

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 1674

SPONSOR: Commerce and Economic Opportunities Committee and Senator Kirkpatrick

SUBJECT: Economic Development Closing Fund

DATE: April 7, 1999 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Joseph</u>	<u>Maclure</u>	<u>CM</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>FP</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This committee substitute creates the Florida Economic Development Closing Fund within the Office of Tourism, Trade, and Economic Development (OTTED). It appropriates \$20 million from the General Revenue Fund to OTTED for the purpose of funding the Florida Economic Development Closing Fund. The stated legislative intent for the fund is to allow access to sufficient resources for extraordinary economic opportunities for the state and to allow the state to compete for high-impact businesses.

This committee substitute creates a yet unnumbered section of the Florida Statutes.

II. Present Situation:

Economic development serves a host of varying policy goals, perhaps the most important of which are job creation, job retention, revitalization of distressed communities, and overall economic diversification. Strategies range from tax incentives to permit streamlining. Identifying the right mix of public support and private initiative, balancing regulatory needs, prioritizing economic development objectives, and settling on strategies to accomplish those objectives are the recurring issues.

Programs aimed at stimulating economic development and improving the overall economic welfare of Floridians are many and are tailored to achieve the particular policy objectives -- job creation or retention, industry diversification, or revitalization of distressed communities. Examples of strategies include public/private coordination of economic policy through Enterprise Florida, Inc.; tax incentives for job creation through the Enterprise Zone Act, or the Qualified Target Industry (QTI) Tax Refund Program; environmental permit streamlining through the Expedited Permitting Program; and capital formation mechanisms such as the Florida Development Finance Corporation (FDFC).

A recent survey by the Senate Committee on Commerce and Economic Opportunities identified the Economic Development Transportation Projects (Road Fund), Quick Response Training, the Qualified Target Industry tax refund program, the Rural Community Development Revolving Loan Fund, and the Enterprise Zone program as the programs most frequently cited by local economic development organizations as the most effective of the state's incentive programs.¹

Local governments request grants from the Office of Tourism, Trade, and Economic Development under the "Road Fund" to fund transportation projects which serve as inducements for the location or expansion of businesses. For a project to receive over \$200,000 it must create at least 100 new jobs. Eligible uses of "road funds" include design and engineering, construction of the transportation project, traffic signalization, relocation of electrical utilities, storm water management facilities, sodding, and the construction or expansion of a state or federal correctional facility in a county with a population of 50,000 or less. Road funds may not be used for water lines, sewer lines and other non-road infrastructure costs, street lights, sidewalks, landscaping, mitigation, finders or legal fees, right-of-way acquisition, or any cost associated with the preparation of the application or administration of the project.

The Quick Response Training Program is a business location/expansion incentive program administered by Enterprise Florida, Inc., to help businesses with their short term training needs. Under the Quick Response Training Program, requests for training assistance could come directly from business and industry, from business and industry through school boards or community colleges, or through official state economic development efforts. Training is then provided by district school boards, community colleges, and state universities. Training could also be provided by non-public postsecondary institutions upon specific review terms and with prior approval by the advisory committee.

The Qualified Target Industry (QTI) Tax Refund Program allows new or expanding businesses in certain key industrial sectors or corporate headquarters to be approved for tax refunds of up to \$5,000 per job created (\$7,500 in an enterprise zone). To be eligible, a new business must create at least 10 full-time jobs, and an expansion of an existing business must result in a 10-percent increase in employment. Approved applicants may receive refunds based on the payment of sales and use taxes, corporate income taxes, intangible personal property taxes, emergency excise taxes, excise taxes on documents, ad valorem taxes paid, and insurance premium taxes. Tax refunds are approved by OTTED, with initial application evaluation being conducted by Enterprise Florida, Inc. The refunds are paid to a participating business over a period of several years.

The Rural Community Development Revolving Loan Fund provides local governments with financial assistance to finance initiatives directed toward maintaining or developing the economic base of rural communities, especially initiatives addressing employment opportunities for those communities. It provides loans, loan guarantees, and loan loss reserves to local governments in rural counties to promote the economic viability of those rural communities.

¹ *An Effectiveness Review of Florida's Economic Development Programs*, Report Number 98-08, November 1998, Committee on Commerce and Economic Opportunities, Florida Senate.

The Florida enterprise zone program offers incentives to businesses to invest in specifically designated areas of the state suffering from economic distress. For example, under ss. 212.096 and 220.181, F.S., a business that is located in an enterprise zone and that hires a new employee is eligible to claim a job-creation credit against sales tax or corporate income tax. In order to provide a basis for the credit, however, the new employee generally must be a resident of the enterprise zone (ss. 212.096(1)(c) and 220.03(1)(q), F.S.). Work and Gain Economic Self-sufficiency (WAGES) Program participants and certain Job Training Partnership Act classroom training participants who do not reside in the zone may also provide a basis for the credits. The credit is calculated as a percentage of the new employee's monthly wages. If the new employee is a WAGES participant, a higher percentage is applied in calculating the credit (ss. 212.096(2)(b) and 220.181(1)(a), F.S.).

In addition to the tax credits based upon job-creation in an enterprise zone, other enterprise zone incentives include: a credit against corporate income taxes based upon ad valorem taxes paid on new or improved property in an enterprise zone (s. 220.182, F.S.); a sales tax exemption, which inures in the form of a refund of taxes paid, for building materials used in the rehabilitation of real property in an enterprise zone (s. 212.08(5)(g), F.S.); a sales tax exemption, which inures in the form of a refund of taxes paid, for business property used in an enterprise zone (s. 212.08(5)(h), F.S.); and a sales tax exemption for electrical energy used in an enterprise zone (s. 212.08(15), F.S.). The tax benefit provided to eligible businesses under these provisions is maximized if at least 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary employees.

Under s. 370.28, F.S., Florida has designated certain enterprise zones in communities negatively affected by the constitutional amendment limiting the use of nets to harvest marine species. In an exception to the general requirement that a new employee who provides a basis for the job-creation credits against sales or corporate income tax must be an enterprise zone resident, a business located in a net ban enterprise zone is authorized to claim such credits based on the employment of a person residing within the jurisdiction of the larger community that nominated the enterprise zone (s. 370.28(4), F.S.).

III. Effect of Proposed Changes:

This committee substitute creates the Florida Economic Development Closing Fund within the Office of Tourism, Trade, and Economic Development (OTTED). The fund is designed to allow access to sufficient resources for extraordinary economic opportunities for the state and to allow the state to compete for high-impact businesses.

This committee substitute requires Enterprise Florida, Inc., to evaluate and recommend proposals regarding the use of the funds to the director of OTTED. Criteria is provided to guide EFI in the recommendation process. The criteria for such evaluation include a description of the type of facility, its business operation, and the product or service associated with the facility; the number of full time jobs to be created and the total estimated annual wages of those jobs; the cumulative amount of investment to be dedicated to the facility within a specified period; any special impacts the facility is expected to generate in the economy or to the state's university or community college system; a statement of environmental or regulatory issues involved with the project; and the role the incentive is expected to play in the decision to locate or expand in this state. The

business is required to create at least 1,000 jobs or create at least 300 jobs in a rural community or a distressed urban core community. The jobs to be created must pay a wage that exceeds the average wage in the affected community by 20 percent, and the employer must provide a health-benefit package for employees. It must be a targeted business except in the case of a rural community or a distressed urban core community. The business must provide a bond to guarantee that it will provide these jobs for at least 10 years.

This committee substitute requires that contracts entered into pursuant to these provisions must include the total amount of funds awarded and the performance conditions that must be met to obtain the award. The performance standards must include net new employment in the state, average salary, and total capital investment; the methodology for validating performance; the schedule of payments from the fund; and sanctions for failure to meet performance standards.

This committee substitute requires Enterprise Florida, Inc., to validate contractor performance.

This committee substitute requires OTTED to recommend the approval or disapproval of the use of the funds for the projects to the Governor. The Governor, with the approval of the Senate President and the House Speaker, would decide whether the project merits the use of the fund.

This committee substitute appropriates \$20 million from the General Revenue Fund to OTTED for the purpose of funding the Florida Economic Development Closing Fund.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

This committee substitute requires OTTED to recommend the approval or disapproval of the use of the closing fund for the project, to the Governor. Then the “Governor shall obtain approval from the President of the Senate and the Speaker of the House of Representatives before giving final approval for a project.” Requiring the Senate President and the House Speaker to give approval may constitute a violation of the separation of powers clause in the Florida Constitution. According to Section 3 of Article II of the Florida Constitution: “The powers of the state government shall be divided into legislative, executive and judicial branches. No person belonging to one branch shall exercise any powers appertaining to either of the other branches unless expressly provided herein.” Further, s. 20.02(1), F.S., specifies

that: “The State Constitution contemplates the separation of powers within state government among the legislative, executive, and judicial branches of the government. The legislative branch has the broad purpose of determining policies and programs and reviewing program performance. The executive branch has the purpose of executing the programs and policies adopted by the Legislature and of making policy recommendations to the Legislature.” By providing for prior legislative approval of specific projects, for use of the deal closing fund, this committee substitute appears to engage the Legislature in execution of a program.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This committee substitute would allow an additional incentives to be offered which may influence the decision of a business to locate or expand within the state, or otherwise influence a business to pursue an expansion, relocation, or new production that would otherwise not be feasible.

C. Government Sector Impact:

The initial cost of this committee substitute is \$20 million appropriated from General Revenue. The committee substitute specifies that the \$20 million is not subject to reversion. The total fiscal impact of this committee substitute to state and local government would depend on the extent to which this closing fund is used in tandem with tax refunds, tax exemptions, or other incentives. Most businesses that would qualify for this closing fund would also qualify and be able to use additional incentive programs offered by the state, such as the Economic Development Transportation Projects (Road Fund), Quick Response Training, and the Qualified Target Industry (QTI)/Qualified Defense Contractors (QDC) tax refund programs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

