The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Commerce Committee

BILL: CS/SB 2034

INTRODUCER: Commerce Committee and Commerce Committee

SUBJECT: Economic Development

DATE: March 18, 2009 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pugh	Cooper	CM	**Fav/CS**
2.			GO	
3.			TA	
4.			WMPCS	
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	x	Statement of Substantial Changes
B. AMENDMENTS........................		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

Chapter 288, F.S., includes at least a dozen state economic development incentive programs, funded with state general revenue, to recruit to, expand in , or retain businesses in Florida.

CS/SB 2034 makes a number of substantive changes to economic-development statutes:

- Recommends improved monitoring, oversight, and reporting of the state's Innovation Incentive Program in s. 288.1089, F.S., as detailed in Interim Project Report 2009-107.
- Reinstates the expired "economic stimulus exemption" for Qualified Targeted Industries (QTI) for claims scheduled to be submitted after January 1, 2009, through July 1, 2010. Eligible businesses will not receive scheduled tax refunds during that period, but those refunds would resume if the businesses eventually are able to meet the original contract requirements.
- Proposes a number of initiatives and programmatic changes to improve economic development opportunities in rural Florida counties, such as codification of the Rural Areas of Critical State Concern (RACEC) program; a change to the definition of "rural county," and an increase in the amount of project infrastructure costs in certain rural counties.

- Replaces outdated 1987 Standard Industry Identification Codes with the newer NAICS identification codes, adopted federally in 2007, which are used, in this case, to identify businesses eligible for certain sales and use tax exemptions.
- Delays the statutorily mandated sunset review of QTI from 2010 to 2014.
- Creates a standard application timeline for most of the state's economic development incentive programs. Basically, EFI has 10 days to review an application for one or more incentives, and OTTED has 22 days to certify it.

CS/SB 2034 takes effect July 1, 2009.

II. Present Situation:

Background on Florida's economic development incentive efforts

Chapter 288, F.S., includes at least a dozen economic development incentive programs to recruit, expand, or retain businesses to Florida. Each program is different, but can be accessed in various combinations by businesses, depending on their location, job creation, and other factors. Typically, these incentives are coupled with state tax exemptions or tax refunds provided in other chapters of law, and with local incentives, to broaden Florida's economic base.

The Governor's Office of Tourism, Trade, and Economic Development (OTTED)[1] manages Florida's economic development initiatives, with assistance from Enterprise Florida, Inc. (EFI),[2] a public-private entity.

Florida's major economic incentive programs include: the Capital Investment Tax Credit; the transportation fund within OTTED's Economic Development Trust Fund; the Urban High-Crime Area Job Tax Credit program; the Rural Infrastructure Fund; the Qualified Defense Contractor and Space Flight Business (QDSC) tax refund program; the Qualified Target Industry incentive program (QTI); the Innovation Incentive Program; the Brownfield Redevelopment program; the High Impact Business Incentive; and the Quick Action Closing (QAC) Fund.

The individual statutes creating these programs explain the application, review and approval processes, and some include deadlines for each step of the process. Currently an application may take from 23 days to 101 days to be approved or denied by OTTED. Typically, a business seeking an incentive award must submit an application to EFI, which evaluates the application for eligibility, ensures application completeness, and prepares an economic analysis for each project. Based on this evaluation, EFI makes an official recommendation to OTTED for project approval. For most of the incentive programs, OTTED has the final authority to approve or deny an application, executes performance contracts with business applicants, and oversees claim payments. The Innovation Incentive Program and QAC are the notable exceptions, requiring approval by the Legislative Budget Commission.

[1] Section 14.2015, F.S.

[2] Sections 288.901-288.9415, F.S. (Part VII of ch. 288, F.S.)

Florida's Innovation Incentive Grant Program

Background

In 2006, the Legislature created the Innovation Incentive Program.[3] The purpose of the program is 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 and business innovation projects."[4] A third category of eligible projects, for alternative and renewable energy, was added by the Legislature in 2008.[5]

While OTTED oversees the Innovation Incentive Program and enters into agreements with the grant recipients, EFI is directed to evaluate the grant seekers' proposals and recommend to OTTED which entities should receive the grants and whether waiver of certain requirements is merited. The Florida Commission on Energy and Climate (commission) works with EFI in evaluating the alternative and renewable energy proposals.

The criteria used by EFI are detailed in s. 288.1089, F.S. Prospective businesses must submit an application that includes information about the type of business activity they are involved in, the number of employees they expect to hire, the amount of investment they intend to make in the operation, and why the incentive grant is needed. The applicants also must meet the criteria of either a research and development project, an innovation business project, or an alternative or renewable energy project – all of which are defined in the statute. The projects must have a local financial commitment from the local communities in which they plan to locate, but under specified conditions, this match may be waived.

OTTED, in consultation with EFI, may negotiate the amount of the grant to be awarded to an eligible applicant.[6] OTTED also reviews the recommendations and evaluations of grant proposals from EFI, and where applicable, the commission, before making its recommendations to the Governor about which projects should be approved or denied funding. The Governor must consult with the President of the Senate and the Speaker of the House of Representatives before approving the grant award, and can release the funds with the approval of the Legislative Budget Commission.[7]

The oversight provisions in s. 288.1089, F.S., are limited to: the terms of the agreement signed between OTTED and the grant awardee;[8] later efforts by OTTED and EFI to validate the awardee's performance;[9] and EFI's report to the Governor, the President of the Senate, and the Speaker of the House of Representatives about the "award's results" at the conclusion of the agreement or its earlier termination,[10] which could mean 20 years after the agreement was signed.

[3] Chapter 2006-55, L.O.F.
[4] Section 288.1089(1), F.S.
[5] Chapter 2008-227, L.O.F.
[6] Section 288.1089(6), F.S.
[7] Section 288.1089(7), F.S.
[8] Section 288.1089(8), F.S.
[9] Section 288.1089(9), F.S.
[10] Ibid.

In the wording of the statute, the Innovation Incentive funds are "released" to a grant recipient, meaning that they are eventually invested in the State Board of Administration or some other investment entity of the grant awardee's choosing and in the grant awardee's name. However, OTTED approves the periodic "release" of a portion of the funds in amounts tied to the awardee's attainment of job creation and other benchmarks in its contractual agreement with OTTED.

The agreement sets forth the conditions for payment of the incentive funds, and it must include:

- The total amount of funds awarded;
- Performance measures that the applicant must meet, including net new jobs, average wages, and total investment;
- A schedule of payments; and
- Sanctions for failing to meet the performance measures, including clawbacks.

All of the current contracts are for 20-year terms, although the payout of state money is for a shorter time period, either 7 or 10 years. One OTTED employee serves as the Innovation Program Manager, responsible for monitoring the seven Innovation Incentive grant recipients along with the Scripps Florida Research Institute, the recruitment of which in 2003 served as a catalyst for creation of the Innovation Incentive Program.

As mentioned above, the newest category of Innovation Incentive Program projects, alternative and renewable energy, was amended into s. 288.1089, F.S., as part of a comprehensive bill on state energy policy, HB 7135 (ch. 2008-277, L.O.F.). "Alternative and renewable energy" is defined in the context of the Innovation Incentive Program as "electrical, mechanical, or thermal energy produced from a method that uses one or more of the following fuels or energy sources: ethanol, cellulosic ethanol, biobutanol, biodiesel, biomass, hydrogen fuel cells, ocean energy, hydrogen, solar, hydro, wind, or geothermal."

Eligible projects must meet five standard criteria and a choice of eight others that are more evaluative and which appear to be modeled after the criteria in s. 377.804, F.S., which the Florida Commission on Energy and Climate (commission) uses to evaluate applications for Renewable Energy and Energy-Efficient Technologies Grants.[11] The 2008 Florida Legislature appropriated $15 million in grant funding for that program: $7 million to support projects that generate or utilize renewable energy resources, including hydrogen, biomass, solar energy, geothermal energy, wind energy, ocean energy, waste heat and hydroelectric power, and $8 million for bioenergy projects.[12] The deadline for grant applications was November 20, 2008, and 205 applications were received: 145 in the renewable energy/energy-efficient technology category and 60 in the bioenergy category. On February 23, 2009, the commission awarded grants to five bioenergy projects and to four renewable energy/energy-efficient technology projects.[13]

---

[11] Until passage of HB 7135 in 2008, the Florida Department of Environmental Protection managed this energy grant program.

[12] See http://www.dep.state.fl.us/energy/energyact/grants.htm.

[13] See complete list of awardees and descriptions of their projects at; http://www.myfloridaclimate.com/env/home/climate_quick_links/florida_energy_climate_commission/grants_solar_rebates_incentives/renewable_energy_and_energy_efficient_technologies_grants.

Program funding history

In FY 2006-2007, the Legislature appropriated $200 million in non-recurring general revenue to OTTED's Economic Development Trust Fund for the Innovation Incentive Program. The following fiscal year, the Legislature appropriated $250 million for this program; proviso language in the 2007-2008 General Appropriations Act set aside $80 million of that amount to the University of Miami's Institute of Human Genomics. The Legislature did not appropriate funds to the program for FY 2008-2009, and the Governor did not include any funding for the program in his FY 2009-2010 budget recommendations.

Based on their quarterly reports, the four Innovation Incentive Program awardees that have been in existence for at least 1 year are meeting their job-creation and other benchmarks, and are on track to complete their permanent laboratory and other facilities within the estimated time frames. Additionally, each has been awarded scientific grants, or in the case of SRI, public and private contracts, to conduct research. The three newest recipients – Max Planck, OHSU-VGT, and Draper Labs – won't have complete reports until later in 2009.

The deadlines for when the quarterly and annual reports are due are not consistent because they are based on when the individual agreements were signed, so it is difficult to compare the awardees' progress via a traditional end-of-quarter or end of calendar year report. Nor is there a consistent format to the reports.

Innovation Incentive Program Recipients[14]

As of November 2008

Entity[15]	State Funding Committed	State Funding Released	Local/Other Match	Jobs Required by Agreement/ Jobs as of 3rd Q 2008
Burnham	$155.272 million	$56.842 million	$155.5 million	303/48
Torrey Pines	$24.728 million[16]	$12.630 million	$71.52 million	189/28
SRI	$20 million	$11.4 million	at least $30 million	160/71
UM-Human Genome Institute	$80 million	$20 million	at least $100 million in donations	296/136
Max Planck	$94.09 million	$30 million	$93.46 million	135/ not yet reported
OHSU-VGT	$60 million	$15 million	at least $60 million	200/ not yet reported
Draper Labs	$15 million	$7 million	$15.3 million	165/ not yet reported

Florida's Qualified Targeted Industry (QTI) program

QTI is the most used of the incentive programs. It was created by the Florida Legislature in 1994[17] to attract businesses that offer high-wage jobs and have a largely non-Florida customer base to relocate in Florida. Eligible businesses must represent one of the seven categories of industries on EFI's Targeted Industries List."[18]

[14] Information provided by Jenni Garrison, Innovation Program Manager.
[15] Brief descriptions of the seven awardees, their missions, and when they were recruited are available in Senate Interim Report 2009-107.
[16] Burnham also received $7.4 million in state Quick Action Closing funds.
[17] CS/HB 2679 (ch. 94-136, L.O.F.).
[18] 2008 Incentives Report. Prepared by Enterprise Florida Inc. Information on page 53 of the report. Report on file with the Commerce Committee.

Businesses that locate or expand in Florida are eligible for tax refunds of $3,000 per new job created. The tax refund increases to $6,000 per job for businesses that locate in an enterprise zone or rural county. In addition, a business is eligible for a $1,000 per job bonus if it pays more than 150 percent of the average area wage, and a $2,000 per job bonus if the wage exceeds 200 percent of the average area wage.

Another QTI requirement is local government support via a resolution passed by the county commission, and a match of at least 20 percent of the amount of the state's award. The local match can include the amount of ad valorem tax abatement or the appraised market value of public land and structures deeded to or leased by the QTI business. OTTED may waive the local match for rural communities that are unable to provide it.

Taxes eligible for refund under the QTI program are:

- Corporate income taxes under ch. 220, F.S.;
- Insurance premium tax under s. 624.509, F.S.;
- Taxes on the sales, use, and other transactions under ch. 212, F.S.;
- Intangible personal property taxes under ch. 199, F.S.;
- Emergency excise taxes under ch. 221, F.S.;
- Excise taxes on documents under ch. 201, F.S.;
- Ad valorem taxes paid, as defined in s. 220.03(1), F.S.; and
- Certain state communications services taxes administered under ch. 202, F.S.

In FY 2007-2008, OTTED approved 53 of 83 submitted QTI applications.[19] The 53 approved projects have committed to create 5,678 new jobs, paying an average wage of $51,726.[20] Since the program was created in 1994, OTTED has entered into agreements with 678 companies, of which 302 either are still active or have completed the work, resulting in 67,004 jobs created and paying an average wage of $42,730.[21]

The QTI program sunsets June 30, 2010.

<u>Florida's Qualified Defense Contractor and Space Flight Business Tax Refund Program</u>

The Legislature created the QDSC program in 1993[22] in response to the state's concerns that reductions in federal defense spending could result in losses of high-wage, high-technology jobs in Florida. The program has been amended several times in the intervening years, including in 2008, when it was extended to eligible space flight businesses participating in aerospace activities.[23] It sunsets June 30, 2014.

The program's basic incentive is a tax refund based on $3,000 per retained or created job, which pays an annual wage of at least 115 percent of the area's average annual wage and meets other conditions of the business' agreement with OTTED. The per-job tax credit increases to $6,000 if the business is located within a rural county or an enterprise zone, with a $1,000 per job bonus if

[19] Ibid, page 13 of the report.
[20] Ibid.
[21] Ibid, page 15 of the report.
[22] CS/SB 32-C (ch.93-414, L.O.F.).
[23] Section 1 of ch. 2008-89, L.O.F.

the job pays an annual average wage at least equal to 150 percent of the area's private-sector wage and a $2,000 per job bonus if the average annual wage is at least 200 percent of the area's average private-sector wage.

No qualified business may receive more than $2.5 million in tax refunds in any one tax year, or $7.5 million total.

Pursuant to s. 288.1045, F.S., the tax incentive targets the following types of projects: consolidation of certain Department of Defense (DOD) contracts; conversion of DOD production jobs to non-defense production jobs; and projects involving the reuse of defense-related facilities for specific activities; the manufacturing, processing, and assembly of space flight vehicles; and a number of other activities related to space flight.

To qualify for the full state award, a project must receive a 20-percent match of the total award from a local government. The 20-percent local match may be waived, for claims filed in FY 2004-2005, FY 2005-2006, and FY 2006-2007 in 26 counties impacted during the 2004 hurricane season.[24]

After determining that the applicant meets the requirements of the program, OTTED reviews each application based on:

- Expected contributions to the state;
- The economic benefits of the jobs created or retained by the project;
- The amount of capital investment to be made by the applicant in the state;
- Local commitment and support for the applicant and the project;
- The impact of the project on the local community;
- The dependence of the local community on the defense industry;
- The impact of any tax refunds granted as a result of the project; and
- The length of the project or the long-term commitment to the state resulting from the project.

A qualified applicant may claim refunds from one or more of the following taxes paid:

- Sales and use taxes;
- Documentary stamp taxes;
- Emergency excise taxes;
- Ad valorem taxes;
- Corporate income taxes;
- Insurance premium taxes;
- Intangible personal property taxes; and
- Certain state communications taxes under ch. 202, F.S.

Since its inception, 38 QDC applications have been received, and 28 have been approved.[25] There are eight active or complete QDC projects, which have created or retained 1,697 jobs over

[24] Section 288.1045(7), F.S.
[25] 2008 Incentives Report. Prepared by Enterprise Florida Inc. Information on page 20 of report.

the years with an average wage of nearly $69,000, and which have received a total of $7.4 million in tax refunds.[26]

Florida's rural economic development initiatives

A "rural community" is defined by s. 288.0656, F.S., as:

- A county with a population of 75,000 or less;
- A county with a population of 100,000 or less that is contiguous to a county with a population of 75,000 or less;
- A municipality within a county with a population of 75,000 or less or a county with a population of 100,000 or less that is contiguous to a county with a population of 75,000 or less; or
- A federal enterprise community or an incorporated rural city with a population of 25,000 or less and an employment base focused on traditional agricultural or resource-based industries, located in a county not defined as rural, which has at least three or more of the economic distress factors identified by statute and verified by OTTED.

Thirty-one Florida counties meet the current definitions of "rural" as outlined above.[27] Pursuant to executive order of the Governor, 27 of these rural counties[28] (and Highlands County, which qualified as a rural county until 2008) have been categorized into one of three Rural Areas of Critical Economic Concern: North Central, Northwest, and South Central. These Rural Areas of Critical Economic Concern (RACECs) are defined by OTTED based on measures of economic interdependence among the rural counties in each of the three geographic regions.

As Florida's population grows, so is the potential for still largely rural counties to exceed the statutory cap. For example, Sumter County exceeded the population threshold of 75,000 residents in 2006, and Highlands County exceeded the threshold in 2008. Based on population growth projections, it is likely that Flagler County will soon exceed the population requirements set forth by statute and lose its designation as a rural county. For Highlands County, losing its eligibility means it no longer can participate in the RACEC program.

Prior to the designation of RACECs, the Rural Economic Development Initiative (REDI)[29] was created to encourage and align critical state agency participation and investment around important rural issues and opportunities. Twenty-three state agencies or public-private entities are involved in REDI. Complementary to the REDI and RACEC programs has been the "Rural Economic Development Catalyst Project," designed to further goals set forth in REDI by gathering economic information and perspectives for Florida's three RACECs. The catalyst project is intended to identify, improve, and market regional physical sites, thus facilitating the location of businesses that can deliver significant job creation opportunities within the RACECs. In May 2007, each RACEC, in conjunction with EFI and OTTED, engaged in the identification and selection of possible sites for their respective catalyst project. Additionally, each RACEC

---

[26] Ibid.

[27] Florida Estimates of Population- 2008. Prepared by the University of Florida's Bureau of Economic and Business Research. Pages 30-31.

[28] Five communities also are within RACECs, although their counties are not: Freeport in Walton County; Belle Glade, Pahokee, and South Bay in Palm Beach County; and the Immokalee community in Collier County.

[29] Section 288.0656, F.S.

has identified targeted industries for the catalyst sites, and the individual local governments are working with EFI and OTTED to recruit new businesses.[30]

Another complementary rural incentive is the Rural Infrastructure Fund,[31] created within OTTED in 1996 to facilitate the planning, preparation, and financing of infrastructure projects in rural communities. Three project grants are available under the program: Total Project Participation Grants, Feasibility Grants, and Preclearance Review Grants. The maximum amount available per grant for each project is limited to 25 percent of total appropriated funds. Total Participation Grants may fund up to 30 percent of the total infrastructure project costs related to specific job-creating opportunities where applicants have applied for the maximum available under other state or federal infrastructure funding programs. Total participation grants are intended to leverage local, state, and federal funds.

Industry tracking codes[32]

The Standard Industrial Classification System (SIC) was developed in the 1930's as the standard system used by the federal government to classify business establishments for the purposes of collecting, analyzing, and publishing statistics and other data relevant to the U.S. economy. As new industry types emerged, and existing industries disappeared or splintered, the government realized the system needed to be revised.

The North American Industry Classification System (NAICS) was developed in the 1990's under the direction and guidance of the Office of Management and Budget (OMB), and of its Canadian and Mexican agency counterparts, as the standard for use by government agencies in classifying businesses for the collection, tabulation, presentation, and analysis of statistical data describing the U.S. economy. The NAICS was adopted in 1997.

While NAICS in the United States was designed for statistical purposes, it is frequently used for various administrative, regulatory, contracting, taxation, and other non-statistical purposes. For example, Florida and other state governments offer tax incentives to businesses classified in specified NAICS industries. Also, some contracting authorities require businesses to register their NAICS codes, which are used to determine eligibility to bid on certain contracts.

The NAICS system codes are required to be reviewed and updated, if necessary, every 5 years. The most recent update was in 2007.

III. Effect of Proposed Changes:

CS/SB 2034 makes a number of programmatic, definitional, and technical changes to Florida's incentive programs in ch. 288, F.S.

Section 1 amends s. 288.1089, F.S., to make a number of changes to the Innovation Incentive Program to improve its internal consistency and the timing of steps in the grant process. It also

[30] More background and updated information about the RACECs is available at http://www.eflorida.com/KnowledgeCenter.aspx?id=3762. Log-in required. Last visited March 14, 2009.
[31] Section 288.0655, F.S.
[32] Information for this section was collected at http://www.census.gov/eos/www/naics/faqs/faqs.html#q1.

adds two significant reporting requirements, two significant requirements to future agreements, and makes some of the basic provisions of the alternative and renewable energy projects consistent with the rest of the program.

A major addition to the existing law is the requirement that any new agreements entered into by OTTED and a grant awardee on or after July 1, 2009, include a reinvestment provision, whereby the grant awardee returns up to 15 percent of the awardee's naming rights and net royalties, including revenues from spin-off companies and revenues from the sale of stock received through its patentable inventions, methods, processes, or discoveries, either made or practiced using its Florida facilities or Florida-based employees, in whole or in part, and to which the awardee becomes entitled to during the 20 years following the effective date of its agreement with OTTED.[33]

The reinvestment payments to the state commence no later than 6 months after the grant awardee has received its final disbursement of grant funds from the state, under the terms of the agreement. The reinvestment funds shall be deposited in either the Biomedical Research Trust Fund (or its successor) if they are contributed by an awardee that specializes in biomedical or life sciences research, or in the Economic Development Trust Fund (or its successor) for contributions from all other awardees.

Only four of the seven current awardees have reinvestment clauses in their state agreements: Torrey Pines, SRI, UM-Human Genome Institute, and Draper Labs.

Also, the provisions related to the alternative and renewable energy category of projects are reorganized and clarified. Specifically, this section of CS/SB 2034:

- Promotes consistency in the Innovation Incentive Program process among all three project categories by:
  - Clarifying that the commission will forward energy project proposals to EFI to conduct the economic modeling review required for all Innovation incentive Program applications.
  - Clarifying that EFI will assist OTTED in validating the performance of any energy project grantees, as it already does for awardees in the other two categories of projects.
  - Clarifying that each awardee must comply with the business ethics standards developed by EFI and implemented earlier in the program.
- Makes the matching-funds waiver requirement for the energy projects consistent with that of the other two categories of projects. Currently, the match may be waived if OTTED and an unspecified department determine that the merits of the project or an undefined "specific circumstance" warrant it. Under CS/ SB 2034, the match may be waived or reduced in rural areas of critical economic concern, or reduced in rural areas, brownfields, and enterprise zones.
- Retains the minimum requirement that 35 direct, new jobs be created, but combines that provision with the existing requirement that the new jobs' average annual wage equal at least 130 percent of the average private sector wage.

[33] This reinvestment provision is modeled after the statutory and contract reinvestment requirement for The Scripps Research Institute.

- Deletes a duplicative wage requirement waiver.
- Deletes other criteria that were part of the program eligibility requirements, and relocates them to the part of the statute that governs the evaluation of a project application, which they are better suited. These relocated criteria also are redrafted to improve their grammatical clarity and to conform them more closely to the requirements for funds under ch. 377, F.S., the renewable energy and energy-efficient technologies grant program. Among the relocated criteria are:
  - Availability of matching funds or in-kind contributions;
  - The degree to which the project will stimulate in-state capital investment and economic development;
  - The degree to which the project uses innovative technologies; and
  - The degree to which the project demonstrates efficient use of energy and material resources.

This section also:
- Adds definitions for the Florida Energy and Climate Commission, “industry wage,” “naming opportunities,” and “net royalty revenues,” and amends the definition for “project” to include alternative and renewable energy projects.
- Makes the local-match and average wage waiver provisions for the alternative and renewable energy projects identical to those available for the R&D and innovation business projects.
- Clarifies that EFI shall evaluate all three categories of projects based on their economic and business data and impact, rather than having the commission evaluate those factors for the energy projects. However, EFI is directed to solicit comments from the commission before it makes its recommendations to OTTED on the energy projects.
- Clarifies the application approval process by specifying that the Executive Office of the Governor can release Innovation Incentive Program grant funds upon review and approval by the Legislative Budget Commission.
- Specifies that the provisions currently in law pertaining to what must be included in the Innovation Incentive Program agreement are simply the minimum requirements.
- Directs OTTED to work with OPPAGA and other entities to develop performance measures that may quantify whether the grant awardees are creating a synergy within their communities that encourages economic development.
- Adds several requirements to the agreement, besides reinvestment, between the awardee and OTTED. Specifically, awardees must:
  - Establish internship programs or other educational opportunities for students and teachers;
  - Submit to OTTED and EFI quarterly and annual reports related to the awardees’ activities and performance;
  - Submit to OTTED an annual accounting of the expenditure of grant funds; and
  - Agree to include in the agreement a process for amending it.

This section also deletes obsolete language, such as development of a set of business ethics standards by 2006, which already have been completed, and corrects grammatical errors.

Two reporting requirements are added to s. 288.1089, F.S. Briefly:

- OTTED is directed to prepare an annual report summarizing the activities and accomplishments of Innovation Incentive Program grant recipients, and to evaluate whether the recipients are in fact catalysts for additional direct and indirect economic development in Florida. The first report is due January 5, 2010, and must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives.
- OPPAGA, with assistance from the Auditor General's Office, must prepare a joint report evaluating the program's progress toward creating clusters of high-wage, high-skilled, complementary industries in Florida, thus gauging whether the grant recipients are acting as catalysts for broad economic development in Florida. This report is due every 3 years, beginning March 1, 2010, to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Section 2 amends s. 166.231, F.S., to replace an obsolete reference to the defunct Standard Industrial Classification (SIC) Industry Major Group Number with the more recently adopted five-digit North American Industry Classification System (NAICS) Industry Number.

Section 3 amends s. 212.05(1)(i), F.S., to replace obsolete references to defunct SIC numbers with the updated NAICS numbers, as it relates to businesses that are subject to the sales and use tax.

Section 4 amends s. 212.08(7), F.S., to replace obsolete references to defunct SIC numbers with the updated NAICS numbers for the same and related businesses, for the purpose of identifying businesses that are exempt from the sales and use tax.

Section 5 amends s. 212.097(1)(a), F.S., to replace obsolete references to defunct SIC numbers with the updated NAICS numbers, as it relates to businesses that are eligible for tax credits under the Urban High-Crime Area Job Tax Credit Program. Also amends s. 212.097(10)(b), F.S., to replace the current time frames for EFI and OTTED to review and approve applications for this tax credit program with a new, standard process to be created in s. 288.061, F.S.

Section 6 amends s. 212.098(1)(a), F.S., to replace obsolete references to defunct SIC numbers with the updated NAICS numbers, as it relates to businesses that are eligible for tax credits under the Rural Job Tax Credit Program.

Section 7 amends s. 212.015(5)(b), F.S., to replace an obsolete reference to a defunct SIC number with the updated NAICS number, as it relates to how businesses engaged in frozen fruit, juice, and vegetable manufacturing apportion their incomes for federal income tax purposes.

Section 8 amends s. 220.191, F.S., to specify that applications for the Capital Investment Tax Credit shall be reviewed and approved by EFI and OTTED under the process specified in the proposed s. 288.061, F.S.

Section 9 creates s. 288.061, F.S., which establishes a standard evaluation and approval process for most of the state's economic incentive programs.[34] It requires EFI to determine if an

[34] In summary, the new review and approval process created in s. 288.061, F.S., is applicable to the:

application is complete in 10 business days, and once the application is complete, it gives EFI another 10 days to evaluate and make a recommendation to OTTED. Once OTTED receives the application, the office has 10 calendar days to notify EFI if the application is incomplete, and the director has another 12 calendar days from the time the recommendation was received to approve or deny the application.

Section 10 amends s. 288.063, F.S., to specify that applications for the Economic Development Transportation Fund shall be reviewed by EFI and OTTED under the process specified in the proposed s. 288.061, F.S.

Section 11 amends s. 288.065, F.S., to amend the definition of "rural community" to increase the population cap for a county from 100,000 to 125,000 that is adjacent to a county with no more than 75,000 residents. This change will allow Highlands County to remain in a RACEC.

Section 12 amends s. 288.0655, F.S., to:

- Increase from 30 percent to 40 percent the Rural Infrastructure Fund grant amount available to catalyst sites in RACECs;
- Expands authorized uses to include privately owned self-powered nature-based tourism facilities and broadband facilities that are either publicly owned or owned through a public-private partnership;
- Allows for a waiver of the 33-percent local match requirement for surveys and feasibility studies for catalyst sites in RACECs; and
- Replaces the current application review schedule with that in the proposed s. 288.061, F.S.

Section 13 amends s. 288.0656, F.S., to:

- Include definitions for "catalyst project" and "catalyst site."
- Redefine the definition of RACEC to:
  - Require designation by the Governor;
  - Include an additional qualifying condition that the community be adversely affected by severe or chronic distress; and
  - Delete the current requirement that the recruited business to a RACEC create more than 1,000 jobs over a 5 year period.

- Urban High-Crime Area Job Tax Program;
- Capital Investment Tax Credit;
- Economic Development Transportation Fund;
- Rural Infrastructure Fund;
- Qualified Defense Contractor and Space Flight Business Tax Refund Program;
- Qualified Target Industry Tax Refund Program;
- Brownfield Redevelopment Bonus Refunds; and
- High Impact Performance Incentive.

In addition, under the Quick Action Closing Fund, EFI is directed to follow the standard timelines created in s. 288.061, F.S., and OTTED is required to submit its recommendation for approval to the Governor within 22 calendar days.

- Redefine “rural community” to increase the county population threshold from 100,000 to 125,000, for a county that is adjacent to another county with no more than 75,000 residents. This change will allow Highlands County to remain in a RACEC.
- Require REDI to undertake outreach and capacity building efforts relating to statutes and rule review for their impact on rural communities.
- Replace the REDI representative from the Florida State Rural Development Council with a representative from the Agency for Health Care Administration (AHCA).
- Authorize RACECs to designate catalyst projects, provided concurrence with REDI, EFI and OTTED.
- Require state agencies to promote creation and development of catalyst projects and sites.
- Require REDI to assist local governments in RASECs with comprehensive planning needs to further the establishment and development of catalyst projects, and to annually develop a technical assistance manual to facilitate the establishment and development of catalyst projects.
- Delay the required submission of the annual report by REDI from February to September.

Section 14 amends s. 288.06561, F.S., to correct a cross-reference.

Section 15 amends s. 288.0657, F.S., to redefine the term “rural community” to increase the population cap for a county from 100,000 to 125,000 that is adjacent to a county with no more than 75,000 residents. This change will allow Highlands County to remain in a RACEC.

Section 16 amends s. 288.1045, F.S., to correct cross-references and to replace the current application review schedule with that in the proposed s. 288.061, F.S. Also, the lifetime cap on QDSC tax refunds is reduced from $7.5 million to $5 million.

Section 17 amends s. 288.106, F.S., to:

- Redefine the term “rural community” to increase the population cap of a county from 100,000 to 125,000 that is adjacent to another county with no more than 75,000 residents. This change will allow Highlands County to remain in a RACEC.
- Specify that OTTED, when evaluating the application of a business seeking QTI status, calculate the average annual wage using only the wages of the company’s new employees.
- Replace an obsolete reference to SIC codes with that of the newer NAICS codes.
- Correct cross-references and make technical grammar changes.
- Specify that applications for incentive shall be reviewed by EFI and OTTED under the process specified in the proposed s. 288.061, F.S.
- Reinstates the expired “economic stimulus exemption” for QTI businesses for claims scheduled to be submitted after January 1, 2009, through July 1, 2010.; clarifies that the negative economic conditions that have led to businesses being unable to achieve their performance targets must have occurred in Florida; and specifies that OTTED shall compare relevant employment statistics to determine if the exemption should be granted.
- Extends the sunset of the QTI program from June 30, 2010, to June 30, 2014.

Section 18 amends s. 288.107, F.S., to require that for brownfield projects to qualify tax refunds, they must have local support as evidenced through the passage of a local resolution adopted by the governing board of a county or municipality. Also, the existing application review process is replaced by the one created in the proposed s. 288.061, F.S.

Section 19 amends s. 288.108, F.S., to replace the existing application review process for the High Impact Business Incentive Program with the one created in the proposed s. 288.061, F.S., and to delete a reporting requirement.

Section 20 amends s. 288.1088, F.S., to specify that applications for the QAC program shall be reviewed pursuant to the proposed s. 288.061, F.S., except that the OTTED executive director shall submit recommendations to the Governor within 22 calendar days for his approval or denial, prior to the Governor submitting the project to the Legislative Budget Commission for ultimate approval. It also authorizes EFI and OTTED to waive QAC eligibility criteria for a project located in a RACEC.

Section 21 amends s. 257.193, F.S., to correct a cross-reference.

Section 22 amends s. 288.019, F.S., to correct a cross-reference.

Section 23 amends s. 627.6699, F.S., to correct a cross-reference.

Section 24 provides an effective date of July 1, 2009.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Indeterminate. The Department of Revenue is researching the changes in sections 3, 4, and 5 of CS/SB 2034 from SIC codes to NAICS codes to determine if any industries are being inadvertently exempted from paying sales and use taxes, or are inadvertently losing their current exemptions.

B. Private Sector Impact:

Indeterminate. Businesses seeking incentives under any of the state's economic development incentive programs could expect a more prompt response for approval or denial under the new streamlined process for EFI and OTTED. Also, businesses interested in moving to, or expanding in, rural areas may have a better chance of receiving incentives.

C. Government Sector Impact:

CS/SB 2034 directs OPPAGA and the Florida Auditor General's Office to jointly prepare every 3 years a comprehensive report evaluating whether the Innovation Incentive Program is creating the type of high-wage, high-skilled economic development clusters envisioned by the Legislature. Their first report is due March 1, 2010. Because of the 7-month due-date for the initial report and the even-longer due dates for the updates, it is likely that the two legislative research entities will be able to schedule this work without disrupting other on-going projects.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Commerce Committee on March 17, 2009:

- Removes outdated Standard Industrial Classification (SIC) codes from Florida Statute and replaces them with the North American Industry Classification System (NAICS) codes.
- Creates a standard application timeline for many of the state's economic development incentive programs.
- Reduces the lifetime cap on QDSC tax refunds from $7.5 million to $5 million.
- Delays the sunset provision of the Qualified Target Industry Program from June 30, 2010, to June 30, 2014.
- Reinstates an economic-stimulus exemption for QTI-eligible businesses, due to Florida's severe economic downturn, for tax refund claims between January 1, 2009 and July 1, 2010.
- Codifies the RACEC program, which was created by executive order of the Governor.
- Adds to REDI's tasks the ability to provide technical assistance to rural communities for comprehensive planning.

- Clarifies that certain criteria for rural projects receiving funds under the QAC Fund can be exempted due to economic downturns.
- Expands the definition of "rural community" in four sections of statute by raising from 100,000 to 125,000 the maximum population for a county – if it is adjacent to a county of no more than 75,000 population – to be considered "rural."
- Makes numerous technical and clarifying changes to several economic incentive programs.

B. Amendments:

None.