STORAGE NAME: h1809a.bdt
DATE: March 30, 1999

HOUSE OF REPRESENTATIVES
COMMITTEE ON
BUSINESS DEVELOPMENT & INTERNATIONAL TRADE
ANALYSIS

BILL #: HB 1809

RELATING TO: Economic Opportunities Fund

SPONSOR(S): Representative Lynn

COMPANION BILL(S): SB 1674(I)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) BUSINESS DEVELOPMENT & INTERNATIONAL TRADE YEAS 7 NAYS 0
(2) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
(3)
(4)
(5)

I. SUMMARY:

The bill creates the Florida Economic Opportunities Incentive Fund within OTTED. It provides that funds may be transferred from the Working Capital Trust Fund or other unappropriated surplus funds and limits such fund to $50 million per fiscal year. The fund will allow access to sufficient resources for extraordinary economic opportunities for the state and to allow the state to compete for high-impact businesses.

The fiscal impact of the bill is indeterminate and would depend on the extent such funds were used to attract businesses to the state or to entice a business to expand within the state.

The bill would require a three-fifths vote of the membership of each house of the Legislature and would take effect upon becoming a law.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Economic Development serves a host of varying policy goals, 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. 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 Jobs Siting Act, 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 EDOs as the most effective of the state's incentive programs.

Local governments request grants from OTTED under the "Road Fund" to fund transportation projects which serve as inducements for the location or expansion of businesses. Grants are limited to $2m per project; any project over $200,000 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, stormwater 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. This program is similar to the program that helped bring BMW to South Carolina in 1992.

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 nonpublic 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.

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.). The credit is calculated as a percentage of the new employee's monthly wages. If the new employee, in addition to living within the enterprise zone, is a Work and Gain Economic Self-sufficiency (WAGES) Program participant, a higher percentage is applied in calculating the credit (ss. 212.096(2)(b) and 220.181(1)(a), F.S.).

Prior to legislative reforms enacted in 1994, a new employee who was a recipient of Aid to Families with Dependent Children (AFDC) or was an economically disadvantaged Job Training Partnership Act participant could provide a basis for tax credits, regardless of whether the person was a resident of the enterprise zone. At that time, Florida also allowed businesses located outside an enterprise zone to claim certain credits under the program.

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.).

The "smokestack" chasing of the 1960s and 1970s has been making a return in the 1990s. Neighboring states such as Tennessee, Alabama, and South Carolina have been upping the ante for business locations through the use of tax or other types of financial or regulatory incentives. In 1985, Tennessee spent $26,000 per job in recruiting the Saturn corporation. In 1989, South Carolina spent $68,421 per job in recruiting BMW. In 1993, Alabama announced a deal to bring Mercedes-Benz to Tuscaloosa at a cost of approximately $150,000 to $200,000 per job created.

Florida economic development leaders have been pressing the need to adopt similar incentive packages to attract more corporations to Florida. Many national economic development professionals question the use of tax incentives as the best way to spur growth or lure businesses. Given that, as well as the potential fiscal impact, the Legislature continues to wrestle with the merits, form, and scope of a tax incentive inducement strategy. Measuring the success or failures of these programs has been difficult for Florida and other states. Other factors such as access to markets, labor quality and costs, and local amenities all come into play for business locations and expansions and are difficult to measure in each new business or business expansion. Florida does offer a range of incentive programs, although funding levels are low in comparison to some other states.

Florida is a low tax state relative to other states (Florida ranks forty-second in state tax burden and thirtieth in local tax burden). It also offers low cost labor. These two factors historically have been the greatest incentives for businesses seeking to locate or expand their business in Florida. However, low tax rates have worked against tax incentive programs.

Florida's tax incentive package is similar to those offered by others states. Generally, states offer tax rebates or exemptions for businesses locating or expanding within their boundaries. Since Florida's tax rates are comparatively low, they may be less of an inducement to businesses looking to locate in the state. There is a concern about escalating tax incentives between states bidding for business; however, incentives are no longer considered extraordinary. They are now common practice and are part of inducement packages offered to attract businesses to relocate.

B. EFFECT OF PROPOSED CHANGES:

The bill creates the Florida Economic Opportunities Incentive Fund within OTTED. It provides that funds may be transferred from the Working Capital Trust Fund or other unappropriated surplus funds and limits such fund to $50 million per fiscal year. The fund will allow access to sufficient resources for extraordinary economic opportunities for the state and to allow the state to compete for high-impact businesses.

Enterprise Florida would 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 includes 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; and the role the incentive is expected to play in the decision to locate or expand in this state. 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.

EFI is required to validate contractor performance and report to the Governor and Legislature within six months after the completion of the contract.

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

The bill would require a three-fifths vote of the membership of each house of the Legislature and would take effect upon becoming a law.

C. APPLICATION OF PRINCIPLES:

1. <u>Less Government:</u>

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

N/A

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

b. Does the bill require or authorize an increase in any fees?

N/A

c. Does the bill reduce total taxes, both rates and revenues?

N/A

d. Does the bill reduce total fees, both rates and revenues?

N/A

e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

   a. If the bill purports to provide services to families or children:

      (1) Who evaluates the family's needs?

      N/A

      (2) Who makes the decisions?

      N/A

      (3) Are private alternatives permitted?

      N/A

      (4) Are families required to participate in a program?

      N/A

      (5) Are families penalized for not participating in a program?

      N/A

   b. Does the bill directly affect the legal rights and obligations between family members?

   N/A

   c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

      (1) parents and guardians?

      N/A

      (2) service providers?

      N/A

      (3) government employees/agencies?

      N/A

D. STATUTE(S) AFFECTED:

N/A

E. SECTION-BY-SECTION ANALYSIS:

See Effects of Proposed Changes, Section II.B.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

   Indeterminate.

2. Recurring Effects:

   Indeterminate.

3. Long Run Effects Other Than Normal Growth:

   Indeterminate.

4. Total Revenues and Expenditures:

   Indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

   N/A

2. Recurring Effects:

   N/A

3. Long Run Effects Other Than Normal Growth:

   N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

   N/A

2. Direct Private Sector Benefits:

   The bill would allow additional incentives to be offered which may influence the decision of a business to locate to or expand within the state.

3. Effects on Competition, Private Enterprise and Employment Markets:

   The bill may give the state the ability to be more competitive when competing with other states in attracting businesses.

D. FISCAL COMMENTS:

The fiscal impact of the bill is indeterminate and would depend on the extent such funds were used to attract businesses to the state or entice a business to expand within the state.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

V. COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 29, 1999, the Committee on Business Development and International Trade considered the bill and passed it favorably with one amendment. The amendment was offered in response to a concern about accountability raised by the Comptroller. The amendment requires that contracts entered in to pursuant to these provisions must contain sanctions for failure to meet performance conditions. The amendment requires EFI to validate contractor performance and report to the Governor and the Legislature within six months after the completion of a contract.

VII. SIGNATURES:

COMMITTEE ON BUSINESS DEVELOPMENT & INTERNATIONAL TRADE:

Prepared by:	Staff Director:
J. Paul Whitfield, Jr.	J. Paul Whitfield, Jr.