 (5)(a)1. in any fiscal year. Further, a qualified target  
 1283 industry business may not receive more than \$1.5 million in  
 1284 refunds under this section in any single fiscal year, or more  
 1285 than \$2.5 million in any single fiscal year if the project is  
 1286 located in a certified ~~an~~ enterprise zone.

1287 (4) APPLICATION AND APPROVAL PROCESS.—

1288 (b) To qualify for review by the department, the  
 1289 application of a target industry business must, at a minimum,  
 1290 establish the following to the satisfaction of the department:

1291 1.a. The jobs proposed to be created under the  
 1292 application, pursuant to subparagraph (a)4., must pay an  
 1293 estimated annual average wage equaling at least 115 percent of  
 1294 the average private sector wage in the area where the business  
 1295 is to be located ~~or the statewide private sector average wage.~~  
 1296 ~~The governing board of the local governmental entity providing~~  
 1297 ~~the local financial support of the jurisdiction where the~~  
 1298 ~~qualified target industry business is to be located shall notify~~  
 1299 ~~the department and Enterprise Florida, Inc., which calculation~~  
 1300 ~~of the average private sector wage in the area must be used as~~

1301 ~~the basis for the business's wage commitment.~~ In determining the  
 1302 average annual wage, the department shall include only new  
 1303 proposed jobs, and wages for existing jobs shall be excluded  
 1304 from this calculation.

1305       b. The department may waive the average wage requirement  
 1306 at the request of the local governing body recommending the  
 1307 project and Enterprise Florida, Inc. The department may waive  
 1308 the wage requirement for a project located in a brownfield area  
 1309 designated under s. 376.80, in a rural area of opportunity ~~city,~~  
 1310 ~~in a rural community,~~ in a certified ~~an~~ enterprise zone, or for  
 1311 a manufacturing project at any location in the state if the jobs  
 1312 proposed to be created pay an estimated annual average wage  
 1313 equaling at least 105 ~~100~~ percent of the average private sector  
 1314 wage in the area where the business is to be located, only if  
 1315 the merits of the individual project or the specific  
 1316 circumstances in the community in relationship to the project  
 1317 warrant such action. If the local governing body and Enterprise  
 1318 Florida, Inc., make such a recommendation, it must be  
 1319 transmitted in writing, and the specific justification for the  
 1320 waiver recommendation must be explained. If the department  
 1321 elects to waive the wage requirement, the waiver must be stated  
 1322 in writing, and the reasons for granting the waiver must be  
 1323 explained.

1324       2. The target industry business's project must result in  
 1325 the creation of at least 10 jobs at the project and, in the case  
 1326 of an expansion of an existing business, must result in a net

1327 increase in employment of at least 10 percent at the business.  
 1328 At the request of the local governing body recommending the  
 1329 project and Enterprise Florida, Inc., the department may waive  
 1330 this requirement for a business located in a rural area of  
 1331 opportunity designated by the Governor pursuant to s. 288.0656,  
 1332 ~~community~~ or certified enterprise zone if the merits of the  
 1333 individual project or the specific circumstances in the  
 1334 community in relationship to the project warrant such action. If  
 1335 the local governing body and Enterprise Florida, Inc., make such  
 1336 a request, the request must be transmitted in writing, and the  
 1337 specific justification for the request must be explained. If the  
 1338 department elects to grant the request, the grant must be stated  
 1339 in writing, and the reason for granting the request must be  
 1340 explained.

1341 3. The business activity or product for the applicant's  
 1342 project must be within an industry identified by the department  
 1343 as a target industry business that contributes to the economic  
 1344 growth of the state and the area in which the business is  
 1345 located, that produces a higher standard of living for residents  
 1346 of this state in the new global economy, or that can be shown to  
 1347 make an equivalent contribution to the area's and state's  
 1348 economic progress.

1349 ~~(f) Notwithstanding paragraph (2)(j), the department may~~  
 1350 ~~reduce the local financial support requirements of this section~~  
 1351 ~~by one half for a qualified target industry business located in~~  
 1352 ~~Bay County, Escambia County, Franklin County, Gadsden County,~~

1353 ~~Gulf County, Jefferson County, Leon County, Okaloosa County,~~  
 1354 ~~Santa Rosa County, Wakulla County, or Walton County, if the~~  
 1355 ~~department determines that such reduction of the local financial~~  
 1356 ~~support requirements is in the best interest of the state and~~  
 1357 ~~facilitates economic development, growth, or new employment~~  
 1358 ~~opportunities in such county. This paragraph expires June 30,~~  
 1359 ~~2014.~~

1360 (5) TAX REFUND AGREEMENT.—

1361 (b) Compliance with the terms and conditions of the  
 1362 agreement is a condition precedent for the receipt of a tax  
 1363 refund each year. The failure to comply with the terms and  
 1364 conditions of the tax refund agreement results in the loss of  
 1365 eligibility for receipt of all tax refunds previously authorized  
 1366 under this section and the revocation by the department of the  
 1367 certification of the business entity as a qualified target  
 1368 industry business, unless the business is eligible to receive  
 1369 and elects to accept a prorated refund under paragraph (6) (e) ~~or~~  
 1370 ~~the department grants the business an economic recovery~~  
 1371 ~~extension.~~

1372 ~~1. A qualified target industry business may submit a~~  
 1373 ~~request to the department for an economic recovery extension.~~  
 1374 ~~The request must provide quantitative evidence demonstrating how~~  
 1375 ~~negative economic conditions in the business's industry, the~~  
 1376 ~~effects of a named hurricane or tropical storm, or specific acts~~  
 1377 ~~of terrorism affecting the qualified target industry business~~  
 1378 ~~have prevented the business from complying with the terms and~~

1379 ~~conditions of its tax refund agreement.~~

1380 ~~2. Upon receipt of a request under subparagraph 1., the~~  
 1381 ~~department has 45 days to notify the requesting business, in~~  
 1382 ~~writing, whether its extension has been granted or denied. In~~  
 1383 ~~determining whether an extension should be granted, the~~  
 1384 ~~department shall consider the extent to which negative economic~~  
 1385 ~~conditions in the requesting business's industry have occurred~~  
 1386 ~~in the state or the effects of a named hurricane or tropical~~  
 1387 ~~storm or specific acts of terrorism affecting the qualified~~  
 1388 ~~target industry business have prevented the business from~~  
 1389 ~~complying with the terms and conditions of its tax refund~~  
 1390 ~~agreement. The department shall consider current employment~~  
 1391 ~~statistics for this state by industry, including whether the~~  
 1392 ~~business's industry had substantial job loss during the prior~~  
 1393 ~~year, when determining whether an extension shall be granted.~~

1394 ~~3. As a condition for receiving a prorated refund under~~  
 1395 ~~paragraph (6) (c) or an economic recovery extension under this~~  
 1396 ~~paragraph, a qualified target industry business must agree to~~  
 1397 ~~renegotiate its tax refund agreement with the department to, at~~  
 1398 ~~a minimum, ensure that the terms of the agreement comply with~~  
 1399 ~~current law and the department's procedures governing~~  
 1400 ~~application for and award of tax refunds. Upon approving the~~  
 1401 ~~award of a prorated refund or granting an economic recovery~~  
 1402 ~~extension, the department shall renegotiate the tax refund~~  
 1403 ~~agreement with the business as required by this subparagraph.~~  
 1404 ~~When amending the agreement of a business receiving an economic~~

1405 ~~recovery extension, the department may extend the duration of~~  
 1406 ~~the agreement for a period not to exceed 2 years.~~

1407 ~~4. A qualified target industry business may submit a~~  
 1408 ~~request for an economic recovery extension to the department in~~  
 1409 ~~lieu of any tax refund claim scheduled to be submitted after~~  
 1410 ~~January 1, 2009, but before July 1, 2012.~~

1411 ~~5. A qualified target industry business that receives an~~  
 1412 ~~economic recovery extension may not receive a tax refund for the~~  
 1413 ~~period covered by the extension.~~

1414 ~~(8) SPECIAL INCENTIVES. If the department determines it is~~  
 1415 ~~in the best interest of the public for reasons of facilitating~~  
 1416 ~~economic development, growth, or new employment opportunities~~  
 1417 ~~within a Disproportionally Affected County, the department may,~~  
 1418 ~~between July 1, 2011, and June 30, 2014, waive any or all wage~~  
 1419 ~~or local financial support eligibility requirements and allow a~~  
 1420 ~~qualified target industry business from another state which~~  
 1421 ~~relocates all or a portion of its business to a~~  
 1422 ~~Disproportionally Affected County to receive a tax refund~~  
 1423 ~~payment of up to \$6,000 multiplied by the number of jobs~~  
 1424 ~~specified in the tax refund agreement under subparagraph~~  
 1425 ~~(5)(a)1. over the term of the agreement. Prior to granting such~~  
 1426 ~~waiver, the executive director of the department shall file with~~  
 1427 ~~the Governor a written statement of the conditions and~~  
 1428 ~~circumstances constituting the reason for the waiver. Such~~  
 1429 ~~business shall be eligible for the additional tax refund~~  
 1430 ~~payments specified in subparagraph (3)(b)4. if it meets the~~

1431 ~~criteria. As used in this section, the term "Disproportionally~~  
 1432 ~~Affected County" means Bay County, Escambia County, Franklin~~  
 1433 ~~County, Gulf County, Okaloosa County, Santa Rosa County, Walton~~  
 1434 ~~County, or Wakulla County.~~

1435 Section 11. Paragraph (b) of subsection (2) of section  
 1436 288.108, Florida Statutes, is amended, paragraph (h) is added to  
 1437 that subsection, and subsection (5) of that section is amended,  
 1438 to read:

1439 288.108 High-impact business.—

1440 (2) DEFINITIONS.—As used in this section, the term:

1441 (b) "Cumulative investment" means the total investment in  
 1442 buildings and equipment made by a qualified high-impact business  
 1443 since the beginning of construction of such facility. The term  
 1444 does not include funds granted to or spent on behalf of the  
 1445 business by the state, a local government, or other governmental  
 1446 entity; funds appropriated in the General Appropriations Act; or  
 1447 funds otherwise provided to the business by a state agency or  
 1448 local government.

1449 (h) "Local financial support" means financial, in-kind, or  
 1450 other quantifiable contributions from local sources that,  
 1451 combined, equal 20 percent or more of the total investment in  
 1452 the project by state and local sources.

1453 1. The department may grant a waiver that reduces the  
 1454 required amount of local financial support for a project to 10  
 1455 percent of the award granted to a business pursuant to this  
 1456 section for a local government, or eliminates the local



1457 financial support for a local government located in a rural area  
 1458 of opportunity, as designated by the Governor pursuant to s.  
 1459 288.0656.

1460 2. A local government that requests a waiver that reduces  
 1461 or eliminates the local financial support requirement shall  
 1462 provide the department a statement prepared by a Florida  
 1463 certified public accountant as defined in s. 473.302, which  
 1464 describes the financial constraints preventing the local  
 1465 government from providing the local financial support required  
 1466 by this section.

1467 (5) APPLICATIONS; CERTIFICATION PROCESS; GRANT CONTRACT  
 1468 AGREEMENT.-

1469 (a) The department shall review and certify, pursuant to  
 1470 s. 288.061, an application ~~pursuant to s. 288.061~~ which is  
 1471 received from any eligible business, as defined in subsection  
 1472 (2), for consideration as a qualified high-impact business  
 1473 before the business has made a decision to locate or expand a  
 1474 facility in this state. The business must provide the following  
 1475 information:

1476 1. A complete description of the type of facility,  
 1477 business operations, and product or service associated with the  
 1478 project.

1479 2. The number of full-time equivalent jobs that will be  
 1480 created by the project and the average annual wage of those  
 1481 jobs.

1482 3. The cumulative amount of investment to be dedicated to

1483 | this project within 3 years.

1484 |         4. A statement concerning any special impacts the facility  
1485 | is expected to stimulate in the sector, the state, or regional  
1486 | economy and in state universities and community colleges.

1487 |         5. A statement concerning the role the grant will play in  
1488 | the decision of the applicant business to locate or expand in  
1489 | this state.

1490 |         6. Any additional information requested by the department.

1491 |         (b) Within 7 business days after evaluating an  
1492 | application, the department shall recommend to the Governor  
1493 | approval or disapproval of an eligible high-impact business for  
1494 | receipt of funds. Recommendations to the Governor shall include  
1495 | a memorandum of understanding between the department and the  
1496 | applicant, which shall be incorporated into the final contract,  
1497 | setting forth the conditions for payment of the qualified high-  
1498 | impact business performance grant. The memorandum of  
1499 | understanding must include the total amount of the qualified  
1500 | high-impact business facility performance grant award; the  
1501 | performance conditions that must be met to obtain the award,  
1502 | including, but not limited to, net new employment in the state,  
1503 | average salary, and total capital investment incurred by the  
1504 | business; a baseline of current service and a measure of  
1505 | enhanced capability; the methodology for validating performance;  
1506 | the schedule of performance grant payments; and sanctions for  
1507 | failure to meet performance conditions ~~Applications shall be~~  
1508 | ~~reviewed and certified pursuant to s. 288.061.~~

1509           (c) The Governor may approve a high-impact business  
 1510 performance grant of less than \$2 million without consulting the  
 1511 Legislature. For such grants, the Governor shall provide a  
 1512 written description and evaluation of the approved project and a  
 1513 memorandum of understanding meeting the requirements of  
 1514 paragraph (b) to the chair and vice chair of the Legislative  
 1515 Budget Commission, the President of the Senate, and the Speaker  
 1516 of the House of Representatives, within 1 business day after  
 1517 approval ~~The department and the qualified high-impact business~~  
 1518 ~~shall enter into a performance grant agreement setting forth the~~  
 1519 ~~conditions for payment of the qualified high-impact business~~  
 1520 ~~performance grant. The agreement shall include the total amount~~  
 1521 ~~of the qualified high-impact business facility performance grant~~  
 1522 ~~award, the performance conditions that must be met to obtain the~~  
 1523 ~~award, including the employment, average salary, investment, the~~  
 1524 ~~methodology for determining if the conditions have been met, and~~  
 1525 ~~the schedule of performance grant payments.~~

1526           (d) The Governor shall provide a written description and  
 1527 evaluation of each eligible high-impact business recommended for  
 1528 approval for a high-impact business performance grant that  
 1529 equals or exceeds \$2 million to the chair and vice chair of the  
 1530 Legislative Budget Commission, the President of the Senate, and  
 1531 the Speaker of the House of Representatives at least 14 days  
 1532 before approving a qualified high-impact business performance  
 1533 grant. The recommendation shall include a memorandum of  
 1534 understanding that meets the requirements provided in paragraph

1535 (b). If the chair or vice chair of the Legislative Budget  
 1536 Commission, the President of the Senate, or the Speaker of the  
 1537 House of Representatives timely advises the Executive Office of  
 1538 the Governor in writing that the award of funds exceeds the  
 1539 delegated authority of the Executive Office of the Governor or  
 1540 is contrary to legislative policy or intent, the Executive  
 1541 Office of the Governor shall void the release of funds and  
 1542 instruct the department to immediately change action or proposed  
 1543 action.

1544 (e) An amendment, modification, or extension of an  
 1545 executed contract that results in a 0.5-point or greater  
 1546 reduction in the economic benefit ratio of the project must be  
 1547 approved as provided in paragraph (d). An amendment,  
 1548 modification, or extension may not be made to an executed  
 1549 contract if such action would result in an economic benefit  
 1550 ratio less than 2 to 1.

1551 (f) The department shall validate contractor performance  
 1552 and report such validation in the annual incentives report  
 1553 required by s. 288.907.

1554 Section 12. Paragraph (e) of subsection (3) of section  
 1555 288.1088, Florida Statutes, is redesignated as paragraph (f),  
 1556 paragraphs (b), (d), and (e) of subsection (2) and paragraphs  
 1557 (a), (c), and (d) of subsection (3) are amended, and a new  
 1558 paragraph (e) is added to subsection (3) of that section, to  
 1559 read:

1560 288.1088 Quick Action Closing Fund.—

1561 (2) There is created within the department the Quick  
 1562 Action Closing Fund. Projects eligible for receipt of funds from  
 1563 the Quick Action Closing Fund shall:

1564 (b) Have a positive economic benefit ratio of at least 4 ~~5~~  
 1565 to 1.

1566 (d) Pay an average annual wage of at least 125 percent of  
 1567 the average private sector wage in the area, as defined in s.  
 1568 ~~288.106 areawide or statewide private sector average wage.~~

1569 (e) Be supported by the local community in which the  
 1570 project is to be located.

1571 1. Financial support by the local community shall include  
 1572 financial, in-kind, or other quantifiable contributions from  
 1573 local sources that, combined, equal 20 percent or more of the  
 1574 total investment in the project by state and local sources.

1575 2. The department may grant a waiver that reduces the  
 1576 required amount of local financial support for a project to 10  
 1577 percent of the award granted to a business pursuant to this  
 1578 section for a local government, or eliminates the required  
 1579 amount of local financial support for a project for a local  
 1580 government located in a rural area of opportunity, as designated  
 1581 by the Governor pursuant to s. 288.0656.

1582 3. A local government that requests a waiver that reduces  
 1583 or eliminates the local financial support requirement shall  
 1584 provide the department a statement prepared by a Florida  
 1585 certified public accountant as defined in s. 473.302, which  
 1586 describes the financial constraints preventing the local

1587 government from providing the local financial support required  
 1588 by this section.

1589 (f) Create at least 10 new jobs if the project is a new  
 1590 business, or increase the number of jobs by at least 10 percent  
 1591 if the project is an expanding business.

1592 (3)(a) The department and Enterprise Florida, Inc., shall  
 1593 jointly review applications pursuant to s. 288.061 and determine  
 1594 the eligibility of each project consistent with the criteria in  
 1595 subsection (2). No more than two waivers ~~waiver~~ of these  
 1596 criteria may be considered under the following criteria:

- 1597 1. Based on extraordinary circumstances;
- 1598 2. In order to mitigate the impact of the conclusion of  
 1599 the space shuttle program; or
- 1600 3. In rural areas of opportunity if the project would  
 1601 significantly benefit the local or regional economy.

1602  
 1603 A waiver may not be granted by the department if the positive  
 1604 economic benefit ratio of the project is below 2 to 1, the  
 1605 project is not within a target industry under s. 288.106, the  
 1606 award of funds is not an inducement to the project's location or  
 1607 expansion in the state, or the average annual wage of jobs  
 1608 directly created by the project is below 105 percent of the  
 1609 average private sector wage in the area, as defined in s.  
 1610 288.106.

1611 (c)1. Within 7 business days after evaluating a project,  
 1612 the department shall recommend to the Governor approval or

1613 disapproval of a project for receipt of funds from the Quick  
 1614 Action Closing Fund. In recommending a project, the department  
 1615 shall include a memorandum of understanding between the  
 1616 department and the applicant, which shall be incorporated into  
 1617 the final contract, setting forth the conditions for payment of  
 1618 moneys from the fund. The memorandum of understanding must  
 1619 include the total amount of recommended funds to be awarded; the  
 1620 performance conditions that must be met to obtain the award,  
 1621 including, but not limited to, net new employment in the state,  
 1622 average salary, and total capital investment incurred by the  
 1623 business; a baseline of current service and a measure of  
 1624 enhanced capability; the methodology for validating performance;  
 1625 the schedule of payments from the fund; and sanctions for  
 1626 failure to meet performance conditions, including any clawback  
 1627 provisions ~~proposed performance conditions that the project must~~  
 1628 ~~meet to obtain incentive funds.~~

1629 2. The Governor may approve a Quick Action Closing Fund  
 1630 project award requiring less than \$2 million in funding ~~projects~~  
 1631 ~~without consulting the Legislature for projects requiring less~~  
 1632 ~~than \$2 million in funding. For such projects, the Governor~~  
 1633 shall provide a written description and evaluation of the  
 1634 approved project and a memorandum of understanding meeting the  
 1635 requirements of the subparagraph 1. to the chair and vice chair  
 1636 of the Legislative Budget Commission, the President of the  
 1637 Senate, and the Speaker of the House of Representatives within 1  
 1638 business day after approval.

1639           3. ~~For projects requiring funding in the amount of \$2~~  
 1640 ~~million to \$5 million,~~ The Governor shall provide a written  
 1641 description and evaluation of each Quick Action Closing Fund a  
 1642 project award recommended for approval that requires funding of  
 1643 \$2 million or more to the chair and vice chair of the  
 1644 Legislative Budget Commission, the President of the Senate, and  
 1645 the Speaker of the House of Representatives at least 14 ~~10~~ days  
 1646 before ~~prior to~~ giving final approval for a project. The  
 1647 recommendation must include a memorandum of understanding  
 1648 meeting the requirements of subparagraph 1 ~~proposed performance~~  
 1649 ~~conditions that the project must meet in order to obtain funds.~~

1650           4. If the chair or vice chair of the Legislative Budget  
 1651 Commission, ~~or~~ the President of the Senate, or the Speaker of  
 1652 the House of Representatives timely advises the Executive Office  
 1653 of the Governor, in writing, that such action or proposed action  
 1654 exceeds the delegated authority of the Executive Office of the  
 1655 Governor or is contrary to legislative policy or intent, the  
 1656 Executive Office of the Governor shall void the release of funds  
 1657 and instruct the department to immediately change such action or  
 1658 proposed action ~~until the Legislative Budget Commission or the~~  
 1659 ~~Legislature addresses the issue. Notwithstanding such~~  
 1660 ~~requirement, any project exceeding \$5 million must be approved~~  
 1661 ~~by the Legislative Budget Commission prior to the funds being~~  
 1662 ~~released.~~

1663           (d) Upon the approval of the Governor in accordance with  
 1664 subparagraph (c)2., or upon expiration of the 14-day legislative



1665 consultation period provided in subparagraph (c)3., the  
 1666 department and the business shall enter into a contract that  
 1667 sets forth the conditions for payment of moneys from the fund.  
 1668 The contract must include the total amount of funds awarded; the  
 1669 performance conditions that must be met to obtain the award,  
 1670 including, but not limited to, net new employment in the state,  
 1671 average salary, and total capital investment; demonstrate a  
 1672 baseline of current service and a measure of enhanced  
 1673 capability; the methodology for validating performance; the  
 1674 schedule of payments from the fund; and sanctions for failure to  
 1675 meet performance conditions. The contract must provide that  
 1676 payment of moneys from the fund is contingent upon sufficient  
 1677 appropriation of funds by the Legislature.

1678 (e) An amendment, modification, or extension of an  
 1679 existing contract that results in a 0.5-point or greater  
 1680 reduction in the economic benefit ratio of the project may not  
 1681 take effect until it is approved through the approval process in  
 1682 subparagraph (c)3. An amendment, modification, or extension may  
 1683 not be made to an executed contract if such action would result  
 1684 in an economic benefit ratio below 2 to 1.

1685 Section 13. Paragraphs (b), (d), (e) and (p) of subsection  
 1686 (2), subsection (4), paragraphs (l) and (m) of subsection (5),  
 1687 and subsections (7) and (8) of section 288.1089, Florida  
 1688 Statutes, are amended to read:

1689 288.1089 Innovation Incentive Program.—

1690 (2) As used in this section, the term:

1691 (b) "Average private sector wage in the area" means the  
 1692 average of all private sector wages and salaries in the county  
 1693 in which the project is located ~~the statewide average wage in~~  
 1694 ~~the private sector or the average of all private sector wages in~~  
 1695 ~~the county or in the standard metropolitan area in which the~~  
 1696 ~~project is located as determined by the department.~~

1697 (d) ~~(e)~~ "Certified enterprise zone" means an area certified  
 1698 ~~designated~~ as an enterprise zone pursuant to s. 290.60 ~~290.0065~~.

1699 (e) ~~(d)~~ "Cumulative investment" means cumulative capital  
 1700 investment and all eligible capital costs, as defined in s.  
 1701 220.191.

1702 ~~(p)~~ "~~Rural area~~" ~~means a rural city or rural community as~~  
 1703 ~~defined in s. 288.106.~~

1704 (4) To qualify for review by the department, the applicant  
 1705 must, at a minimum, establish the following to the satisfaction  
 1706 of the department:

1707 (a) The jobs created by the project must pay an estimated  
 1708 annual average wage equaling at least 130 percent of the average  
 1709 private sector wage in the area. The department may waive this  
 1710 average wage requirement at the request of Enterprise Florida,  
 1711 Inc., for a project located in a rural area of opportunity, a  
 1712 brownfield area, or a certified ~~an~~ enterprise zone, when the  
 1713 merits of the individual project or the specific circumstances  
 1714 in the community in relationship to the project warrant such  
 1715 action. A recommendation for waiver by Enterprise Florida, Inc.,  
 1716 must include a specific justification for the waiver and be

1717 transmitted to the department in writing. If the department  
 1718 elects to waive the wage requirement, the waiver must be stated  
 1719 in writing and the reasons for granting the waiver must be  
 1720 explained. The department may not waive the wage requirement for  
 1721 any project that does not pay an estimated annual average wage  
 1722 equaling at least 105 percent of the average private sector wage  
 1723 in the area.

1724 (b) A research and development project must:

1725 1. Serve as a catalyst for an emerging or evolving  
 1726 technology cluster.

1727 2. Demonstrate a plan for significant higher education  
 1728 collaboration.

1729 3. Provide the state, at a minimum, a cumulative break-  
 1730 even economic benefit within a 20-year period.

1731 4. Be provided with a one-to-one match from the local  
 1732 community. The match requirement may be reduced or waived in  
 1733 rural areas of opportunity ~~or reduced in rural areas~~, brownfield  
 1734 areas, and enterprise zones. A local government that requests a  
 1735 waiver that reduces or eliminates the one-to-one match shall  
 1736 provide the department with a statement prepared by a Florida  
 1737 certified public accountant, as defined in s. 473.302, which  
 1738 describes the financial constraints preventing the local  
 1739 government from meeting the local financial support requirement  
 1740 of this section.

1741 (c) An innovation business project in this state, other  
 1742 than a research and development project, must:

1743 1.a. Result in the creation of at least 1,000 direct, new  
1744 jobs at the business; or

1745 b. Result in the creation of at least 500 direct, new jobs  
1746 if the project is located in a rural area of opportunity, a  
1747 brownfield area, or a certified ~~an~~ enterprise zone.

1748 2. Have an activity or product that is within an industry  
1749 that is designated as a target industry business under s.  
1750 288.106 or a designated sector under s. 288.108.

1751 3.a. Have a cumulative investment of at least \$500 million  
1752 within a 5-year period; or

1753 b. Have a cumulative investment that exceeds \$250 million  
1754 within a 10-year period if the project is located in a rural  
1755 area of opportunity, brownfield area, or a certified ~~an~~  
1756 enterprise zone.

1757 4. Be provided with a one-to-one match from the local  
1758 community. The match requirement may be reduced or waived in  
1759 rural areas of opportunity or reduced in ~~rural areas~~, brownfield  
1760 areas, and certified enterprise zones. A local government that  
1761 requests a waiver that reduces or eliminates the one-to-one  
1762 match shall provide the department with a statement prepared by  
1763 a Florida certified public accountant, as defined in s. 473.302,  
1764 which describes the financial constraints preventing the local  
1765 government from meeting the local financial support requirement  
1766 of this section.

1767 (d) For an alternative and renewable energy project in  
1768 this state, the project must:

1769 | 1. Demonstrate a plan for significant collaboration with  
 1770 | an institution of higher education.†

1771 | 2. Provide the state, at a minimum, a cumulative break-  
 1772 | even economic benefit within a 20-year period.†

1773 | 3. Include matching funds provided by the applicant or  
 1774 | other available sources. The match requirement may be reduced or  
 1775 | eliminated ~~waived~~ in rural areas of opportunity ~~or reduced in~~  
 1776 | ~~rural areas~~, brownfield areas, and enterprise zones. A local  
 1777 | government that requests a waiver that reduces or eliminates the  
 1778 | one-to-one match shall provide the department with a statement  
 1779 | prepared by a Florida certified public accountant, as defined in  
 1780 | s. 473.302, which describes the financial constraints preventing  
 1781 | the local government from meeting the one-to-one match  
 1782 | requirement of this section.†

1783 | 4. Be located in this state.† ~~and~~

1784 | 5. Provide at least 35 direct, new jobs that pay an  
 1785 | estimated annual average wage that equals at least 130 percent  
 1786 | of the average private sector wage in the area.

1787 | (5) The department shall review proposals pursuant to s.  
 1788 | 288.061 for all three categories of innovation incentive awards.  
 1789 | Before making a recommendation to the executive director, the  
 1790 | department shall solicit comments and recommendations from the  
 1791 | Department of Agriculture and Consumer Services. For each  
 1792 | project, the evaluation and recommendation to the department  
 1793 | must include, but need not be limited to:

1794 | (1) Additional evaluative criteria for a research and

1795 development facility project, including:

1796 1. A description of the extent to which the project has  
1797 the potential to serve as catalyst for an emerging or evolving  
1798 cluster.

1799 2. A description of the extent to which the project has or  
1800 could have a long-term collaborative research and development  
1801 relationship with one or more universities or community colleges  
1802 in this state.

1803 3. A description of the existing or projected impact of  
1804 the project on established clusters or targeted industry  
1805 sectors.

1806 4. A description of the project's contribution to the  
1807 diversity and resiliency of the innovation economy of this  
1808 state.

1809 5. A description of the project's impact on special needs  
1810 communities, including, but not limited to, rural areas of  
1811 opportunity, distressed urban areas, and enterprise zones.

1812 (m) Additional evaluative criteria for alternative and  
1813 renewable energy proposals, including:

1814 1. The availability of matching funds or other in-kind  
1815 contributions applied to the total project from an applicant.  
1816 The Department of Agriculture and Consumer Services shall give  
1817 greater preference to projects that provide such matching funds  
1818 or other in-kind contributions.

1819 2. The degree to which the project stimulates in-state  
1820 capital investment and economic development in metropolitan and

1821 rural areas of opportunity, including the creation of jobs and  
 1822 the future development of a commercial market for renewable  
 1823 energy technologies.

1824 3. The extent to which the proposed project has been  
 1825 demonstrated to be technically feasible based on pilot project  
 1826 demonstrations, laboratory testing, scientific modeling, or  
 1827 engineering or chemical theory that supports the proposal.

1828 4. The degree to which the project incorporates an  
 1829 innovative new technology or an innovative application of an  
 1830 existing technology.

1831 5. The degree to which a project generates thermal,  
 1832 mechanical, or electrical energy by means of a renewable energy  
 1833 resource that has substantial long-term production potential.

1834 6. The degree to which a project demonstrates efficient  
 1835 use of energy and material resources.

1836 7. The degree to which the project fosters overall  
 1837 understanding and appreciation of renewable energy technologies.

1838 8. The ability to administer a complete project.

1839 9. Project duration and timeline for expenditures.

1840 10. The geographic area in which the project is to be  
 1841 conducted in relation to other projects.

1842 11. The degree of public visibility and interaction.

1843 (7) (a) Within 7 days after evaluating an innovation  
 1844 incentive award proposal, the department shall recommend to the  
 1845 Governor approval or disapproval of an award. In recommending an  
 1846 award, the department shall include a memorandum of

1847 understanding between the department and the applicant, which  
 1848 shall be incorporated into the final contract, setting forth the  
 1849 conditions for payment of the incentive funds. The memorandum of  
 1850 understanding shall include the total amount of funds awarded;  
 1851 the performance conditions that must be met to obtain the award,  
 1852 including, but not limited to, net new employment in the state,  
 1853 average salary, and total capital investment incurred by the  
 1854 business; a baseline of current service and a measure of  
 1855 enhanced capability; the methodology for validating performance;  
 1856 the schedule of payments; and sanctions for failure to meet  
 1857 performance conditions, including any clawback provisions ~~Upon~~  
 1858 ~~receipt of the evaluation and recommendation from the~~  
 1859 ~~department, the Governor shall approve or deny an award. In~~  
 1860 ~~recommending approval of an award, the department shall include~~  
 1861 ~~proposed performance conditions that the applicant must meet in~~  
 1862 ~~order to obtain incentive funds and any other conditions that~~  
 1863 ~~must be met before the receipt of any incentive funds. The~~  
 1864 ~~Governor shall consult with the President of the Senate and the~~  
 1865 ~~Speaker of the House of Representatives before giving approval~~  
 1866 ~~for an award. Upon review and approval of an award by the~~  
 1867 ~~Legislative Budget Commission, the Executive Office of the~~  
 1868 ~~Governor shall release the funds.~~

1869 (b) The Governor may approve an innovation incentive award  
 1870 of less than \$2 million without consulting the Legislature. For  
 1871 such awards, the Governor shall provide a written description  
 1872 and evaluation of the approved project and a copy of the



1873 memorandum of understanding between the department and business  
 1874 meeting the requirements of paragraph (a) to the chair and vice  
 1875 chair of the Legislative Budget Commission, the President of the  
 1876 Senate, and the Speaker of the House of Representatives within 1  
 1877 business day after approval.

1878 (c) The Governor shall provide a written description and  
 1879 evaluation of each innovation incentive award proposal  
 1880 recommended for approval for an innovation incentive award that  
 1881 equals or exceeds \$2 million to the chair and vice chair of the  
 1882 Legislative Budget Commission, the President of the Senate, and  
 1883 the Speaker of the House of Representatives at least 14 days  
 1884 before giving final approval for an award. The recommendation  
 1885 must include a copy of the memorandum of understanding between  
 1886 the department and business meeting the requirements of  
 1887 paragraph (a). If the chair or vice chair of the Legislative  
 1888 Budget Commission, the President of the Senate, or the Speaker  
 1889 of the House of Representatives timely advises the Executive  
 1890 Office of the Governor in writing that the award of incentive  
 1891 funds exceeds the delegated authority of the Executive Office of  
 1892 the Governor or is contrary to legislative policy or intent, the  
 1893 Executive Office of the Governor shall void the release of funds  
 1894 and instruct the department to immediately change action or  
 1895 proposed action.

1896 (d) An amendment, modification, or extension of an  
 1897 executed contract that results in a 0.5-point or greater  
 1898 reduction in the economic benefit ratio of the project may not

1899 take effect until it is approved through the approval process in  
 1900 paragraph (c). An amendment, modification, or extension may not  
 1901 be made to an executed contract if such action would result in  
 1902 an economic benefit ratio below 1 to 1.

1903 ~~(8)(a)~~ In addition to the requirements provided in  
 1904 paragraph (7)(a), a contract between the department and an award  
 1905 recipient ~~After the conditions set forth in subsection (7) have~~  
 1906 ~~been met, the department shall issue a letter certifying the~~  
 1907 ~~applicant as qualified for an award. The department and the~~  
 1908 ~~award recipient shall enter into an agreement that sets forth~~  
 1909 ~~the conditions for payment of the incentive funds. The agreement~~  
 1910 ~~must include, at a minimum:~~

- 1911 ~~1. The total amount of funds awarded.~~
- 1912 ~~2. The performance conditions that must be met in order to~~  
 1913 ~~obtain the award or portions of the award, including, but not~~  
 1914 ~~limited to, net new employment in the state, average wage, and~~  
 1915 ~~total cumulative investment.~~
- 1916 ~~3. Demonstration of a baseline of current service and a~~  
 1917 ~~measure of enhanced capability.~~
- 1918 ~~4. The methodology for validating performance.~~
- 1919 ~~5. The schedule of payments.~~
- 1920 ~~6. Sanctions for failure to meet performance conditions,~~  
 1921 ~~including any clawback provisions.~~

1922 ~~(b)~~ Additionally, agreements signed on or after July 1,  
 1923 2009, must include the following provisions:

- 1924 1. Notwithstanding subsection (4), a requirement that the

1925 | jobs created by the recipient of the incentive funds pay an  
 1926 | annual average wage at least equal to the relevant industry's  
 1927 | annual average wage or at least 130 percent of the average  
 1928 | private sector wage in the area, whichever is greater.

1929 |         2. A reinvestment requirement. Each recipient of an award  
 1930 | shall reinvest up to 15 percent of net royalty revenues,  
 1931 | including revenues from spin-off companies and the revenues from  
 1932 | the sale of stock it receives from the licensing or transfer of  
 1933 | inventions, methods, processes, and other patentable discoveries  
 1934 | conceived or reduced to practice using its facilities in Florida  
 1935 | or its Florida-based employees, in whole or in part, and to  
 1936 | which the recipient of the grant becomes entitled during the 20  
 1937 | years following the effective date of its agreement with the  
 1938 | department. Each recipient of an award also shall reinvest up to  
 1939 | 15 percent of the gross revenues it receives from naming  
 1940 | opportunities associated with any facility it builds in this  
 1941 | state. Reinvestment payments shall commence no later than 6  
 1942 | months after the recipient of the grant has received the final  
 1943 | disbursement under the contract and shall continue until the  
 1944 | maximum reinvestment, as specified in the contract, has been  
 1945 | paid. Reinvestment payments shall be remitted to the department  
 1946 | for deposit in the Biomedical Research Trust Fund for companies  
 1947 | specializing in biomedicine or life sciences, or in the Economic  
 1948 | Development Trust Fund for companies specializing in fields  
 1949 | other than biomedicine or the life sciences. If these trust  
 1950 | funds no longer exist at the time of the reinvestment, the

1951 state's share of reinvestment shall be deposited in their  
 1952 successor trust funds as determined by law. Each recipient of an  
 1953 award shall annually submit a schedule of the shares of stock  
 1954 held by it as payment of the royalty required by this paragraph  
 1955 and report on any trades or activity concerning such stock. Each  
 1956 recipient's reinvestment obligations survive the expiration or  
 1957 termination of its agreement with the state.

1958 3. Requirements for the establishment of internship  
 1959 programs or other learning opportunities for educators and  
 1960 secondary, postsecondary, graduate, and doctoral students.

1961 4. A requirement that the recipient submit quarterly  
 1962 reports and annual reports related to activities and performance  
 1963 to the department, according to standardized reporting periods.

1964 5. A requirement for an annual accounting to the  
 1965 department of the expenditure of funds disbursed under this  
 1966 section.

1967 6. A process for amending the agreement.

1968 Section 14. Sections 288.1168 and 288.1169, Florida  
 1969 Statutes, are repealed.

1970 Section 15. Subsection (2) and paragraph (b) of subsection  
 1971 (5) of section 288.901, Florida Statutes, are amended to read:

1972 288.901 Enterprise Florida, Inc.—

1973 (2) PURPOSES.—Enterprise Florida, Inc., shall act as the  
 1974 economic development organization for the state, using ~~utilizing~~  
 1975 private sector and public sector expertise in collaboration with  
 1976 the department to:

- 1977 (a) Increase private investment in Florida.~~+~~
- 1978 (b) Advance international and domestic trade
- 1979 opportunities.~~+~~
- 1980 (c) Market the state both as a probusiness location for
- 1981 new investment and as an unparalleled tourist destination.~~+~~
- 1982 (d) Revitalize Florida's space and aerospace industries,
- 1983 and promote emerging complementary industries.~~+~~
- 1984 (e) Promote opportunities for minority-owned businesses.~~+~~
- 1985 (f) Assist and market professional and amateur sport teams
- 1986 and sporting events in Florida.~~+~~ ~~and~~
- 1987 (g) Assist, promote, and enhance economic opportunities in
- 1988 this state's rural and urban communities.
- 1989 (h) Foster and encourage high-technology startup and
- 1990 second-stage business development within the state.
- 1991 (5) APPOINTED MEMBERS OF THE BOARD OF DIRECTORS.-
- 1992 (b) In making their appointments, the Governor, the
- 1993 President of the Senate, and the Speaker of the House of
- 1994 Representatives shall ensure that the composition of the board
- 1995 of directors reflects the diversity of Florida's business
- 1996 community and is representative of the economic development
- 1997 goals in subsection (2). The board must include at least one
- 1998 director for each of the following areas of expertise:
- 1999 international business, tourism marketing, the space or
- 2000 aerospace industry, managing or financing a minority-owned
- 2001 business, manufacturing, finance and accounting, rural economic
- 2002 development, and sports marketing.

2003 Section 16. Subsection (8) of section 288.9602, Florida  
 2004 Statutes, is amended to read:

2005 288.9602 Findings and declarations of necessity.—The  
 2006 Legislature finds and declares that:

2007 (8) In order to efficiently and effectively achieve the  
 2008 purposes of this act, it is necessary and in the public interest  
 2009 to create a special development finance authority to cooperate  
 2010 and act in conjunction with public agencies of this state and  
 2011 local governments of this state, ~~through interlocal agreements~~  
 2012 ~~pursuant to the Florida Interlocal Cooperation Act of 1969,~~ in  
 2013 the promotion and advancement of projects related to economic  
 2014 development, including redevelopment of brownfield areas,  
 2015 throughout the state.

2016 Section 17. Paragraph (b) of subsection (3) of section  
 2017 288.9604, Florida Statutes, is amended to read:

2018 288.9604 Creation of the authority.—

2019 (3)

2020 (b) The powers of the corporation shall be exercised by  
 2021 the directors thereof. A majority of the directors constitutes a  
 2022 quorum for the purposes of conducting business and exercising  
 2023 the powers of the corporation and for all other purposes. An  
 2024 action taken by the directors in furtherance of the purposes of  
 2025 this act during the pendency of one or more vacancies is deemed  
 2026 a valid and binding action of the corporation on the date taken,  
 2027 without regard to the vacancy or vacancies. Action may be taken  
 2028 by the corporation upon a vote of a majority of the directors

2029 present, unless in any case the bylaws require a larger number.  
 2030 Any person may be appointed as director if he or she resides, or  
 2031 is engaged in business, which means owning a business,  
 2032 practicing a profession, or performing a service for  
 2033 compensation or serving as an officer or director of a  
 2034 corporation or other business entity so engaged, within the  
 2035 state.

2036 Section 18. Paragraph (e) of subsection (2) of section  
 2037 288.9605, Florida Statutes, is amended to read:

2038 288.9605 Corporation powers.—

2039 (2) The corporation is authorized and empowered to:

2040 (e) Enter into interlocal agreements ~~pursuant to s.~~  
 2041 ~~163.01(7)~~ with public agencies of this state for the exercise of  
 2042 any power, privilege, or authority consistent with the purposes  
 2043 of this act.

2044 Section 19. Subsections (1), (2), (3), and (7) of section  
 2045 288.9606, Florida Statutes, are amended to read:

2046 288.9606 Issue of revenue bonds.—

2047 (1) ~~When authorized by a public agency pursuant to s.~~  
 2048 ~~163.01(7)~~, The corporation has power in its corporate capacity,  
 2049 in its discretion, to issue revenue bonds or other evidences of  
 2050 indebtedness ~~which a public agency has the power to issue,~~ from  
 2051 time to time to finance the undertaking of any purpose of this  
 2052 act, including, without limiting the generality thereof, the  
 2053 payment of principal and interest upon any advances for surveys  
 2054 and plans or preliminary loans, and has the power to issue

2055 refunding bonds for the payment or retirement of bonds  
 2056 previously issued. Bonds issued pursuant to this section shall  
 2057 bear the name "Florida Development Finance Corporation Revenue  
 2058 Bonds." The security for such bonds may be based upon such  
 2059 revenues as are legally available. In anticipation of the sale  
 2060 of such revenue bonds, the corporation may issue bond  
 2061 anticipation notes and may renew such notes from time to time,  
 2062 but the maximum maturity of any such note, including renewals  
 2063 thereof, may not exceed 5 years from the date of issuance of the  
 2064 original note. Such notes shall be paid from any revenues of the  
 2065 corporation available therefor and not otherwise pledged or from  
 2066 the proceeds of sale of the revenue bonds in anticipation of  
 2067 which they were issued. Any bond, note, or other form of  
 2068 indebtedness issued pursuant to this act shall mature no later  
 2069 than the end of the 30th fiscal year after the fiscal year in  
 2070 which the bond, note, or other form of indebtedness was issued.

2071 (2) Bonds issued under this section do not constitute an  
 2072 indebtedness within the meaning of any constitutional or  
 2073 statutory debt limitation or restriction, and are not subject to  
 2074 the provisions of any other law or charter relating to the  
 2075 authorization, issuance, or sale of bonds. Bonds issued under  
 2076 ~~the provisions of~~ this act are declared to be for an essential  
 2077 public and governmental purpose. Bonds issued under this act,  
 2078 ~~the interest on which is exempt from income taxes of the United~~  
 2079 ~~States,~~ together with interest thereon and income therefrom, are  
 2080 exempted from all taxes, except those taxes imposed by chapter



2081 220, on interest, income, or profits on debt obligations owned  
 2082 by corporations, pursuant to s. 159.31.

2083 (3) Bonds issued under this section ~~shall be authorized by~~  
 2084 ~~a public agency of this state pursuant to the terms of an~~  
 2085 ~~interlocal agreement, unless such bonds are issued pursuant to~~  
 2086 ~~subsection (7),~~ may be issued in one or more series, and shall  
 2087 bear such date or dates, be payable upon demand or mature at  
 2088 such time or times, bear interest rate or rates, be in such  
 2089 denomination or denominations, be in such form either with or  
 2090 without coupon or registered, carry such conversion or  
 2091 registration privileges, have such rank or priority, be executed  
 2092 in such manner, be payable in such medium of payments at such  
 2093 place or places, be subject to such terms of redemption, with or  
 2094 without premium, be secured in such manner, and have such other  
 2095 characteristics as may be provided by the corporation. Bonds  
 2096 issued under this section may be sold in such manner, either at  
 2097 public or private sale, and for such price as the corporation  
 2098 may determine will effectuate the purpose of this act.

2099 (7) Notwithstanding any provision of this section, the  
 2100 corporation in its corporate capacity may, ~~without authorization~~  
 2101 ~~from a public agency under s. 163.01(7),~~ issue revenue bonds or  
 2102 other evidence of indebtedness under this section to:

2103 (a) Finance the undertaking of any project within the  
 2104 state that promotes renewable energy as defined in s. 366.91 or  
 2105 s. 377.803;

2106 (b) Finance the undertaking of any project within the

2107 state that is a project contemplated or allowed under s. 406 of  
 2108 the American Recovery and Reinvestment Act of 2009; or

2109 (c) If permitted by federal law, finance qualifying  
 2110 improvement projects within the state under s. 163.08.

2111 Section 20. Section 288.9610, Florida Statutes, is amended  
 2112 to read:

2113 288.9610 Annual reports of Florida Development Finance  
 2114 Corporation.—On or before 90 days after the close of the Florida  
 2115 Development Finance Corporation's fiscal year, the corporation  
 2116 shall submit to the Governor, the Legislature, and the Auditor  
 2117 General, ~~and the governing body of each public entity with which~~  
 2118 ~~it has entered into an interlocal agreement~~ a complete and  
 2119 detailed report setting forth:

2120 (1) The results of any audit conducted pursuant to s.  
 2121 11.45.

2122 (2) The activities, operations, and accomplishments of the  
 2123 Florida Development Finance Corporation, including the number of  
 2124 businesses assisted by the corporation.

2125 (3) Its assets, liabilities, income, and operating  
 2126 expenses at the end of its most recent fiscal year, including a  
 2127 description of all of its outstanding revenue bonds.

2128 Section 21. Section 288.991, Florida Statutes, is amended  
 2129 to read:

2130 288.991 Short title.—This part ~~Sections 288.991-288.9922~~  
 2131 may be cited as the "New Markets Development Program Act."

2132 Section 22. Subsections (3), (5), and (6) of section

2133 288.9914, Florida Statutes, are amended to read:  
 2134 288.9914 Certification of qualified investments; investment  
 2135 issuance reporting.—  
 2136 (3) REVIEW.—  
 2137 (a) The department shall review applications to approve an  
 2138 investment as a qualified investment in the order received. The  
 2139 department shall approve or deny an application within 30  
 2140 calendar days after receipt.  
 2141 (b) If the department intends to deny the application, the  
 2142 department shall inform the applicant of the basis of the  
 2143 proposed denial. The applicant shall have 15 calendar days after  
 2144 it receives the notice of the intent to deny the application to  
 2145 submit a revised application to the department. The department  
 2146 shall issue a final order approving or denying the revised  
 2147 application within 30 calendar days after receipt.  
 2148 (c) The department may not approve a cumulative amount of  
 2149 qualified investments that may result in the claim of more than  
 2150 \$216.34 million in tax credits during the existence of the  
 2151 program or more than \$36.6 million in tax credits in a single  
 2152 state fiscal year. However, the potential for a taxpayer to  
 2153 carry forward an unused tax credit may not be considered in  
 2154 calculating the annual limit.  
 2155 (5) DURATION OF APPROVAL.—The qualified community  
 2156 development entity must issue the qualified investment in  
 2157 exchange for cash within 60 calendar days after it receives the  
 2158 order approving an investment as a qualified investment,

2159 otherwise the order is void.

2160 (6) REPORT OF ISSUANCE OF A QUALIFIED INVESTMENT.—The  
 2161 qualified community development entity must provide the  
 2162 department with evidence of the receipt of the cash in exchange  
 2163 for the qualified investment within 30 calendar ~~business~~ days  
 2164 after receipt.

2165 Section 23. Subsection (1) of section 288.9917, Florida  
 2166 Statutes, is amended to read:

2167 288.9917 Community development entity reporting after a  
 2168 credit allowance date; certification of tax credit amount.—

2169 (1) A qualified community development entity that has  
 2170 issued a qualified investment shall submit the following to the  
 2171 department within 30 calendar days after each credit allowance  
 2172 date:

2173 (a) A list of all qualified active low-income community  
 2174 businesses in which a qualified low-income community investment  
 2175 was made since the last credit allowance date. The list shall  
 2176 also describe the type and amount of investment in each business  
 2177 and the address of the principal location of each business. The  
 2178 list must be verified by the chief executive officer of the  
 2179 community development entity.

2180 (b) Bank records, wire transfer records, or similar  
 2181 documents that provide evidence of the qualified low-income  
 2182 community investments made since the last credit allowance date.

2183 (c) A verified statement by the chief financial or  
 2184 accounting officer of the community development entity that no

2185 redemption or principal repayment was made with respect to the  
 2186 qualified investment since the previous credit allowance date.

2187 (d) Information relating to the recapture of the federal  
 2188 new markets tax credit since the last credit allowance date.

2189 Section 24. Paragraph (f) is added to subsection (1) of  
 2190 section 288.9920, Florida Statutes, to read:

2191 288.9920 Recapture and penalties.—

2192 (1) Notwithstanding s. 95.091, the department shall direct  
 2193 the Department of Revenue, at any time before December 31, 2022,  
 2194 to recapture all or a portion of a tax credit authorized  
 2195 pursuant to the New Markets Development Program Act if one or  
 2196 more of the following occur:

2197 (f) For qualified investments issued after July 1, 2015,  
 2198 any violation of s. 288.9923.

2199 Section 25. Section 288.9923, Florida Statutes, is created  
 2200 to read:

2201 288.9923 New capital requirement.—Effective July 1, 2015,  
 2202 a qualified active low-income community business that receives a  
 2203 qualified low-income community investment from a qualified  
 2204 community development entity that issues qualified investments  
 2205 under the New Markets Development Program Act, or any affiliates  
 2206 of such qualified active low-income community business, may not  
 2207 directly or indirectly:

2208 (1) Own or have the right to acquire an ownership interest  
 2209 in a qualified community development entity or member or  
 2210 affiliate of a qualified community development entity,

2211 including, but not limited to, a holder of a qualified  
 2212 investment issued by the qualified community development entity;  
 2213 or  
 2214 (2) Loan to or invest in a qualified community development  
 2215 entity or member or affiliate of a qualified community  
 2216 development entity, including, but not limited to, a holder of a  
 2217 qualified investment issued by a qualified community development  
 2218 entity if the proceeds of such loan or investment are directly  
 2219 or indirectly used to fund or refinance the purchase of a  
 2220 qualified investment under this part.

2221  
 2222 For purposes of this section, a qualified community development  
 2223 entity is not considered an affiliate of a qualified active low-  
 2224 income community business solely as a result of its qualified  
 2225 low-income community investment in such business.

2226 Section 26. Section 288.913, Florida Statutes, is created  
 2227 to read:

2228 288.913 Startup Florida Initiative.-

2229 (1) LEGISLATIVE FINDINGS AND DECLARATIONS.-The Legislature  
 2230 finds that successful high-technology startup and second-stage  
 2231 businesses are critical to the state's overall economic growth  
 2232 and such businesses play an outsized role in job creation. The  
 2233 Legislature also finds that Enterprise Florida, Inc., the  
 2234 state's economic development organization, is uniquely suited to  
 2235 foster and encourage more high-technology startup and second-  
 2236 stage business development within the state. Therefore, the

2237 Legislature declares that it is the policy of the state to  
 2238 prioritize high-technology startup and second-stage business  
 2239 development within the state and directs Enterprise Florida,  
 2240 Inc., to develop the Startup Florida Initiative to further said  
 2241 policy.

2242 (2) DEFINITIONS.—As used in this section, the term:

2243 (a) "Advanced technology products" means high-technology  
 2244 products produced by a business that employs a high proportion  
 2245 of scientists, engineers, and technicians. Such products may be  
 2246 classified within, but not be limited to, the following fields:

2247 1. Biotechnology products related to advanced scientific  
 2248 discoveries in genetics.

2249 2. Life science products related to the application of  
 2250 nonbiological scientific advances to medical science.

2251 3. Optoelectronic products related to the emission or  
 2252 detection of light.

2253 4. Information and communications products related to the  
 2254 processing of increased volumes of information in shorter  
 2255 periods of time.

2256 5. Electronics products related to design advances in  
 2257 electronic components that result in improved performance and  
 2258 capacity, or reduced size.

2259 6. Flexible manufacturing products related to robotics,  
 2260 numerically-controlled machine tools, and similar products  
 2261 involving industrial automation that allows for greater  
 2262 flexibility in the manufacturing process and reduction in the

2263 amount of human intervention.

2264 7. Advanced materials products related to advances in the  
 2265 development of materials that allow for further development and  
 2266 application of other advanced technologies.

2267 8. Aerospace products related to military and civil  
 2268 helicopters, airplanes, and spacecraft.

2269 9. Weapons products related to products with military  
 2270 application.

2271 10. Nuclear technology products related to nuclear power  
 2272 production apparatus.

2273 (b) "High-technology startup" means a business unit that  
 2274 has been in operation for less than 5 years and employs fewer  
 2275 than 10 employees, which produces a high proportion of advanced  
 2276 technology products.

2277 (c) "Second-stage business" means a business unit that  
 2278 employs at least 10 but not more than 50 employees, generates at  
 2279 least \$1 million but not more than \$25 million in annual  
 2280 revenue, and produces a high proportion of advanced technology  
 2281 products.

2282 (3) STATEWIDE STRATEGIC PLAN.-

2283 (a) Enterprise Florida, Inc., shall develop a statewide  
 2284 strategic plan for high-technology startup and second-stage  
 2285 business growth and development in consultation with the  
 2286 Institute for the Commercialization of Public Research, the  
 2287 Florida Economic Gardening Institute, the state's local and  
 2288 regional economic development organizations, and other



2289 stakeholders, public and private, that have experience and  
 2290 expertise in high-technology startup and second-stage business  
 2291 growth and development activities.

2292 (b) In developing the strategic plan, Enterprise Florida,  
 2293 Inc., shall evaluate best practices, examine the startup,  
 2294 entrepreneurship, and second-stage business programs of other  
 2295 states, and survey high-technology startups and second-stage  
 2296 businesses and support organizations, both within and outside  
 2297 the state.

2298 (c) The strategic plan shall include actionable steps to  
 2299 provide technical support to local and regional economic  
 2300 development organizations to enhance high-technology startup and  
 2301 second-stage business growth at local and regional levels.

2302 (d) The strategic plan shall include an evaluation of the  
 2303 accessibility of the state's economic development incentive and  
 2304 loan programs to high-technology startups and second-stage  
 2305 businesses.

2306 (e) By January 1, 2016, Enterprise Florida, Inc., shall  
 2307 deliver the strategic plan to the Governor, the President of the  
 2308 Senate, and the Speaker of the House of Representatives.

2309 (f) Upon completion, the strategic plan shall become part  
 2310 of the 5-year statewide strategic plan developed by the Division  
 2311 of Strategic Business Development required by s. 20.60.

2312 (4) MARKETING.—Enterprise Florida, Inc., shall market the  
 2313 state's economic development activities related to the growth  
 2314 and development of high-technology startups and second-stage

2315 businesses both inside and outside the state.

2316 (5) ANNUAL REPORT.—Enterprise Florida, Inc., shall provide  
 2317 information regarding its activities related to the growth and  
 2318 development of high-technology startups and second-stage  
 2319 businesses in its annual report required by s. 288.906.

2320 Section 27. Section 189.033, Florida Statutes, is amended  
 2321 to read:

2322 189.033 Independent special district services in  
 2323 disproportionally affected county; rate reduction for providers  
 2324 providing economic benefits.—If the governing body of an  
 2325 independent special district that provides water, wastewater,  
 2326 and sanitation services in a disproportionally affected county,  
 2327 as defined in s. 220.191(1)(g)1. ~~288.106(8)~~, determines that a  
 2328 new user or the expansion of an existing user of one or more of  
 2329 its utility systems will provide a significant benefit to the  
 2330 community in terms of increased job opportunities, economies of  
 2331 scale, or economic development in the area, the governing body  
 2332 may authorize a reduction of its rates, fees, or charges for  
 2333 that user for a specified period of time. A governing body that  
 2334 exercises this power must do so by resolution that states the  
 2335 anticipated economic benefit justifying the reduction as well as  
 2336 the period of time that the reduction will remain in place.

2337 Section 28. Subsections (1) and (3), paragraph (a) of  
 2338 subsection (5), and paragraph (e) of subsection (7) of section  
 2339 288.11625, Florida Statutes, are amended to read:

2340 288.11625 Sports development.—

2341 (1) ADMINISTRATION.—The department shall serve as the  
 2342 state agency responsible for screening applicants for state  
 2343 funding under s. 212.20(6)(d)6.d. ~~212.20(6)(d)6.f.~~

2344 (3) PURPOSE.—The purpose of this section is to provide  
 2345 applicants state funding under s. 212.20(6)(d)6.d.  
 2346 ~~212.20(6)(d)6.f.~~ for the public purpose of constructing,  
 2347 reconstructing, renovating, or improving a facility.

2348 (5) EVALUATION PROCESS.—

2349 (a) Before recommending an applicant to receive a state  
 2350 distribution under s. 212.20(6)(d)6.d. ~~212.20(6)(d)6.f.~~, the  
 2351 department must verify that:

2352 1. The applicant or beneficiary is responsible for the  
 2353 construction, reconstruction, renovation, or improvement of a  
 2354 facility and obtained at least three bids for the project.

2355 2. If the applicant is not a unit of local government, a  
 2356 unit of local government holds title to the property on which  
 2357 the facility and project are, or will be, located.

2358 3. If the applicant is a unit of local government in whose  
 2359 jurisdiction the facility is, or will be, located, the unit of  
 2360 local government has an exclusive intent agreement to negotiate  
 2361 in this state with the beneficiary.

2362 4. A unit of local government in whose jurisdiction the  
 2363 facility is, or will be, located supports the application for  
 2364 state funds. Such support must be verified by the adoption of a  
 2365 resolution, after a public hearing, that the project serves a  
 2366 public purpose.

2367 5. The applicant or beneficiary has not previously  
 2368 defaulted or failed to meet any statutory requirements of a  
 2369 previous state-administered sports-related program under s.  
 2370 288.1162, s. 288.11621, s. 288.11631, or this section.  
 2371 Additionally, the applicant or beneficiary is not currently  
 2372 receiving state distributions under s. 212.20 for the facility  
 2373 that is the subject of the application, unless the applicant  
 2374 demonstrates that the franchise that applied for a distribution  
 2375 under s. 212.20 no longer plays at the facility that is the  
 2376 subject of the application.

2377 6. The applicant or beneficiary has sufficiently  
 2378 demonstrated a commitment to employ residents of this state,  
 2379 contract with Florida-based firms, and purchase locally  
 2380 available building materials to the greatest extent possible.

2381 7. If the applicant is a unit of local government, the  
 2382 applicant has a certified copy of a signed agreement with a  
 2383 beneficiary for the use of the facility. If the applicant is a  
 2384 beneficiary, the beneficiary must enter into an agreement with  
 2385 the department. The applicant's or beneficiary's agreement must  
 2386 also require the following:

2387 a. The beneficiary must reimburse the state for state  
 2388 funds that will be distributed if the beneficiary relocates or  
 2389 no longer occupies or uses the facility as the facility's  
 2390 primary tenant before the agreement expires. Reimbursements must  
 2391 be sent to the Department of Revenue for deposit into the  
 2392 General Revenue Fund.

2393           b. The beneficiary must pay for signage or advertising  
 2394 within the facility. The signage or advertising must be placed  
 2395 in a prominent location as close to the field of play or  
 2396 competition as is practicable, must be displayed consistent with  
 2397 signage or advertising in the same location and of like value,  
 2398 and must feature Florida advertising approved by the Florida  
 2399 Tourism Industry Marketing Corporation.

2400           8. The project will commence within 12 months after  
 2401 receiving state funds or did not commence before January 1,  
 2402 2013.

2403           (7) CONTRACT.—An applicant approved by the Legislature and  
 2404 certified by the department must enter into a contract with the  
 2405 department which:

2406           (e) Requires the applicant to reimburse the state by  
 2407 electing to do one of the following:

2408           1. After all distributions have been made, reimburse at  
 2409 the end of the contract term any amount by which the total  
 2410 distributions made under s. 212.20(6)(d)6.d. ~~212.20(6)(d)6.f.~~  
 2411 exceed actual new incremental state sales taxes generated by  
 2412 sales at the facility during the contract, plus a 5 percent  
 2413 penalty on that amount.

2414           2. After the applicant begins to submit the independent  
 2415 analysis under paragraph (c), reimburse each year any amount by  
 2416 which the previous year's annual distribution exceeds 75 percent  
 2417 of the actual new incremental state sales taxes generated by  
 2418 sales at the facility.

2419  
 2420 Any reimbursement due to the state must be made within 90 days  
 2421 after the applicable distribution under this paragraph. If the  
 2422 applicant is unable or unwilling to reimburse the state for such  
 2423 amount, the department may place a lien on the applicant's  
 2424 facility. If the applicant is a municipality or county, it may  
 2425 reimburse the state from its half-cent sales tax allocation, as  
 2426 provided in s. 218.64(3). Reimbursements must be sent to the  
 2427 Department of Revenue for deposit into the General Revenue Fund.  
 2428 Section 29. Paragraph (c) of subsection (2) and paragraphs  
 2429 (a), (c), and (d) of subsection (3) of section 288.11631,  
 2430 Florida Statutes, are amended to read:  
 2431 288.11631 Retention of Major League Baseball spring  
 2432 training baseball franchises.—  
 2433 (2) CERTIFICATION PROCESS.—  
 2434 (c) Each applicant certified on or after July 1, 2013,  
 2435 shall enter into an agreement with the department which:  
 2436 1. Specifies the amount of the state incentive funding to  
 2437 be distributed. The amount of state incentive funding per  
 2438 certified applicant may not exceed \$20 million. However, if a  
 2439 certified applicant's facility is used by more than one spring  
 2440 training franchise, the maximum amount may not exceed \$50  
 2441 million, and the Department of Revenue shall make distributions  
 2442 to the applicant pursuant to s. 212.20(6)(d)6.c.  
 2443 ~~212.20(6)(d)6.e.~~  
 2444 2. States the criteria that the certified applicant must

2445 meet in order to remain certified. These criteria must include a  
 2446 provision stating that the spring training franchise must  
 2447 reimburse the state for any funds received if the franchise does  
 2448 not comply with the terms of the contract. If bonds were issued  
 2449 to construct or renovate a facility for a spring training  
 2450 franchise, the required reimbursement must be equal to the total  
 2451 amount of state distributions expected to be paid from the date  
 2452 the franchise violates the agreement with the applicant through  
 2453 the final maturity of the bonds.

2454 3. States that the certified applicant is subject to  
 2455 decertification if the certified applicant fails to comply with  
 2456 this section or the agreement.

2457 4. States that the department may recover state incentive  
 2458 funds if the certified applicant is decertified.

2459 5. Specifies the information that the certified applicant  
 2460 must report to the department.

2461 6. Includes any provision deemed prudent by the  
 2462 department.

2463 (3) USE OF FUNDS.—

2464 (a) A certified applicant may use funds provided under s.  
 2465 212.20(6)(d)6.c. ~~212.20(6)(d)6.e.~~ only to:

2466 1. Serve the public purpose of constructing or renovating  
 2467 a facility for a spring training franchise.

2468 2. Pay or pledge for the payment of debt service on, or to  
 2469 fund debt service reserve funds, arbitrage rebate obligations,  
 2470 or other amounts payable with respect thereto, bonds issued for

2471 the construction or renovation of such facility, or for the  
 2472 reimbursement of such costs or the refinancing of bonds issued  
 2473 for such purposes.

2474 (c) The Department of Revenue may not distribute funds  
 2475 under s. 212.20(6)(d)6.c. ~~212.20(6)(d)6.e.~~ until July 1, 2016.  
 2476 Further, the Department of Revenue may not distribute funds to  
 2477 an applicant certified on or after July 1, 2013, until it  
 2478 receives notice from the department that:

2479 1. The certified applicant has encumbered funds under  
 2480 either subparagraph (a)1. or subparagraph (a)2.; and

2481 2. If applicable, any existing agreement with a spring  
 2482 training franchise for the use of a facility has expired.

2483 (d)1. All certified applicants shall place unexpended  
 2484 state funds received pursuant to s. 212.20(6)(d)6.c.  
 2485 ~~212.20(6)(d)6.e.~~ in a trust fund or separate account for use  
 2486 only as authorized in this section.

2487 2. A certified applicant may request that the department  
 2488 notify the Department of Revenue to suspend further  
 2489 distributions of state funds made available under s.  
 2490 212.20(6)(d)6.e. for 12 months after expiration of an existing  
 2491 agreement with a spring training franchise to provide the  
 2492 certified applicant with an opportunity to enter into a new  
 2493 agreement with a spring training franchise, at which time the  
 2494 distributions shall resume.

2495 3. The expenditure of state funds distributed to an  
 2496 applicant certified after July 1, 2013, must begin within 48



2497 months after the initial receipt of the state funds. In  
 2498 addition, the construction or renovation of a spring training  
 2499 facility must be completed within 24 months after the project's  
 2500 commencement.

2501       Section 30. (1) Any building permit, and any permit  
 2502 issued by the Department of Environmental Protection or by a  
 2503 water management district pursuant to part IV of chapter 373,  
 2504 Florida Statutes, which has an expiration date of January 1,  
 2505 2016, through January 1, 2018, is extended and renewed for a  
 2506 period of 2 years after its expiration date. This extension  
 2507 includes any local government-issued development order or  
 2508 building permit including certificates of levels of service.  
 2509 This section does not prohibit conversion from the construction  
 2510 phase to the operation phase upon completion of construction.  
 2511 This extension is in addition to any existing permit extension.  
 2512 Extensions granted pursuant to this section; s. 14 of chapter  
 2513 2009-96, Laws of Florida, as reauthorized by s. 47 of chapter  
 2514 2010-147, Laws of Florida; s. 46 of chapter 2010-147, Laws of  
 2515 Florida; s. 73 or s. 79 of chapter 2011-139, Laws of Florida; s.  
 2516 24 of chapter 2012-205, Laws of Florida; or s. 46 of chapter  
 2517 2014-218, Laws of Florida, may not exceed 4 years in total.  
 2518 Further, specific development order extensions granted pursuant  
 2519 to s. 380.06(19)(c)2., Florida Statutes, may not be further  
 2520 extended by this section.

2521       (2) The commencement and completion dates for any required  
 2522 mitigation associated with a phased construction project are

2523 extended so that mitigation takes place in the same timeframe  
 2524 relative to the phase as originally permitted.

2525 (3) The holder of a valid permit or other authorization  
 2526 that is eligible for the 2-year extension must notify the  
 2527 authorizing agency in writing by December 31, 2015, identifying  
 2528 the specific authorization for which the holder intends to use  
 2529 the extension and the anticipated timeframe for acting on the  
 2530 authorization.

2531 (4) The extension provided in subsection (1) does not  
 2532 apply to:

2533 (a) A permit or other authorization under any programmatic  
 2534 or regional general permit issued by the United States Army  
 2535 Corps of Engineers.

2536 (b) A permit or other authorization held by an owner or  
 2537 operator determined to be in significant noncompliance with the  
 2538 conditions of the permit or authorization as established through  
 2539 the issuance of a warning letter or notice of violation, the  
 2540 initiation of formal enforcement, or other equivalent action by  
 2541 the authorizing agency.

2542 (c) A permit or other authorization, if granted an  
 2543 extension, that would delay or prevent compliance with a court  
 2544 order.

2545 (5) Permits extended under this section continue to be  
 2546 governed by the rules in effect at the time the permit was  
 2547 issued unless it is demonstrated that the rules in effect at the  
 2548 time the permit was issued would create an immediate threat to

2549 public safety or health. This provision applies to any  
 2550 modification of the plans, terms, and conditions of the permit  
 2551 that lessens the environmental impact, except that any such  
 2552 modification does not extend the time limit beyond 2 additional  
 2553 years.

2554 (6) This section does not impair the authority of a county  
 2555 or municipality to require the owner of a property who has  
 2556 notified the county or municipality of the owner's intent to  
 2557 receive the extension of time granted pursuant to this section  
 2558 to maintain and secure the property in a safe and sanitary  
 2559 condition in compliance with applicable laws and ordinances.

2560 Section 31. Section 290.50, Florida Statutes, is created  
 2561 to read:

2562 290.50 Local enterprise zone program.-

2563 (1) DEFINITIONS.-As used in this section, the term:

2564 (a) "Designated local enterprise zone area" means a  
 2565 defined geographic area identified by the governing body of a  
 2566 county or municipality, or by the governing bodies of a county  
 2567 and one or more municipalities, that is targeted for accelerated  
 2568 economic growth through the reduction of local taxes and  
 2569 regulations. A designated local enterprise zone area must be  
 2570 created by a local resolution as part of a local enterprise zone  
 2571 program.

2572 (b) "Expanding business" means a business entity  
 2573 authorized to do business in the state that increases its total  
 2574 number of full-time employees by at least 10 percent and is

2575 located in a designated local enterprise zone area.

2576 (c) "Local enterprise zone program" means a program  
 2577 established by a local government pursuant to subsection (2).

2578 (d) "Newly established business" means any business entity  
 2579 authorized to do business in the state that has conducted  
 2580 operations for less than 1 year and is located in a designated  
 2581 local enterprise zone area.

2582 (2) A local government may adopt a resolution establishing  
 2583 a local enterprise zone program through which it creates 1 or  
 2584 more designated local enterprise zone areas and grants  
 2585 exemptions from specified local taxes, fees, permits, and  
 2586 licenses to newly established or expanding businesses.

2587 (3) A local government that establishes a local enterprise  
 2588 zone program shall submit a copy of the resolution establishing  
 2589 the program to the Department of Economic Opportunity within 20  
 2590 calendar days after enacting the resolution.

2591 (4) A local enterprise zone program must exempt all newly  
 2592 established or expanding businesses from the following  
 2593 ordinances, taxes, and fees imposed by the local government for  
 2594 a minimum of 24 consecutive months:

2595 (a) Business taxes.

2596 (b) Impact fees.

2597 (c) Business, professional, and occupational regulatory  
 2598 fees.

2599 (d) Green utility fees.

2600 (e) Building permit fees.

2601 (f) Special assessments, including but not limited to  
 2602 services associated with beach renourishment and restoration,  
 2603 downtown redevelopment, solid waste disposal, fire and rescue  
 2604 services, fire protection, parking facilities, sewer  
 2605 improvements, stormwater management services, street  
 2606 improvements, and water and sewer line extensions.

2607 (g) Sign ordinance requirements, permits, and fees.

2608 (h) Tree and landscape ordinance requirements, permits,  
 2609 and fees.

2610 (5) A local government may not issue a citation for a  
 2611 violation of a municipal code or ordinance applicable to:

2612 (a) A newly established business, for a period no less  
 2613 than 24 months after commencement of the business's operations.

2614 (b) An expanding business, for a period of no less than 24  
 2615 months after an expansion of the business that results in an  
 2616 increase of the business's number of full-time employees of 10  
 2617 percent or more.

2618 (c) Any business located within a designated local  
 2619 enterprise zone area for a period no less than 24 months after  
 2620 the creation of such zone.

2621  
 2622 This subsection does not apply to violations of a municipal code  
 2623 or ordinance that pose a direct threat to the health and safety  
 2624 of the public.

2625 Section 32. Section 290.60, Florida Statutes, is created  
 2626 to read:

2627 290.60 Enterprise zone certification program.-  
 2628 (1) PURPOSE.-The enterprise zone certification program is  
 2629 hereby created for the purpose of certifying designated local  
 2630 enterprise zone areas, as defined in s. 290.50, that are  
 2631 submitted to the Department of Economic Opportunity pursuant to  
 2632 s. 290.50(3).  
 2633 (2) APPLICATION.-  
 2634 (a) The governing body of a county or municipality or the  
 2635 governing bodies of a county and one or more municipalities may  
 2636 submit an application to the Department of Economic Opportunity  
 2637 for certification of a designated local enterprise zone area as  
 2638 an enterprise zone. An application for certification must be  
 2639 received by the Department of Economic Opportunity by January 1  
 2640 of each year and must include the following:  
 2641 1. An aerial map and legal description of the proposed  
 2642 enterprise zone.  
 2643 2. Demographic information regarding the proposed  
 2644 enterprise zone which includes unemployment, poverty, crime,  
 2645 income, and property value metrics. The Department of Economic  
 2646 Opportunity shall consult with the Office of Economic and  
 2647 Demographic Research to develop or identify standard sources and  
 2648 units of measurement for each required metric and make such  
 2649 approved sources and units of measurement accessible to the  
 2650 public on its website.  
 2651 3. Verification that the applicant has made available to  
 2652 the public on its official county or municipal website a list of

2653 local taxes, licenses, and fee data and information related to  
 2654 the creation of a new business, the expansion of an existing  
 2655 business, and the operation of an existing business, located in  
 2656 the applicant's jurisdiction.

2657 4. A list and description of the local financial  
 2658 incentives that have been or will be enacted by the applicant  
 2659 for the purpose of assisting in the redevelopment of the  
 2660 enterprise zone. These incentives may include the municipal  
 2661 service tax exemption provided in s. 166.231, the economic  
 2662 development ad valorem tax exemption provided in s. 205.054,  
 2663 local impact fee abatement or reduction, low-interest or  
 2664 interest-free loans or grants to businesses to encourage  
 2665 economic growth within the enterprise zone, and other local  
 2666 financial incentives.

2667 5. A copy of the resolution adopted pursuant to s.  
 2668 290.50(2), identifying the designated local enterprise zone  
 2669 area.

2670 (b) The Department of Economic Opportunity may adopt rules  
 2671 to develop forms and administer the requirements of this  
 2672 section.

2673 (3) CERTIFICATION.-All timely submitted and completed  
 2674 applications shall be certified by the Department of Economic  
 2675 Opportunity and assigned a unique identification number by June  
 2676 30 of each year. A certified enterprise zone is not required to  
 2677 reapply for certification.

2678 (4) MARKETING.-The Department of Economic Opportunity

2679 shall develop a marketing and advertising plan in coordination  
 2680 with local governments for the purpose of highlighting the  
 2681 benefits of the enterprise zone program and encouraging  
 2682 increased business activity within certified enterprise zones.

2683 (5) ANNUAL REPORT.-

2684 (a) By October 1 of each year each local government  
 2685 containing a certified enterprise zone within its jurisdiction  
 2686 shall submit to the Department of Economic Opportunity for  
 2687 inclusion in the annual report required under s. 20.60:

2688 1. The number and types of businesses established within  
 2689 the certified enterprise zone during the previous fiscal year.

2690 2. The number of jobs created within the certified  
 2691 enterprise zone during the previous fiscal year.

2692 3. A detailed description of the local and state financial  
 2693 incentives granted to businesses located in the certified  
 2694 enterprise zone during the previous fiscal year.

2695 4. A detailed description of the local regulatory  
 2696 incentives granted to businesses within the certified enterprise  
 2697 zone during the previous fiscal year.

2698 5. Any other information requested by the Department of  
 2699 Economic Opportunity.

2700 (b) The Department of Economic Opportunity shall include  
 2701 in its annual report updated demographic information described  
 2702 in subparagraph (2)(a)2., for each certified enterprise zone.

2703 (6) DECERTIFICATION.-A certified enterprise zone shall be  
 2704 decertified by the Department of Economic Opportunity if:



2705 (a) The resolution creating the local enterprise zone  
 2706 program has been repealed.

2707 (b) The local governing body or bodies in whose  
 2708 jurisdiction the certified enterprise zone is located has  
 2709 submitted a written request that the certified enterprise zone  
 2710 be decertified. Such notification must include a resolution,  
 2711 adopted by the governing body or bodies after a public meeting,  
 2712 stating that decertification of the enterprise zone is in the  
 2713 best interest of the community.

2714 Section 33. Subsections (5) and (19) of section 159.27,  
 2715 Florida Statutes, are amended to read:

2716 159.27 Definitions.—The following words and terms, unless  
 2717 the context clearly indicates a different meaning, shall have  
 2718 the following meanings:

2719 (5) "Project" means any capital project comprising an  
 2720 industrial or manufacturing plant, a research and development  
 2721 park, an agricultural processing or storage facility, a  
 2722 warehousing or distribution facility, a headquarters facility, a  
 2723 tourism facility, a convention or trade show facility, an urban  
 2724 parking facility, a trade center, a health care facility, an  
 2725 educational facility, a correctional or detention facility, a  
 2726 motion picture production facility, a preservation or  
 2727 rehabilitation of a certified historic structure, an airport or  
 2728 port facility, a commercial project in a certified ~~an~~ enterprise  
 2729 zone, a pollution-control facility, a hazardous or solid waste  
 2730 facility, a social service center, or a mass commuting facility,

2731 including one or more buildings and other structures, whether or  
 2732 not on the same site or sites; any rehabilitation, improvement,  
 2733 renovation, or enlargement of, or any addition to, any buildings  
 2734 or structures for use as a factory, a mill, a processing plant,  
 2735 an assembly plant, a fabricating plant, an industrial  
 2736 distribution center, a repair, overhaul, or service facility, a  
 2737 test facility, an agricultural processing or storage facility, a  
 2738 warehousing or distribution facility, a headquarters facility, a  
 2739 tourism facility, a convention or trade show facility, an urban  
 2740 parking facility, a trade center, a health care facility, an  
 2741 educational facility, a correctional or detention facility, a  
 2742 motion picture production facility, a preservation or  
 2743 rehabilitation of a certified historic structure, an airport or  
 2744 port facility, a commercial project in a certified ~~an~~ enterprise  
 2745 zone, a pollution-control facility, a hazardous or solid waste  
 2746 facility, a social service center, or a mass commuting facility,  
 2747 and other facilities, including research and development  
 2748 facilities, for manufacturing, processing, assembling,  
 2749 repairing, overhauling, servicing, testing, or handling of any  
 2750 products or commodities embraced in any industrial or  
 2751 manufacturing plant, in connection with the purposes of a  
 2752 research and development park, or other facilities for or used  
 2753 in connection with an agricultural processing or storage  
 2754 facility, a warehousing or distribution facility, a headquarters  
 2755 facility, a tourism facility, a convention or trade show  
 2756 facility, an urban parking facility, a trade center, a health

2757 care facility, an educational facility, a correctional or  
 2758 detention facility, a motion picture production facility, a  
 2759 preservation or rehabilitation of a certified historic  
 2760 structure, an airport or port facility, or a commercial project  
 2761 in a certified ~~an~~ enterprise zone or for controlling air or  
 2762 water pollution or for the disposal, processing, conversion, or  
 2763 reclamation of hazardous or solid waste, a social service  
 2764 center, or a mass commuting facility; and including also the  
 2765 sites thereof and other rights in land therefor whether improved  
 2766 or unimproved, machinery, equipment, site preparation and  
 2767 landscaping, and all appurtenances and facilities incidental  
 2768 thereto, such as warehouses, utilities, access roads, railroad  
 2769 sidings, truck docking and similar facilities, parking  
 2770 facilities, office or storage or training facilities, public  
 2771 lodging and restaurant facilities, dockage, wharfage, solar  
 2772 energy facilities, and other improvements necessary or  
 2773 convenient for any manufacturing or industrial plant, research  
 2774 and development park, agricultural processing or storage  
 2775 facility, warehousing or distribution facility, tourism  
 2776 facility, convention or trade show facility, urban parking  
 2777 facility, trade center, health care facility, educational  
 2778 facility, a correctional or detention facility, motion picture  
 2779 production facility, preservation or rehabilitation of a  
 2780 certified historic structure, airport or port facility,  
 2781 commercial project in a certified ~~an~~ enterprise zone, pollution-  
 2782 control facility, hazardous or solid waste facility, social

2783 service center, or a mass commuting facility and any one or more  
 2784 combinations of the foregoing.

2785 (19) "Commercial project in a certified ~~an~~ enterprise  
 2786 zone" means buildings, building additions or renovations, or  
 2787 other structures to be newly constructed and suitable for use by  
 2788 a commercial enterprise, and includes the site on which such  
 2789 buildings or structures are located, located in a certified ~~an~~  
 2790 ~~area designated as an~~ enterprise zone ~~pursuant to s. 290.0065.~~

2791 Section 34. Subsection (5) of section 159.803, Florida  
 2792 Statutes, is amended to read:

2793 159.803 Definitions.—As used in this part, the term:

2794 (5) "Priority project" means a solid waste disposal  
 2795 facility or a sewage facility, as such terms are defined in s.  
 2796 142 of the Code, or a water facility, as defined in s. 142 of  
 2797 the Code, which is operated by a member-owned, not-for-profit  
 2798 utility, or any project which is to be located in an area which  
 2799 is a certified ~~an~~ enterprise zone ~~designated pursuant to s.~~  
 2800 ~~290.0065.~~

2801 Section 35. Subsection (3) of section 163.2517, Florida  
 2802 Statutes, is amended to read:

2803 163.2517 Designation of urban infill and redevelopment  
 2804 area.—

2805 (3) A local government seeking to designate a geographic  
 2806 area within its jurisdiction as an urban infill and  
 2807 redevelopment area shall prepare a plan that describes the  
 2808 infill and redevelopment objectives of the local government

2809 within the proposed area. In lieu of preparing a new plan, the  
 2810 local government may demonstrate that an existing plan or  
 2811 combination of plans associated with a community redevelopment  
 2812 area, Florida Main Street program, Front Porch Florida  
 2813 Community, sustainable community, certified enterprise zone, or  
 2814 neighborhood improvement district includes the factors listed in  
 2815 paragraphs (a)-(n), including a collaborative and holistic  
 2816 community participation process, or amend such existing plans to  
 2817 include these factors. The plan shall demonstrate the local  
 2818 government and community's commitment to comprehensively address  
 2819 the urban problems within the urban infill and redevelopment  
 2820 area and identify activities and programs to accomplish locally  
 2821 identified goals such as code enforcement; improved educational  
 2822 opportunities; reduction in crime; neighborhood revitalization  
 2823 and preservation; provision of infrastructure needs, including  
 2824 mass transit and multimodal linkages; and mixed-use planning to  
 2825 promote multifunctional redevelopment to improve both the  
 2826 residential and commercial quality of life in the area. The plan  
 2827 shall also:

2828 (a) Contain a map depicting the geographic area or areas  
 2829 to be included within the designation.

2830 (b) Confirm that the infill and redevelopment area is  
 2831 within an area designated for urban uses in the local  
 2832 government's comprehensive plan.

2833 (c) Identify and map existing enterprise zones, community  
 2834 redevelopment areas, community development corporations,

2835 brownfield areas, downtown redevelopment districts, safe  
 2836 neighborhood improvement districts, historic preservation  
 2837 districts, and empowerment zones or enterprise communities  
 2838 located within the area proposed for designation as an urban  
 2839 infill and redevelopment area and provide a framework for  
 2840 coordinating infill and redevelopment programs within the urban  
 2841 core.

2842 (d) Identify a memorandum of understanding between the  
 2843 district school board and the local government jurisdiction  
 2844 regarding public school facilities located within the urban  
 2845 infill and redevelopment area to identify how the school board  
 2846 will provide priority to enhancing public school facilities and  
 2847 programs in the designated area, including the reuse of existing  
 2848 buildings for schools within the area.

2849 (e) Identify each neighborhood within the proposed area  
 2850 and state community preservation and revitalization goals and  
 2851 projects identified through a collaborative and holistic  
 2852 community participation process and how such projects will be  
 2853 implemented.

2854 (f) Identify how the local government and community-based  
 2855 organizations intend to implement affordable housing programs,  
 2856 including, but not limited to, economic and community  
 2857 development programs administered by federal and state agencies,  
 2858 within the urban infill and redevelopment area.

2859 (g) Identify strategies for reducing crime.

2860 (h) If applicable, provide guidelines for the adoption of

2861 land development regulations specific to the urban infill and  
 2862 redevelopment area which include, for example, setbacks and  
 2863 parking requirements appropriate to urban development.

2864 (i) Identify and map any existing transportation  
 2865 concurrency exception areas and any relevant public  
 2866 transportation corridors designated by a metropolitan planning  
 2867 organization in its long-range transportation plans or by the  
 2868 local government in its comprehensive plan for which the local  
 2869 government seeks designation as a transportation concurrency  
 2870 exception area. For those areas, describe how public  
 2871 transportation, pedestrian ways, and bikeways will be  
 2872 implemented as an alternative to increased automobile use.

2873 (j) Identify and adopt a package of financial and local  
 2874 government incentives which the local government will offer for  
 2875 new development, expansion of existing development, and  
 2876 redevelopment within the urban infill and redevelopment area.  
 2877 Examples of such incentives include:

- 2878 1. Waiver of license and permit fees.
- 2879 2. Exemption of sales made in the urban infill and  
 2880 redevelopment area from local option sales surtaxes imposed  
 2881 pursuant to s. 212.055.
- 2882 3. Waiver of delinquent local taxes or fees to promote the  
 2883 return of property to productive use.
- 2884 4. Expedited permitting.
- 2885 5. Lower transportation impact fees for development which  
 2886 encourages more use of public transit, pedestrian, and bicycle

2887 | modes of transportation.

2888 |         6. Prioritization of infrastructure spending within the  
2889 | urban infill and redevelopment area.

2890 |         7. Local government absorption of developers' concurrency  
2891 | costs.

2892 |

2893 | In order to be authorized to recognize the exemption from local  
2894 | option sales surtaxes pursuant to subparagraph 2., the owner,  
2895 | lessee, or lessor of the new development, expanding existing  
2896 | development, or redevelopment within the urban infill and  
2897 | redevelopment area must file an application under oath with the  
2898 | governing body having jurisdiction over the urban infill and  
2899 | redevelopment area where the business is located. The  
2900 | application must include the name and address of the business  
2901 | claiming the exclusion from collecting local option surtaxes; an  
2902 | address and assessment roll parcel number of the urban infill  
2903 | and redevelopment area for which the exemption is being sought;  
2904 | a description of the improvements made to accomplish the new  
2905 | development, expanding development, or redevelopment of the real  
2906 | property; a copy of the building permit application or the  
2907 | building permit issued for the development of the real property;  
2908 | a new application for a certificate of registration with the  
2909 | Department of Revenue with the address of the new development,  
2910 | expanding development, or redevelopment; and the location of the  
2911 | property. The local government must review and approve the  
2912 | application and submit the completed application and



2913 documentation along with a copy of the ordinance adopted  
 2914 pursuant to subsection (5) to the Department of Revenue in order  
 2915 for the business to become eligible to make sales exempt from  
 2916 local option sales surtaxes in the urban infill and  
 2917 redevelopment area.

2918 (k) Identify how activities and incentives within the  
 2919 urban infill and redevelopment area will be coordinated and what  
 2920 administrative mechanism the local government will use for the  
 2921 coordination.

2922 (l) Identify how partnerships with the financial and  
 2923 business community will be developed.

2924 (m) Identify the governance structure that the local  
 2925 government will use to involve community representatives in the  
 2926 implementation of the plan.

2927 (n) Identify performance measures to evaluate the success  
 2928 of the local government in implementing the urban infill and  
 2929 redevelopment plan.

2930 Section 36. Subsection (8) of section 163.503, Florida  
 2931 Statutes, is amended to read:

2932 163.503 Definitions.—

2933 (8) "Certified enterprise zone" means an area certified  
 2934 ~~designated~~ pursuant to s. 290.60 ~~290.0065~~.

2935 Section 37. Section 163.521, Florida Statutes, is amended  
 2936 to read:

2937 163.521 Neighborhood improvement district located in  
 2938 certified ~~inside~~ enterprise zone; funding.—The local governing

2939 body of any municipality or county in which the boundaries of a  
 2940 certified ~~an~~ enterprise zone include a neighborhood improvement  
 2941 district in whole or in part, prior to October 1 of each year,  
 2942 may request the Department of Legal Affairs to submit within its  
 2943 budget request to the Legislature provisions to fund capital  
 2944 improvements. A request may be made for 100 percent of the  
 2945 capital improvement costs for 25 percent of the area of the  
 2946 certified enterprise zone which overlaps the district. The local  
 2947 governing body may also request a 100-percent matching grant for  
 2948 capital improvement costs for the remaining 75 percent of the  
 2949 area of the certified enterprise zone which overlaps the  
 2950 district. Local governments must demonstrate the capacity to  
 2951 implement the project within 2 years after the date of the  
 2952 appropriation. Funds appropriated under this provision may not  
 2953 be expended until after completion and approval of the safe  
 2954 neighborhood improvement plan pursuant to ss. 163.516 and  
 2955 163.519(11). Capital improvements contained within the request  
 2956 submitted by the local governing body must be specifically  
 2957 related to crime prevention through community policing  
 2958 innovations, environmental design, environmental security, and  
 2959 defensible space and must be reviewed by the department for  
 2960 compliance with the principles of crime prevention through  
 2961 community policing innovations, environmental design,  
 2962 environmental security, and defensible space. The department  
 2963 shall rank order all requests received for capital improvements  
 2964 funding based on the necessity of the improvements to the

2965 overall implementation of the safe neighborhood plan; the degree  
 2966 to which the improvements help the plan achieve crime prevention  
 2967 through community policing innovations, environmental design,  
 2968 environmental security, and defensible space objectives; the  
 2969 effect of the improvements on residents of low or moderate  
 2970 income; and the fiscal inability of local government to perform  
 2971 the improvements without state assistance.

2972 Section 38. Subsection (1) of section 163.522, Florida  
 2973 Statutes, is amended to read:

2974 163.522 State redevelopment programs.—

2975 (1) Any county or municipality containing a certified  
 2976 ~~which has nominated an area as an enterprise zone pursuant to s.~~  
 2977 ~~290.0055 which has been so designated pursuant to s. 290.0065~~ is  
 2978 directed to give consideration to the creation of a neighborhood  
 2979 improvement district within said area.

2980 Section 39. Subsection (8) of section 166.231, Florida  
 2981 Statutes, is amended to read:

2982 166.231 Municipalities; public service tax.—

2983 (8)(a) ~~Beginning July 1, 1995,~~ A municipality may by  
 2984 ordinance exempt not less than 50 percent of the tax imposed  
 2985 under this section on purchasers of electrical energy who are  
 2986 located within a certified enterprise zone or determined to be  
 2987 eligible for the exemption provided by s. 212.08(15) by the  
 2988 Department of Revenue. The exemption shall be administered as  
 2989 provided in that section. A copy of any ordinance adopted  
 2990 pursuant to this subsection shall be provided to the Department

2991 of Revenue not less than 14 days prior to its effective date.

2992 (b) If an area submitted for enterprise zone certification  
 2993 ~~that is nominated as an enterprise zone pursuant to s. 290.60~~  
 2994 ~~290.0055~~ has not yet been certified ~~designated pursuant to s.~~  
 2995 ~~290.0065~~, a municipality may enact an ordinance for such  
 2996 exemption; however, the ordinance shall not be effective until  
 2997 such area is certified ~~designated pursuant to s. 290.0065.~~

2998 ~~(c) This subsection expires on the date specified in s.~~  
 2999 ~~290.016 for the expiration of the Florida Enterprise Zone Act,~~  
 3000 ~~except that any qualified business that has satisfied the~~  
 3001 ~~requirements of this subsection before that date shall be~~  
 3002 ~~allowed the full benefit of the exemption allowed under this~~  
 3003 ~~subsection as if this subsection had not expired on that date.~~

3004 Section 40. Paragraphs (a) and (b) of subsection (14),  
 3005 paragraph (b) of subsection (15), and subsection (18) of section  
 3006 196.012, Florida Statutes, are amended to read:

3007 196.012 Definitions.—For the purpose of this chapter, the  
 3008 following terms are defined as follows, except where the context  
 3009 clearly indicates otherwise:

3010 (14) "New business" means:

3011 (a)1. A business or organization establishing 10 or more  
 3012 new jobs to employ 10 or more full-time employees in this state,  
 3013 paying an average wage for such new jobs that is above the  
 3014 average wage in the area, which principally engages in any one  
 3015 or more of the following operations:

3016 a. Manufactures, processes, compounds, fabricates, or

3017 produces for sale items of tangible personal property at a fixed  
 3018 location and which comprises an industrial or manufacturing  
 3019 plant; or

3020 b. Is a target industry business as defined in s.

3021 288.106(2)(n) ~~288.106(2)(g)~~;

3022 2. A business or organization establishing 25 or more new  
 3023 jobs to employ 25 or more full-time employees in this state, the  
 3024 sales factor of which, as defined by s. 220.15(5), for the  
 3025 facility with respect to which it requests an economic  
 3026 development ad valorem tax exemption is less than 0.50 for each  
 3027 year the exemption is claimed; or

3028 3. An office space in this state owned and used by a  
 3029 business or organization newly domiciled in this state; provided  
 3030 such office space houses 50 or more full-time employees of such  
 3031 business or organization; provided that such business or  
 3032 organization office first begins operation on a site clearly  
 3033 separate from any other commercial or industrial operation owned  
 3034 by the same business or organization.

3035 (b) Any business or organization located in a certified an  
 3036 enterprise zone or brownfield area that first begins operation  
 3037 on a site clearly separate from any other commercial or  
 3038 industrial operation owned by the same business or organization.

3039 (15) "Expansion of an existing business" means:

3040 (b) Any business or organization located in a certified an  
 3041 enterprise zone or brownfield area that increases operations on  
 3042 a site located within the same zone or area colocated with a

3043 commercial or industrial operation owned by the same business or  
 3044 organization under common control with the same business or  
 3045 organization.

3046 (18) "Certified enterprise zone" means an enterprise zone  
 3047 certified area designated as an enterprise zone pursuant to s.  
 3048 290.60 ~~290.0065~~. ~~This subsection expires on the date specified~~  
 3049 ~~in s. 290.016 for the expiration of the Florida Enterprise Zone~~  
 3050 ~~Act.~~

3051 Section 41. Section 196.095, Florida Statutes, is amended  
 3052 to read:

3053 196.095 Exemption for a licensed child care facility  
 3054 operating in a certified ~~an~~ enterprise zone.-

3055 (1) Any real estate used and owned as a child care  
 3056 facility as defined in s. 402.302 which operates in a certified  
 3057 ~~an~~ enterprise zone pursuant to chapter 290 is exempt from  
 3058 taxation.

3059 (2) To claim a certified ~~an~~ enterprise zone child care  
 3060 property tax exemption authorized by this section, a child care  
 3061 facility must file an application under oath with the governing  
 3062 body ~~or enterprise zone development agency~~ having jurisdiction  
 3063 over the certified enterprise zone where the child care center  
 3064 is located. Within 10 working days after receipt of an  
 3065 application, the governing body ~~or enterprise zone development~~  
 3066 ~~agency~~ shall review the application to determine if it contains  
 3067 all the information required pursuant to this section and meets  
 3068 the criteria set out in this section. The governing body or

3069 | agency shall certify all applications that contain the  
 3070 | information required pursuant to this section and meet the  
 3071 | criteria set out in this section as eligible to receive an ad  
 3072 | valorem tax exemption. The child care center shall be  
 3073 | responsible for forwarding all application materials to the  
 3074 | governing body ~~or enterprise zone development agency~~.

3075 |         (3) The production by the child care facility operator of  
 3076 | a current license by the Department of Children and Families or  
 3077 | local licensing authority and certification by the governing  
 3078 | body ~~or enterprise zone~~ where the child care center is located  
 3079 | is prima facie evidence that the child care facility owner is  
 3080 | entitled to such exemptions.

3081 |         Section 42. Subsections (3) and (5) of section 196.1995,  
 3082 | Florida Statutes, are amended to read:

3083 |         196.1995 Economic development ad valorem tax exemption.—

3084 |         (3) The board of county commissioners or the governing  
 3085 | authority of the municipality that calls a referendum within its  
 3086 | total jurisdiction to determine whether its respective  
 3087 | jurisdiction may grant economic development ad valorem tax  
 3088 | exemptions may vote to limit the effect of the referendum to  
 3089 | authority to grant economic development tax exemptions for new  
 3090 | businesses and expansions of existing businesses located in a  
 3091 | certified ~~an~~ enterprise zone or a brownfield area, as defined in  
 3092 | s. 376.79(4). If an area submitted for enterprise zone  
 3093 | certification ~~nominated to be an enterprise zone~~ pursuant to s.  
 3094 | 290.60 ~~290.0055~~ has not yet been certified ~~designated~~ pursuant

3095 ~~to s. 290.0065~~, the board of county commissioners or the  
 3096 governing authority of the municipality may call such referendum  
 3097 prior to such certification ~~designation~~; however, the authority  
 3098 to grant economic development ad valorem tax exemptions does not  
 3099 apply until such area is certified ~~designated pursuant to s.~~  
 3100 ~~290.0065~~. The ballot question in such referendum shall be in  
 3101 substantially the following form and shall be used in lieu of  
 3102 the ballot question prescribed in subsection (2):  
 3103 Shall the board of county commissioners of this county (or the  
 3104 governing authority of this municipality, or both) be authorized  
 3105 to grant, pursuant to s. 3, Art. VII of the State Constitution,  
 3106 property tax exemptions for new businesses and expansions of  
 3107 existing businesses that are located in a certified ~~an~~  
 3108 enterprise zone or a brownfield area and that are expected to  
 3109 create new, full-time jobs in the county (or municipality, or  
 3110 both)?  
 3111       ....Yes-For authority to grant exemptions.  
 3112       ....No-Against authority to grant exemptions.  
 3113       (5) Upon a majority vote in favor of such authority, the  
 3114 board of county commissioners or the governing authority of the  
 3115 municipality, at its discretion, by ordinance may exempt from ad  
 3116 valorem taxation up to 100 percent of the assessed value of all  
 3117 improvements to real property made by or for the use of a new  
 3118 business and of all tangible personal property of such new  
 3119 business, or up to 100 percent of the assessed value of all  
 3120 added improvements to real property made to facilitate the



3121 expansion of an existing business and of the net increase in all  
 3122 tangible personal property acquired to facilitate such expansion  
 3123 of an existing business. To qualify for this exemption, the  
 3124 improvements to real property must be made or the tangible  
 3125 personal property must be added or increased after approval by  
 3126 motion or resolution of the local governing body, subject to  
 3127 ordinance adoption or on or after the day the ordinance is  
 3128 adopted. However, if the authority to grant exemptions is  
 3129 approved in a referendum in which the ballot question contained  
 3130 in subsection (3) appears on the ballot, the authority of the  
 3131 board of county commissioners or the governing authority of the  
 3132 municipality to grant exemptions is limited solely to new  
 3133 businesses and expansions of existing businesses that are  
 3134 located in a certified ~~an~~ enterprise zone or brownfield area.  
 3135 Property acquired to replace existing property shall not be  
 3136 considered to facilitate a business expansion. The exemption  
 3137 applies only to taxes levied by the respective unit of  
 3138 government granting the exemption. The exemption does not apply,  
 3139 however, to taxes levied for the payment of bonds or to taxes  
 3140 authorized by a vote of the electors pursuant to s. 9(b) or s.  
 3141 12, Art. VII of the State Constitution. Any such exemption shall  
 3142 remain in effect for up to 10 years with respect to any  
 3143 particular facility, regardless of any change in the authority  
 3144 of the county or municipality to grant such exemptions. The  
 3145 exemption shall not be prolonged or extended by granting  
 3146 exemptions from additional taxes or by virtue of any

3147 reorganization or sale of the business receiving the exemption.

3148 Section 43. Subsection (4) of section 205.022, Florida  
 3149 Statutes, is amended to read:

3150 205.022 Definitions.—When used in this chapter, the  
 3151 following terms and phrases shall have the meanings ascribed to  
 3152 them in this section, except when the context clearly indicates  
 3153 a different meaning:

3154 (4) "Certified enterprise zone" means an area certified  
 3155 ~~designated~~ as an enterprise zone pursuant to s. 290.60 ~~290.0065~~.  
 3156 ~~This subsection expires on the date specified in s. 290.016 for~~  
 3157 ~~the expiration of the Florida Enterprise Zone Act.~~

3158 Section 44. Section 205.054, Florida Statutes, is amended  
 3159 to read:

3160 205.054 Business tax; partial exemption for engaging in  
 3161 business or occupation in certified enterprise zone.—

3162 (1) Notwithstanding the provisions of s. 205.033(1)(a) or  
 3163 s. 205.043(1)(a), the governing body of a county or municipality  
 3164 may authorize by appropriate resolution or ordinance, adopted  
 3165 pursuant to the procedure established in s. 205.032 or s.  
 3166 205.042, the exemption of 50 percent of the business tax levied  
 3167 for the privilege of engaging in or managing any business,  
 3168 profession, or occupation in the respective jurisdiction of the  
 3169 county or municipality when such privilege is exercised at a  
 3170 permanent business location or branch office located in a  
 3171 certified ~~an~~ enterprise zone.

3172 (2) Such exemption applies to each classification for

3173 | which a business tax receipt is required in the jurisdiction.  
 3174 | Classifications shall be the same in a certified ~~an~~ enterprise  
 3175 | zone as elsewhere in the jurisdiction. Each county or municipal  
 3176 | business tax receipt issued with the exemption authorized in  
 3177 | this section shall be in the same general form as the other  
 3178 | county or municipal business tax receipts and shall expire at  
 3179 | the same time as those other receipts expire as fixed by law.  
 3180 | Any receipt issued with the exemption authorized in this section  
 3181 | is nontransferable. The exemption authorized in this section  
 3182 | does not apply to any penalty authorized in s. 205.053.

3183 |       (3) Each tax collecting authority of a county or  
 3184 | municipality which provides the exemption authorized in this  
 3185 | section shall issue to each person who may be entitled to the  
 3186 | exemption a receipt pursuant to the provisions contained in this  
 3187 | section. Before a receipt with such exemption is issued to an  
 3188 | applicant, the tax collecting authority must, in each case, be  
 3189 | provided proof that the applicant is entitled to such exemption.  
 3190 | Such proof shall be made by means of a statement filed under  
 3191 | oath with the tax collecting authority, which statement  
 3192 | indicates that the permanent business location or branch office  
 3193 | of the applicant is located in a certified ~~an~~ enterprise zone of  
 3194 | a jurisdiction which has authorized the exemption permitted in  
 3195 | this section.

3196 |       (4) Any receipt obtained with the exemption authorized in  
 3197 | this subsection by the commission of fraud upon the issuing  
 3198 | authority is void. Any person who has fraudulently obtained such

3199 exemption and thereafter engages, under color of the receipt, in  
 3200 any business, profession, or occupation requiring the business  
 3201 tax receipt is subject to prosecution for engaging in a  
 3202 business, profession, or occupation without having the required  
 3203 receipt under the laws of the state.

3204 (5) If an area has been submitted for certification  
 3205 ~~nominated~~ as an enterprise zone pursuant to s. 290.60 ~~290.0055~~  
 3206 ~~has not yet been designated pursuant to s. 290.0065~~, the  
 3207 governing body of a county or municipality may enact the  
 3208 appropriate ordinance or resolution authorizing the exemption  
 3209 permitted in this section; however, such ordinance or resolution  
 3210 will not be effective until such area is certified ~~designated~~  
 3211 pursuant to s. 290.60 ~~290.0065~~.

3212 ~~(6) This section expires on the date specified in s.~~  
 3213 ~~290.016 for the expiration of the Florida Enterprise Zone Act;~~  
 3214 ~~and a receipt may not be issued with the exemption authorized in~~  
 3215 ~~this section for any period beginning on or after that date.~~

3216 Section 45. Subsection (6) of section 212.02, Florida  
 3217 Statutes, is amended to read:

3218 212.02 Definitions.—The following terms and phrases when  
 3219 used in this chapter have the meanings ascribed to them in this  
 3220 section, except where the context clearly indicates a different  
 3221 meaning:

3222 (6) "Certified enterprise zone" means an enterprise zone  
 3223 certified ~~an area of the state designated~~ pursuant to s. 290.60  
 3224 ~~290.0065. This subsection expires on the date specified in s.~~

3225 | ~~290.016 for the expiration of the Florida Enterprise Zone Act.~~

3226 | Section 46. Paragraphs (o) and (p) of subsection (5) of  
 3227 | section 212.08, Florida Statutes, are amended to read:

3228 | 212.08 Sales, rental, use, consumption, distribution, and  
 3229 | storage tax; specified exemptions.—The sale at retail, the  
 3230 | rental, the use, the consumption, the distribution, and the  
 3231 | storage to be used or consumed in this state of the following  
 3232 | are hereby specifically exempt from the tax imposed by this  
 3233 | chapter.

3234 | (5) EXEMPTIONS; ACCOUNT OF USE.—

3235 | (o) Building materials in redevelopment projects.—

3236 | 1. As used in this paragraph, the term:

3237 | a. "Building materials" means tangible personal property  
 3238 | that becomes a component part of a housing project or a mixed-  
 3239 | use project.

3240 | b. "Housing project" means the conversion of an existing  
 3241 | manufacturing or industrial building to a housing unit which is  
 3242 | in an urban high-crime area, a certified ~~an~~ enterprise zone, an  
 3243 | empowerment zone, a Front Porch Community, a designated  
 3244 | brownfield site for which a rehabilitation agreement with the  
 3245 | Department of Environmental Protection or a local government  
 3246 | delegated by the Department of Environmental Protection has been  
 3247 | executed under s. 376.80 and any abutting real property parcel  
 3248 | within a brownfield area, or an urban infill area; and in which  
 3249 | the developer agrees to set aside at least 20 percent of the  
 3250 | housing units in the project for low-income and moderate-income

3251 persons or the construction in a designated brownfield area of  
 3252 affordable housing for persons described in s. 420.0004(9),  
 3253 (11), (12), or (17) or in s. 159.603(7).

3254 c. "Mixed-use project" means the conversion of an existing  
 3255 manufacturing or industrial building to mixed-use units that  
 3256 include artists' studios, art and entertainment services, or  
 3257 other compatible uses. A mixed-use project must be located in an  
 3258 urban high-crime area, a certified ~~an~~ enterprise zone, an  
 3259 empowerment zone, a Front Porch Community, a designated  
 3260 brownfield site for which a rehabilitation agreement with the  
 3261 Department of Environmental Protection or a local government  
 3262 delegated by the Department of Environmental Protection has been  
 3263 executed under s. 376.80 and any abutting real property parcel  
 3264 within a brownfield area, or an urban infill area; and the  
 3265 developer must agree to set aside at least 20 percent of the  
 3266 square footage of the project for low-income and moderate-income  
 3267 housing.

3268 d. "Substantially completed" has the same meaning as  
 3269 provided in s. 192.042(1).

3270 2. Building materials used in the construction of a  
 3271 housing project or mixed-use project are exempt from the tax  
 3272 imposed by this chapter upon an affirmative showing to the  
 3273 satisfaction of the department that the requirements of this  
 3274 paragraph have been met. This exemption inures to the owner  
 3275 through a refund of previously paid taxes. To receive this  
 3276 refund, the owner must file an application under oath with the

3277 department which includes:

3278       a. The name and address of the owner.

3279       b. The address and assessment roll parcel number of the

3280 project for which a refund is sought.

3281       c. A copy of the building permit issued for the project.

3282       d. A certification by the local building code inspector

3283 that the project is substantially completed.

3284       e. A sworn statement, under penalty of perjury, from the

3285 general contractor licensed in this state with whom the owner

3286 contracted to construct the project, which statement lists the

3287 building materials used in the construction of the project and

3288 the actual cost thereof, and the amount of sales tax paid on

3289 these materials. If a general contractor was not used, the owner

3290 shall provide this information in a sworn statement, under

3291 penalty of perjury. Copies of invoices evidencing payment of

3292 sales tax must be attached to the sworn statement.

3293       3. An application for a refund under this paragraph must

3294 be submitted to the department within 6 months after the date

3295 the project is deemed to be substantially completed by the local

3296 building code inspector. Within 30 working days after receipt of

3297 the application, the department shall determine if it meets the

3298 requirements of this paragraph. A refund approved pursuant to

3299 this paragraph shall be made within 30 days after formal

3300 approval of the application by the department.

3301       4. The department shall establish by rule an application

3302 form and criteria for establishing eligibility for exemption

3303 under this paragraph.

3304 5. The exemption shall apply to purchases of materials on  
3305 or after July 1, 2000.

3306 (p) Community contribution tax credit for donations.—

3307 1. Authorization.—Persons who are registered with the  
3308 department under s. 212.18 to collect or remit sales or use tax  
3309 and who make donations to eligible sponsors are eligible for tax  
3310 credits against their state sales and use tax liabilities as  
3311 provided in this paragraph:

3312 a. The credit shall be computed as 50 percent of the  
3313 person's approved annual community contribution.

3314 b. The credit shall be granted as a refund against state  
3315 sales and use taxes reported on returns and remitted in the 12  
3316 months preceding the date of application to the department for  
3317 the credit as required in sub-subparagraph 3.c. If the annual  
3318 credit is not fully used through such refund because of  
3319 insufficient tax payments during the applicable 12-month period,  
3320 the unused amount may be included in an application for a refund  
3321 made pursuant to sub-subparagraph 3.c. in subsequent years  
3322 against the total tax payments made for such year. Carryover  
3323 credits may be applied for a 3-year period without regard to any  
3324 time limitation that would otherwise apply under s. 215.26.

3325 c. A person may not receive more than \$200,000 in annual  
3326 tax credits for all approved community contributions made in any  
3327 one year.

3328 d. All proposals for the granting of the tax credit



3329 require the prior approval of the Department of Economic  
 3330 Opportunity.

3331 e. The total amount of tax credits which may be granted  
 3332 for all programs approved under this paragraph, s. 220.183, and  
 3333 s. 624.5105 is \$18.4 million annually for projects that provide  
 3334 homeownership opportunities for low-income households or very-  
 3335 low-income households as those terms are defined in s. 420.9071  
 3336 and \$3.5 million annually for all other projects.

3337 f. A person who is eligible to receive the credit provided  
 3338 in this paragraph, s. 220.183, or s. 624.5105 may receive the  
 3339 credit only under one section of the person's choice.

3340 2. Eligibility requirements.-

3341 a. A community contribution by a person must be in the  
 3342 following form:

- 3343 (I) Cash or other liquid assets;
- 3344 (II) Real property;
- 3345 (III) Goods or inventory; or
- 3346 (IV) Other physical resources identified by the Department  
 3347 of Economic Opportunity.

3348 b. All community contributions must be reserved  
 3349 exclusively for use in a project. As used in this sub-  
 3350 subparagraph, the term "project" means activity undertaken by an  
 3351 eligible sponsor which is designed to construct, improve, or  
 3352 substantially rehabilitate housing that is affordable to low-  
 3353 income households or very-low-income households as those terms  
 3354 are defined in s. 420.9071; designed to provide commercial,

3355 industrial, or public resources and facilities; or designed to  
 3356 improve entrepreneurial and job-development opportunities for  
 3357 low-income persons. A project may be the investment necessary to  
 3358 increase access to high-speed broadband capability in rural  
 3359 communities with enterprise zones, including projects that  
 3360 result in improvements to communications assets that are owned  
 3361 by a business. A project may include the provision of museum  
 3362 educational programs and materials that are directly related to  
 3363 a project approved between January 1, 1996, and December 31,  
 3364 1999, and located in a certified ~~an~~ enterprise zone ~~designated~~  
 3365 ~~pursuant to s. 290.0065~~. This paragraph does not preclude  
 3366 projects that propose to construct or rehabilitate housing for  
 3367 low-income households or very-low-income households on scattered  
 3368 sites. With respect to housing, contributions may be used to pay  
 3369 the following eligible low-income and very-low-income housing-  
 3370 related activities:

- 3371 (I) Project development impact and management fees for
- 3372 low-income or very-low-income housing projects;
- 3373 (II) Down payment and closing costs for low-income persons
- 3374 and very-low-income persons, as those terms are defined in s.
- 3375 420.9071;
- 3376 (III) Administrative costs, including housing counseling
- 3377 and marketing fees, not to exceed 10 percent of the community
- 3378 contribution, directly related to low-income or very-low-income
- 3379 projects; and
- 3380 (IV) Removal of liens recorded against residential

3381 property by municipal, county, or special district local  
 3382 governments if satisfaction of the lien is a necessary precedent  
 3383 to the transfer of the property to a low-income person or very-  
 3384 low-income person, as those terms are defined in s. 420.9071,  
 3385 for the purpose of promoting home ownership. Contributions for  
 3386 lien removal must be received from a nonrelated third party.

3387 c. The project must be undertaken by an "eligible  
 3388 sponsor," which includes:

3389 (I) A community action program;

3390 (II) A nonprofit community-based development organization  
 3391 whose mission is the provision of housing for low-income  
 3392 households or very-low-income households or increasing  
 3393 entrepreneurial and job-development opportunities for low-income  
 3394 persons;

3395 (III) A neighborhood housing services corporation;

3396 (IV) A local housing authority created under chapter 421;

3397 (V) A community redevelopment agency created under s.  
 3398 163.356;

3399 (VI) A historic preservation district agency or  
 3400 organization;

3401 (VII) A regional workforce board;

3402 (VIII) A direct-support organization as provided in s.  
 3403 1009.983;

3404 (IX) An enterprise zone development agency created under  
 3405 s. 290.0056;

3406 (X) A community-based organization incorporated under

3407 chapter 617 which is recognized as educational, charitable, or  
 3408 scientific pursuant to s. 501(c)(3) of the Internal Revenue Code  
 3409 and whose bylaws and articles of incorporation include  
 3410 affordable housing, economic development, or community  
 3411 development as the primary mission of the corporation;  
 3412 (XI) Units of local government;  
 3413 (XII) Units of state government; or  
 3414 (XIII) Any other agency that the Department of Economic  
 3415 Opportunity designates by rule.

3416

3417 A contributing person may not have a financial interest in the  
 3418 eligible sponsor.

3419 d. The project must be located in an area designated a  
 3420 certified ~~an~~ enterprise zone or a Front Porch Florida Community,  
 3421 unless the project increases access to high-speed broadband  
 3422 capability for rural communities that have enterprise zones but  
 3423 is physically located outside the designated rural zone  
 3424 boundaries. Any project designed to construct or rehabilitate  
 3425 housing for low-income households or very-low-income households  
 3426 as those terms are defined in s. 420.9071 is exempt from the  
 3427 area requirement of this sub-subparagraph.

3428 e.(I) If, during the first 10 business days of the state  
 3429 fiscal year, eligible tax credit applications for projects that  
 3430 provide homeownership opportunities for low-income households or  
 3431 very-low-income households as those terms are defined in s.  
 3432 420.9071 are received for less than the annual tax credits

3433 available for those projects, the Department of Economic  
 3434 Opportunity shall grant tax credits for those applications and  
 3435 grant remaining tax credits on a first-come, first-served basis  
 3436 for subsequent eligible applications received before the end of  
 3437 the state fiscal year. If, during the first 10 business days of  
 3438 the state fiscal year, eligible tax credit applications for  
 3439 projects that provide homeownership opportunities for low-income  
 3440 households or very-low-income households as those terms are  
 3441 defined in s. 420.9071 are received for more than the annual tax  
 3442 credits available for those projects, the Department of Economic  
 3443 Opportunity shall grant the tax credits for those applications  
 3444 as follows:

3445 (A) If tax credit applications submitted for approved  
 3446 projects of an eligible sponsor do not exceed \$200,000 in total,  
 3447 the credits shall be granted in full if the tax credit  
 3448 applications are approved.

3449 (B) If tax credit applications submitted for approved  
 3450 projects of an eligible sponsor exceed \$200,000 in total, the  
 3451 amount of tax credits granted pursuant to sub-sub-sub-  
 3452 subparagraph (A) shall be subtracted from the amount of  
 3453 available tax credits, and the remaining credits shall be  
 3454 granted to each approved tax credit application on a pro rata  
 3455 basis.

3456 (II) If, during the first 10 business days of the state  
 3457 fiscal year, eligible tax credit applications for projects other  
 3458 than those that provide homeownership opportunities for low-

3459 income households or very-low-income households as those terms  
 3460 are defined in s. 420.9071 are received for less than the annual  
 3461 tax credits available for those projects, the Department of  
 3462 Economic Opportunity shall grant tax credits for those  
 3463 applications and shall grant remaining tax credits on a first-  
 3464 come, first-served basis for subsequent eligible applications  
 3465 received before the end of the state fiscal year. If, during the  
 3466 first 10 business days of the state fiscal year, eligible tax  
 3467 credit applications for projects other than those that provide  
 3468 homeownership opportunities for low-income households or very-  
 3469 low-income households as those terms are defined in s. 420.9071  
 3470 are received for more than the annual tax credits available for  
 3471 those projects, the Department of Economic Opportunity shall  
 3472 grant the tax credits for those applications on a pro rata  
 3473 basis.

3474 3. Application requirements.—

3475 a. Any eligible sponsor seeking to participate in this  
 3476 program must submit a proposal to the Department of Economic  
 3477 Opportunity which sets forth the name of the sponsor, a  
 3478 description of the project, and the area in which the project is  
 3479 located, together with such supporting information as is  
 3480 prescribed by rule. The proposal must also contain a resolution  
 3481 from the local governmental unit in which the project is located  
 3482 certifying that the project is consistent with local plans and  
 3483 regulations.

3484 b. Any person seeking to participate in this program must

3485 submit an application for tax credit to the Department of  
 3486 Economic Opportunity which sets forth the name of the sponsor, a  
 3487 description of the project, and the type, value, and purpose of  
 3488 the contribution. The sponsor shall verify, in writing, the  
 3489 terms of the application and indicate its receipt of the  
 3490 contribution, and such verification must accompany the  
 3491 application for tax credit. The person must submit a separate  
 3492 tax credit application to the Department of Economic Opportunity  
 3493 for each individual contribution that it makes to each  
 3494 individual project.

3495 c. Any person who has received notification from the  
 3496 Department of Economic Opportunity that a tax credit has been  
 3497 approved must apply to the department to receive the refund.  
 3498 Application must be made on the form prescribed for claiming  
 3499 refunds of sales and use taxes and be accompanied by a copy of  
 3500 the notification. A person may submit only one application for  
 3501 refund to the department within a 12-month period.

3502 4. Administration.—

3503 a. The Department of Economic Opportunity may adopt rules  
 3504 necessary to administer this paragraph, including rules for the  
 3505 approval or disapproval of proposals by a person.

3506 b. The decision of the Department of Economic Opportunity  
 3507 must be in writing, and, if approved, the notification shall  
 3508 state the maximum credit allowable to the person. Upon approval,  
 3509 the Department of Economic Opportunity shall transmit a copy of  
 3510 the decision to the department.

3511 c. The Department of Economic Opportunity shall  
 3512 periodically monitor all projects in a manner consistent with  
 3513 available resources to ensure that resources are used in  
 3514 accordance with this paragraph; however, each project must be  
 3515 reviewed at least once every 2 years.

3516 d. The Department of Economic Opportunity shall, in  
 3517 consultation with the statewide and regional housing and  
 3518 financial intermediaries, market the availability of the  
 3519 community contribution tax credit program to community-based  
 3520 organizations.

3521 5. Expiration.—This paragraph expires June 30, 2016;  
 3522 however, any accrued credit carryover that is unused on that  
 3523 date may be used until the expiration of the 3-year carryover  
 3524 period for such credit.

3525 Section 47. Paragraph (d) of subsection (2) of section  
 3526 220.183, Florida Statutes, is amended to read:

3527 220.183 Community contribution tax credit.—

3528 (2) ELIGIBILITY REQUIREMENTS.—

3529 (d) The project shall be located in a certified ~~an area~~  
 3530 ~~designated as an~~ enterprise zone or a Front Porch Florida  
 3531 Community. Any project designed to construct or rehabilitate  
 3532 housing for low-income or very-low-income households as defined  
 3533 in s. 420.9071(19) and (28) is exempt from the area requirement  
 3534 of this paragraph. This section does not preclude projects that  
 3535 propose to construct or rehabilitate housing for low-income or  
 3536 very-low-income households on scattered sites. Any project



3537 designed to provide increased access to high-speed broadband  
 3538 capabilities which includes coverage of a rural enterprise zone  
 3539 may locate the project's infrastructure in any area of a rural  
 3540 county.

3541 Section 48. Paragraphs (a) and (b) of subsection (2) of  
 3542 section 288.0001, Florida Statutes, are amended to read:

3543 288.0001 Economic Development Programs Evaluation.—The  
 3544 Office of Economic and Demographic Research and the Office of  
 3545 Program Policy Analysis and Government Accountability (OPPAGA)  
 3546 shall develop and present to the Governor, the President of the  
 3547 Senate, the Speaker of the House of Representatives, and the  
 3548 chairs of the legislative appropriations committees the Economic  
 3549 Development Programs Evaluation.

3550 (2) The Office of Economic and Demographic Research and  
 3551 OPPAGA shall provide a detailed analysis of economic development  
 3552 programs as provided in the following schedule:

3553 (a) By January 1, 2014, and every 3 years thereafter, an  
 3554 analysis of the following:

3555 1. The capital investment tax credit established under s.  
 3556 220.191.

3557 2. The qualified target industry tax refund established  
 3558 under s. 288.106.

3559 3. The brownfield redevelopment bonus refund established  
 3560 under s. 288.107.

3561 4. High-impact business performance grants established  
 3562 under s. 288.108.

3563 5. The Quick Action Closing Fund established under s.  
3564 288.1088.

3565 6. The Innovation Incentive Program established under s.  
3566 288.1089.

3567 7. Enterprise zone program incentives established under  
3568 ss. 212.08(5) and (15), 212.096, 220.181, and 220.182.

3569 8. The New Markets Development Program established under  
3570 ss. 288.991-288.9922.

3571 9. The enterprise zone certification program established  
3572 under s. 290.60.

3573 (b) By January 1, 2015, and every 3 years thereafter, an  
3574 analysis of the following:

3575 1. The entertainment industry financial incentive program  
3576 established under s. 288.1254.

3577 2. The entertainment industry sales tax exemption program  
3578 established under s. 288.1258.

3579 3. The Florida Tourism Industry Marketing Corporation  
3580 ~~VISIT Florida~~ and its programs established or funded under ss.  
3581 288.122, 288.1226, 288.12265, and 288.124.

3582 4. The Florida Sports Foundation and related programs  
3583 established under ss. 288.1162, 288.11621, 288.1166, 288.1167,  
3584 ~~288.1168, 288.1169,~~ and 288.1171.

3585 Section 49. Subsection (3) of section 288.018, Florida  
3586 Statutes, is amended to read:

3587 288.018 Regional Rural Development Grants Program.—

3588 (3) The department may also contract for the development

3589 of a certified ~~an~~ enterprise zone web portal or websites for  
 3590 each certified enterprise zone which will be used to market the  
 3591 program for job creation in disadvantaged urban and rural  
 3592 certified enterprise zones. Each certified enterprise zone web  
 3593 page should include downloadable links to state forms and  
 3594 information, as well as local message boards that help  
 3595 businesses and residents receive information concerning zone  
 3596 boundaries, job openings, zone programs, and neighborhood  
 3597 improvement activities.

3598 Section 50. Subsection (4) of section 288.047, Florida  
 3599 Statutes, is amended to read:

3600 288.047 Quick-response training for economic development.—

3601 (4) For the first 6 months of each fiscal year, Workforce  
 3602 Florida, Inc., shall set aside 30 percent of the amount  
 3603 appropriated for the Quick-Response Training Program by the  
 3604 Legislature to fund instructional programs for businesses  
 3605 located in a certified ~~an~~ enterprise zone or brownfield area.  
 3606 Any unencumbered funds remaining undisbursed from this set-aside  
 3607 at the end of the 6-month period may be used to provide funding  
 3608 for any program qualifying for funding pursuant to this section.

3609 Section 51. Paragraph (b) of subsection (2) of section  
 3610 288.11621, Florida Statutes, is amended to read:

3611 288.11621 Spring training baseball franchises.—

3612 (2) CERTIFICATION PROCESS.—

3613 (b) The department shall competitively evaluate  
 3614 applications for state funding of a facility for a spring

3615 training franchise. The total number of certifications may not  
 3616 exceed 10 at any time. The evaluation criteria must include,  
 3617 with priority given in descending order to, the following items:

3618 1. The anticipated effect on the economy of the local  
 3619 community where the spring training facility is to be built,  
 3620 including projections on paid attendance, local and state tax  
 3621 collections generated by spring training games, and direct and  
 3622 indirect job creation resulting from the spring training  
 3623 activities. Priority shall be given to applicants who can  
 3624 demonstrate the largest projected economic impact.

3625 2. The amount of the local matching funds committed to a  
 3626 facility relative to the amount of state funding sought, with  
 3627 priority given to applicants that commit the largest amount of  
 3628 local matching funds relative to the amount of state funding  
 3629 sought.

3630 3. The potential for the facility to serve multiple uses.

3631 4. The intended use of the funds by the applicant, with  
 3632 priority given to the funds being used to acquire a facility,  
 3633 construct a new facility, or renovate an existing facility.

3634 5. The length of time that a spring training franchise has  
 3635 been under an agreement to conduct spring training activities  
 3636 within an applicant's geographic location or jurisdiction, with  
 3637 priority given to applicants having agreements with the same  
 3638 franchise for the longest period of time.

3639 6. The length of time that an applicant's facility has  
 3640 been used by one or more spring training franchises, with

3641 priority given to applicants whose facilities have been in  
 3642 continuous use as facilities for spring training the longest.

3643 7. The term remaining on a lease between an applicant and  
 3644 a spring training franchise for a facility, with priority given  
 3645 to applicants having the shortest lease terms remaining.

3646 8. The length of time that a spring training franchise  
 3647 agrees to use an applicant's facility if an application is  
 3648 granted under this section, with priority given to applicants  
 3649 having agreements for the longest future use.

3650 9. The net increase of total active recreation space owned  
 3651 by the applicant after an acquisition of land for the facility,  
 3652 with priority given to applicants having the largest percentage  
 3653 increase of total active recreation space that will be available  
 3654 for public use.

3655 10. The location of the facility in a brownfield, a  
 3656 certified ~~an~~ enterprise zone, a community redevelopment area, or  
 3657 other area of targeted development or revitalization included in  
 3658 an urban infill redevelopment plan, with priority given to  
 3659 applicants having facilities located in these areas.

3660 Section 52. Paragraph (b) of subsection (2) of section  
 3661 288.11631, Florida Statutes, is amended to read:

3662 288.11631 Retention of Major League Baseball spring  
 3663 training baseball franchises.—

3664 (2) CERTIFICATION PROCESS.—

3665 (b) The department shall evaluate applications for state  
 3666 funding of the construction or renovation of the facility for a

3667 spring training franchise. The evaluation criteria must include  
 3668 the following items:

3669 1. The anticipated effect on the economy of the local  
 3670 community where the facility is to be constructed or renovated,  
 3671 including projections on paid attendance, local and state tax  
 3672 collections generated by spring training games, and direct and  
 3673 indirect job creation resulting from the spring training  
 3674 activities.

3675 2. The amount of the local matching funds committed to a  
 3676 facility relative to the amount of state funding sought.

3677 3. The potential for the facility to be used as a multiple  
 3678 purpose, year-round facility.

3679 4. The intended use of the funds by the applicant.

3680 5. The length of time that a spring training franchise has  
 3681 been under an agreement to conduct spring training activities  
 3682 within an applicant's geographic location or jurisdiction.

3683 6. The length of time that an applicant's facility has  
 3684 been used by one or more spring training franchises, including  
 3685 continuous use as facilities for spring training.

3686 7. The term remaining on a lease between an applicant and  
 3687 a spring training franchise for a facility.

3688 8. The length of time that a spring training franchise  
 3689 agrees to use an applicant's facility if an application is  
 3690 granted under this section.

3691 9. The location of the facility in a brownfield, a  
 3692 certified ~~an~~ enterprise zone, a community redevelopment area, or

3693 other area of targeted development or revitalization included in  
 3694 an urban infill redevelopment plan.

3695 Section 53. Paragraph (f) of subsection (2) of section  
 3696 339.2821, Florida Statutes, is amended to read:

3697 339.2821 Economic development transportation projects.—

3698 (2) The department, in consultation with the Department of  
 3699 Economic Opportunity, shall review each transportation project  
 3700 for approval and funding. In the review, the department must  
 3701 consider:

3702 (f) The location of the transportation project in a  
 3703 certified ~~an~~ enterprise zone ~~as designated in s. 290.0055;~~

3704  
 3705 The department may contact any agency it deems appropriate for  
 3706 additional information regarding the approval of a  
 3707 transportation project. A transportation project must be  
 3708 approved by the department to be eligible for funding.

3709 Section 54. Paragraph (a) of subsection (3) of section  
 3710 403.973, Florida Statutes, is amended to read:

3711 403.973 Expedited permitting; amendments to comprehensive  
 3712 plans.—

3713 (3)(a) The secretary shall direct the creation of regional  
 3714 permit action teams for the purpose of expediting review of  
 3715 permit applications and local comprehensive plan amendments  
 3716 submitted by:

3717 1. Businesses creating at least 50 jobs or a commercial or  
 3718 industrial development project that will be occupied by

3719 businesses that would individually or collectively create at  
 3720 least 50 jobs; or

3721 2. Businesses creating at least 25 jobs if the project is  
 3722 located in a certified ~~an~~ enterprise zone, or in a county having  
 3723 a population of fewer than 75,000 or in a county having a  
 3724 population of fewer than 125,000 which is contiguous to a county  
 3725 having a population of fewer than 75,000, as determined by the  
 3726 most recent decennial census, residing in incorporated and  
 3727 unincorporated areas of the county.

3728 Section 55. Paragraph (b) of subsection (6) of section  
 3729 624.509, Florida Statutes, is amended to read:

3730 624.509 Premium tax; rate and computation.—

3731 (6)

3732 (b) To the extent that any credits granted by subsection  
 3733 (5) remain as a result of the limitation set forth in paragraph  
 3734 (a), such excess credits related to salaries and wages of  
 3735 employees whose place of employment is located within a  
 3736 certified ~~an~~ enterprise zone created pursuant to chapter 290 may  
 3737 be transferred, in an aggregate amount not to exceed 25 percent  
 3738 of such excess salary credits, to any insurer that is a member  
 3739 of an affiliated group of corporations, as defined in sub-  
 3740 subparagraph (5)(b)4.a., that includes the original insurer  
 3741 qualifying for the credits under subsection (5). The amount of  
 3742 such excess credits to be transferred shall be calculated by  
 3743 multiplying the amount of such excess credits by a fraction, the  
 3744 numerator of which is the sum of the salaries qualifying for the



3745 credit allowed by subsection (5) of employees whose place of  
 3746 employment is located in a certified ~~an~~ enterprise zone and the  
 3747 denominator of which is the sum of the salaries qualifying for  
 3748 the credit allowed by subsection (5). Any such transferred  
 3749 credits shall be subject to the same provisions and limitations  
 3750 set forth within part IV of this chapter. The provisions of this  
 3751 paragraph do not apply to an affiliated group of corporations  
 3752 that participate in a common paymaster arrangement as defined in  
 3753 s. 443.1216.

3754 Section 56. Paragraph (b) of subsection (1) of section  
 3755 624.5091, Florida Statutes, is amended to read:

3756 624.5091 Retaliatory provision, insurers.—

3757 (1)

3758 (b) As used in this subsection, the term "portion of the  
 3759 remaining 20 percent" shall be calculated by multiplying the  
 3760 remaining 20 percent by a fraction, the numerator of which is  
 3761 the sum of the salaries qualifying for the credit allowed by s.  
 3762 624.509(5) of employees whose place of employment is located in  
 3763 a certified ~~an~~ enterprise zone created pursuant to chapter 290  
 3764 and the denominator of which is the sum of the salaries  
 3765 qualifying for the credit allowed by s. 624.509(5).

3766 Section 57. Paragraph (d) of subsection (2) of section  
 3767 624.5105, Florida Statutes, is amended to read:

3768 624.5105 Community contribution tax credit; authorization;  
 3769 limitations; eligibility and application requirements;  
 3770 administration; definitions; expiration.—

3771 (2) ELIGIBILITY REQUIREMENTS.—  
 3772 (d) The project shall be located in a certified ~~an area~~  
 3773 ~~designated as an~~ enterprise zone or a Front Porch Community. Any  
 3774 project designed to construct or rehabilitate housing for low-  
 3775 income or very-low-income households as defined in s.  
 3776 420.9071(19) and (28) is exempt from the area requirement of  
 3777 this paragraph.  
 3778 Section 58. This act shall take effect July 1, 2015.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7067 (2015)

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	_____	

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1 Committee/Subcommittee hearing bill: Transportation & Economic  
2 Development Appropriations Subcommittee  
3 Representative Powell offered the following:  
4

5 **Amendment (with title amendment)**

6 Between lines 3777 and 3778, insert:

7 Section 58. Notwithstanding chapter 74-570, Laws of  
8 Florida, the Port of Palm Beach is deemed eligible and granted  
9 authority to apply to the Federal Government to seek approval  
10 from the Foreign Trade Zone Board through an Alternative Site  
11 Framework to include all of Palm Beach, Martin and St Lucie  
12 Counties in the proposed service area without the requirement to  
13 obtain approvals from incorporated municipalities within the  
14 service area. However, the designation of any area as a foreign  
15 trade zone does not authorize an exemption from any local zoning  
16 or land use designation or ordinance or law of any municipality

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7067 (2015)

Amendment No. 1

17 or county or any tax imposed by the state or by any political  
18 subdivision, agency, or instrumentality thereof.

19

20

21

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22

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

23

Remove line 275 and insert:

24

located in a certified enterprise zone; grants the Port of Palm

25

Beach authority to apply to the Federal Government to seek

26

approval from the Foreign Trade Zone Board; providing an



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 7099      PCB EAC 15-01      Individuals with Disabilities  
**SPONSOR(S):** Economic Affairs Committee, Oliva  
**TIED BILLS:**            **IDEN./SIM. BILLS:** CS/SB 1246

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Economic Affairs Committee	18 Y, 0 N	Willson	Creamer
1) Transportation & Economic Development Appropriations Subcommittee		Proctor <i>JP</i>	Davis <i>CD</i>

### SUMMARY ANALYSIS

The bill creates the Florida Unique Abilities Partner program to recognize business entities that employ individuals who have a disability, contribute to organizations that support the independence of individuals who have a disability, or establish a program that contributes to the independence of individuals who have a disability.

The bill directs the Department of Economic Opportunity (DEO) to work in coordination with state agencies and Workforce Florida in creating the program. Businesses that receive the designation must annually re-certify that they continue to meet the criteria for the designation. The DEO must work with disability organizations to develop a logo for the program, and with VISIT Florida to market the program. The bill also requires the DEO to maintain a website that provides the public with a list of businesses that have been designated as a Florida Unique Abilities Partner, and businesses with the designation must be identified on the EmployFlorida Marketplace system. The DEO must report its progress in implementing the program to the Legislature by January 1, 2016.

The bill may have a negative \$200,000 fiscal impact to DEO during the first year and a \$100,000 recurring fiscal impact in subsequent years. The Florida House of Representatives proposed budget, HB 5001, contains a recurring appropriation of \$200,000 for the Florida Unique Abilities Partner program.

The bill has an effective date of July 1, 2015.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

According to the United States Census Bureau, individuals who have a disability make up approximately 13.4 percent of the population of Florida and 10.3 percent of the population between the ages of 18 and 64. Individuals who have a disability participate in the labor force at a lower rate than those who do not have a disability. Approximately 18.2 percent of individuals who have a disability in Florida are employed, while 60.5 percent of those in Florida who do not have a disability are engaged in employment.

##### Proposed Changes

In order to be designated a Florida Unique Abilities Partner; a business must submit an application to the DEO, indicating that the business would qualify for the designation due to its employment of individuals who have a disability, contributions to disability organizations, or establishment of a program that contributes to the independence of individuals who have a disability. At a minimum, to qualify for the designation, a business must:

- employ, in this state, at least one individual who has a disability for at least 9 months before applying for the designation;
- make a financial or in-kind contribution to a local or national disability organization of at least \$1,000, if the entity has 100 or fewer employees or at least \$5,000, if the entity has more than 100 employees; or
- Establish a program that contributes to the independence of individuals who have a disability.

In lieu of the application process, the DEO must also accept nominations from members of the local community regarding a business entity's qualification for designation as a Florida Unique Abilities Partner. Upon receipt of nomination and a determination by the DEO that the nominee meets the minimum requirements of the program based on the information provided in the nomination, the DEO must notify the nominated business and provide the business with the qualifying criteria asserted in the nomination. If a business does not decline the nomination within 30 days of receipt of the notification of the nomination, it will be designated a Florida Unique Abilities Partner.

The bill specifies that the DEO's designation under this program does not constitute final agency action, and therefore is not subject to the Florida Administrative Procedure Act in ch. 120, F.S.

A business must annually certify that it continues to meet the requirements to be designated a Florida Unique Abilities Partner. Failure to submit the annual certification will result in the removal of the business' designation. A business may elect to discontinue its use of the designation by notifying the DEO of such decision.

The bill directs the DEO, in partnership with the disability community, to develop a logo that may be used to identify a business that has been designated as a Florida Unique Abilities Partner. The DEO is responsible for developing guidelines for the use and display of the Florida Unique Abilities Partner Program logo. A business that has not received the designation or has elected to discontinue its designation may not display the logo.

The DEO must maintain a website available to the public that provides a list of businesses that have been designated as Florida Unique Abilities Partners, and provides information on the eligibility requirements for the designation. The website must also provide information to businesses on best

practices to facilitate the inclusion of individuals who have a disability. The Agency for Persons with Disabilities must provide a link from its website to the DEO website on which the Florida Unique Abilities Partners are listed. The DEO must indicate, on Employ Florida Marketplace, those employers that have been designated as a Florida Unique Partner.

The bill requires the DEO to provide to VISIT Florida, on a quarterly basis, a list of businesses that have been designated as Florida Unique Abilities Partners. VISIT Florida must consider using this information in the development of marketing campaigns that target individuals who have a disability or their families.

The DEO must report its progress in implementing the Florida Unique Abilities Program to the Legislature by January 1, 2016.

**B. SECTION DIRECTORY:**

Section 1. Creates an undesignated section of statute requiring the Department of Economic Opportunity, in consultation with other organizations, to create the Florida Unique Abilities Partner program.

Section 2. Provides an effective date of July 1, 2015.

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

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

1. Revenues:

None.

2. Expenditures:

The bill may have a negative \$200,000 fiscal impact to DEO during the first year and a \$100,000 recurring fiscal impact in subsequent years associated with the costs of developing, implementing, and administering the Florida Unique Abilities Partner program. Costs include staff time to develop the program, process applications, determine compliance, and designate businesses. Staff time would also be required to create, maintain, and update the website that is required by the bill.

The Florida House of Representatives proposed budget, HB 5001, contains a recurring appropriation of \$200,000 for the Florida Unique Abilities Partner program.

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

1. Revenues:

None.

2. Expenditures:

None.

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

With the designation as a Florida Unique Abilities Partner, a business may experience greater patronage by individuals who are supportive of businesses that employ those with a disability.

Local or national disability organizations may receive additional donations from businesses seeking a designation under the program.



**D. FISCAL COMMENTS:**

The bill may have an indeterminate negative fiscal impact to VISIT Florida as the number of businesses certified and transmitted by DEO which must be considered by VISIT Florida in the development and implementation of marketing campaigns cannot be estimated.

**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 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:**

Under the Americans with Disabilities Act (ADA), employers are prohibited from inquiring about whether a person has a disability or the nature of a disability prior to employment. However, an employer may inquire about the applicant's ability to perform job-related functions. Upon employment, an employer may require a medical examination if it is required of all employees, is job-related, and consistent with business necessity. Any medical information obtained from the medical examination must be maintained in a separate file. If an employee requests a reasonable accommodation, an employer is permitted to request documentation sufficient to substantiate the need for the reasonable accommodation.

**B. RULE-MAKING AUTHORITY:**

The bill requires the DEO to adopt rules to administer the Florida Unique Abilities Partner program.

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

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

1                           A bill to be entitled  
 2           An act relating to individuals with disabilities;  
 3           requiring the Department of Economic Opportunity, in  
 4           consultation with other organizations, to create the  
 5           Florida Unique Abilities Partner program; defining the  
 6           term "individuals who have a disability"; establishing  
 7           criteria for a business entity to be designated as a  
 8           Florida Unique Abilities Partner; requiring a business  
 9           entity to certify that it continues to meet the  
 10          established criteria for designation each year;  
 11          requiring the department to remove the designation if  
 12          a business entity does not submit yearly certification  
 13          of continued eligibility; authorizing a business  
 14          entity to discontinue its use of the designation;  
 15          requiring the department, in consultation with the  
 16          disability community, to develop a logo for business  
 17          entities designated as Florida Unique Abilities  
 18          Program Partners; requiring the department to adopt  
 19          guidelines and requirements for use of the logo;  
 20          authorizing the department to allow a designated  
 21          business entity to display a logo; prohibiting the use  
 22          of a logo if a business entity does not have a current  
 23          designation; requiring the department to maintain a  
 24          website with specified information; requiring the  
 25          Agency for Persons with Disabilities to provide a link  
 26          on its website to the department's website for the

27 Florida Unique Abilities Partner program; requiring  
 28 the department to provide the Florida Tourism Industry  
 29 Marketing Corporation with certain information;  
 30 requiring the department to identify employment  
 31 opportunities posted by employers that receive the  
 32 Florida Unique Abilities Partner designation on the  
 33 workforce information system; requiring the department  
 34 to provide a specified report to the Legislature by a  
 35 specified date; requiring the department to adopt  
 36 rules; providing an effective date.

37

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

39

40 Section 1. (1) The Department of Economic Opportunity  
 41 shall establish the Florida Unique Abilities Partner program to  
 42 designate a business entity as a Florida Unique Abilities  
 43 Partner if the business entity demonstrates commitment, through  
 44 employment and support, to the independence of individuals who  
 45 have a disability. The department shall consult with the Agency  
 46 for Persons with Disabilities, the Division of Vocational  
 47 Rehabilitation of the Department of Education, the Division of  
 48 Blind Services of the Department of Education, and Workforce  
 49 Florida, Inc., in creating the program. As used in this section,  
 50 the term "individuals who have a disability" means persons who  
 51 have a physical or intellectual impairment that substantially  
 52 limits one or more major life activities; persons who have a

53 | history or record of such an impairment; or persons who are  
 54 | perceived by others as having such an impairment.

55 | (2) A business entity may apply to the Department of  
 56 | Economic Opportunity to be designated as a Florida Unique  
 57 | Abilities Partner, based on the business entity's achievements  
 58 | in at least one of the following categories:

59 | (a) Employment of individuals who have a disability.

60 | (b) Contributions to local or national disability  
 61 | organizations or the establishment of a program that contributes  
 62 | to the independence of individuals who have a disability.

63 | (3) As an alternative to application by a business entity,  
 64 | the Department of Economic Opportunity must consider nominations  
 65 | from members of the community in which the business entity is  
 66 | located. The nomination must identify the business entity's  
 67 | achievements in one or both of the categories as provided in  
 68 | subsection (2).

69 | (4) The Department of Economic Opportunity shall adopt  
 70 | procedures for the application and designation processes for the  
 71 | Florida Unique Abilities Partner program. Designation as a  
 72 | Florida Unique Abilities Partner does not establish or involve  
 73 | licensure, does not affect the substantial interests of a party,  
 74 | and does not constitute a final agency action. The Florida  
 75 | Unique Abilities Partner program and designation are not subject  
 76 | to chapter 120, Florida Statutes.

77 | (5) In determining the eligibility for the designation of  
 78 | a business entity as a Florida Unique Abilities Partner, the

79 Department of Economic Opportunity must consider, at a minimum,  
 80 the following criteria:

81 (a) For a designation based on an application by a  
 82 business:

83 1. A business entity must certify that it employs at least  
 84 one individual who has a disability. Such employees must be  
 85 residents of this state and must have been employed by the  
 86 business entity for at least 9 months before the business  
 87 entity's application for the designation. The department may not  
 88 require the employer to provide personally identifiable  
 89 information about its employees; or

90 2. A business entity must certify that it has made  
 91 contributions to local and national disability organizations or  
 92 contributions in support of individuals who have a disability.  
 93 Contributions may be accomplished through financial or in-kind  
 94 contributions, including employee volunteer hours, or  
 95 accomplished through the establishment of a program that  
 96 contributes to the independence of individuals who have a  
 97 disability. Contributions must be documented by providing copies  
 98 of written receipts or letters of acknowledgment from recipients  
 99 or donees. A business entity with 100 or fewer employees must  
 100 make a financial or in-kind contribution of at least \$1,000, and  
 101 a business entity with more than 100 employees must make a  
 102 financial or in-kind contribution of at least \$5,000.

103 (b) For a designation based upon receipt of a nomination  
 104 of a business entity, the Department of Economic Opportunity

105 shall determine whether the nominee, based on the information  
 106 provided by the nominating person or entity, meets the  
 107 requirements of paragraph (a). If the designee appears to meet  
 108 the requirements, the Department of Economic Opportunity shall  
 109 provide notice to the nominee, including the qualification  
 110 criteria asserted in the nomination. The nominee shall be  
 111 provided 30 days from the receipt of the notice to decline the  
 112 nomination. After 30 days, if the nomination has not been  
 113 declined, the business must be awarded the designation.

114 (6) After an initial designation as a Florida Unique  
 115 Abilities Partner, a business entity must certify each year that  
 116 it continues to meet the criteria for the designation. If a  
 117 business entity does not submit yearly certification of  
 118 continued eligibility, the Department of Economic Opportunity  
 119 shall remove the designation. A business entity may elect to  
 120 discontinue its use of the designation at any time by notifying  
 121 the department of such decision.

122 (7) The Department of Economic Opportunity, in  
 123 consultation with members of the disability community, must  
 124 develop a logo that identifies a business entity that is  
 125 designated as a Florida Unique Abilities Partner.

126 (8) The Department of Economic Opportunity must adopt  
 127 guidelines and requirements for use of the logo, including how  
 128 the logo may be used in advertising. The department may allow a  
 129 business entity to display a Florida Unique Abilities Partner  
 130 logo upon designation. A business entity that has not been

131 designated as a Florida Unique Abilities Partner or has elected  
 132 to discontinue its designated status may not display the logo.

133 (9) The Department of Economic Opportunity must maintain a  
 134 website that provides the public with a list of business  
 135 entities, by county, which currently have the Florida Unique  
 136 Abilities Partner designation and which provides information  
 137 regarding the eligibilities for the designation. At least once a  
 138 year, the department must publish on its website the best ways  
 139 for business entities to facilitate the inclusion of individuals  
 140 who have a disability. The Agency for Persons with Disabilities  
 141 must provide a link on its website to the department's website  
 142 that makes available the information on the Florida Unique  
 143 Abilities Partner program and designation.

144 (10) On a quarterly basis, the Department of Economic  
 145 Opportunity must provide the Florida Tourism Industry Marketing  
 146 Corporation with a current list of all businesses that are  
 147 designated as Florida Unique Abilities Partners. The Florida  
 148 Tourism Industry Marketing Corporation must consider the Florida  
 149 Unique Abilities Partner program in the development of marketing  
 150 campaigns, and specifically in any targeted marketing campaign  
 151 for individuals who have a disability or their families.

152 (11) The Department of Economic Opportunity shall identify  
 153 employment opportunities posted by business entities that  
 154 currently have the Florida Unique Abilities Partner designation  
 155 on the workforce information system under s. 445.011, Florida  
 156 Statutes.

157 | (12) By January 1, 2016, the Department of Economic  
158 | Opportunity must provide a report to the President of the Senate  
159 | and the Speaker of the House of Representatives on the status of  
160 | the implementation of this section, including the adoption of  
161 | rules, development of the logo, and development of application  
162 | procedures.

163 | (13) The Department of Economic Opportunity shall adopt  
164 | rules to administer this section.

165 | Section 2. This act shall take effect July 1, 2015.