

By the Committee on Commerce and Economic Opportunities; and  
Senator Diaz de la Portilla

310-1633-01

1                                   A bill to be entitled  
2           An act relating to economic development;  
3           amending s. 288.012, F.S.; changing the date  
4           for submission of certain reports by foreign  
5           offices; providing for the reports to be  
6           compiled and submitted by Enterprise Florida,  
7           Inc., as part of its annual report; amending s.  
8           288.095, F.S.; increasing the amount of the  
9           total state share of tax refunds that may be  
10          scheduled annually for payment under the  
11          qualified target industry tax refund program  
12          and the qualified defense contractor tax refund  
13          program; amending s. 288.106, F.S., relating to  
14          the tax refund program for qualified target  
15          industry businesses; revising requirements for  
16          application for certification as such business  
17          with respect to the number of new jobs at the  
18          business and projections by the Office of  
19          Tourism, Trade, and Economic Development of  
20          refunds based thereon; revising requirements  
21          relating to the tax refund agreement with  
22          respect to job creation and the time for filing  
23          of claims for refund; revising provisions  
24          relating to annual claims for refund; providing  
25          an application deadline; revising provisions  
26          relating to the order authorizing a tax refund;  
27          specifying that the section does not create a  
28          presumption that a claim will be approved and  
29          paid; providing applicability to tax refund  
30          agreements and claims for refund executed prior  
31          to the effective date of the act; revising the

1 agencies with which the office may verify  
2 information and to which the office may provide  
3 information; amending s. 288.90151, F.S.;  
4 authorizing Enterprise Florida, Inc., to hire  
5 an economic analysis firm to assist with  
6 certain reporting requirements; directing  
7 Enterprise Florida, Inc., to hire a survey firm  
8 to assist with a customer-satisfaction survey;  
9 conforming changes; amending s. 288.905, F.S.;  
10 revising the deadline for submission of updates  
11 or modifications to the strategic plan  
12 developed by Enterprise Florida, Inc.; amending  
13 s. 288.980, F.S.; providing that grants by the  
14 Office of Tourism, Trade, and Economic  
15 Development to support activities related to  
16 the retention of military installations  
17 potentially affected by closure or realignment  
18 must be from funds specifically appropriated  
19 therefor; providing an effective date.

20  
21 Be It Enacted by the Legislature of the State of Florida:

22  
23 Section 1. Subsection (3) of section 288.012, Florida  
24 Statutes, is amended to read:

25 288.012 State of Florida foreign offices.--The  
26 Legislature finds that the expansion of international trade  
27 and tourism is vital to the overall health and growth of the  
28 economy of this state. This expansion is hampered by the lack  
29 of technical and business assistance, financial assistance,  
30 and information services for businesses in this state. The  
31 Legislature finds that these businesses could be assisted by

1 providing these services at State of Florida foreign offices.  
2 The Legislature further finds that the accessibility and  
3 provision of services at these offices can be enhanced through  
4 cooperative agreements or strategic alliances between state  
5 entities, local entities, foreign entities, and private  
6 businesses.

7 (3) By ~~December~~ October 1 of each year, each foreign  
8 office shall submit to the Office of Tourism, Trade, and  
9 Economic Development a complete and detailed report on its  
10 activities and accomplishments during the preceding fiscal  
11 year. The reports must be compiled and submitted to the Office  
12 of Tourism, Trade, and Economic Development on behalf of the  
13 foreign offices by Enterprise Florida, Inc., as part of the  
14 annual report of Enterprise Florida, Inc., required under s.  
15 288.906.In a format provided by Enterprise Florida, Inc., the  
16 report must set forth information on:

- 17 (a) The number of Florida companies assisted.  
18 (b) The number of inquiries received about investment  
19 opportunities in this state.  
20 (c) The number of trade leads generated.  
21 (d) The number of investment projects announced.  
22 (e) The estimated U.S. dollar value of sales  
23 confirmations.  
24 (f) The number of representation agreements.  
25 (g) The number of company consultations.  
26 (h) Barriers or other issues affecting the effective  
27 operation of the office.  
28 (i) Changes in office operations which are planned for  
29 the current fiscal year.  
30 (j) Marketing activities conducted.

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1           (k) Strategic alliances formed with organizations in  
2 the country in which the office is located.

3           (l) Activities conducted with other Florida foreign  
4 offices.

5           (m) Any other information that the office believes  
6 would contribute to an understanding of its activities.

7           Section 2. Paragraph (a) of subsection (3) of section  
8 288.095, Florida Statutes, is amended to read:

9           288.095 Economic Development Trust Fund.--

10           (3)(a) The Office of Tourism, Trade, and Economic  
11 Development may approve applications for certification  
12 pursuant to ss. 288.1045(3) and 288.106. However, the total  
13 state share of tax refund payments scheduled in all active  
14 certifications for fiscal year ~~2000-2001 shall not exceed \$24~~  
15 ~~million. The state share of tax refund payments scheduled in~~  
16 ~~all active certifications for fiscal year 2001-2002 may and~~  
17 ~~each subsequent year shall not exceed \$30 million. The total~~  
18 for each subsequent fiscal year may not exceed \$35 million.

19           Section 3. Paragraphs (a) and (d) of subsection (3),  
20 paragraph (a) of subsection (4), and subsections (5) and (6)  
21 of section 288.106, Florida Statutes, are amended to read:

22           288.106 Tax refund program for qualified target  
23 industry businesses.--

24           (3) APPLICATION AND APPROVAL PROCESS.--

25           (a) To apply for certification as a qualified target  
26 industry business under this section, the business must file  
27 an application with the office before the business has made  
28 the decision to locate a new business in this state or before  
29 the business had made the decision to expand an existing  
30 business in this state. The application shall include, but is  
31 not limited to, the following information:

- 1           1. The applicant's federal employer identification  
2 number and the applicant's state sales tax registration  
3 number.
- 4           2. The permanent location of the applicant's facility  
5 in this state at which the project is or is to be located.
- 6           3. A description of the type of business activity or  
7 product covered by the project, including four-digit SIC codes  
8 for all activities included in the project.
- 9           4. The number of net new full-time equivalent Florida  
10 jobs at the qualified target industry business as of December  
11 31 of each year included in this state that are or will be  
12 ~~dedicated to~~ the project and the average wage of those jobs.  
13 If more than one type of business activity or product is  
14 included in the project, the number of jobs and average wage  
15 for those jobs must be separately stated for each type of  
16 business activity or product.
- 17           5. The total number of full-time equivalent employees  
18 employed by the applicant in this state.
- 19           6. The anticipated commencement date of the project.
- 20           7. A brief statement concerning the role that the tax  
21 refunds requested will play in the decision of the applicant  
22 to locate or expand in this state.
- 23           8. An estimate of the proportion of the sales  
24 resulting from the project that will be made outside this  
25 state.
- 26           9. A resolution adopted by the governing board of the  
27 county or municipality in which the project will be located,  
28 which resolution recommends that certain types of businesses  
29 be approved as a qualified target industry business and states  
30 that the commitments of local financial support necessary for  
31 the target industry business exist. In advance of the passage

1 of such resolution, the office may also accept an official  
2 letter from an authorized local economic development agency  
3 that endorses the proposed target industry project and pledges  
4 that sources of local financial support for such project  
5 exist. For the purposes of making pledges of local financial  
6 support under this subsection, the authorized local economic  
7 development agency shall be officially designated by the  
8 passage of a one-time resolution by the local governing  
9 authority.

10 10. Any additional information requested by the  
11 office.

12 (d) The office shall forward its written findings and  
13 evaluation concerning each application meeting the  
14 requirements of paragraph (b) to the director within 45  
15 calendar days after receipt of a complete application. The  
16 office shall notify each target industry business when its  
17 application is complete, and of the time when the 45-day  
18 period begins. In its written report to the director, the  
19 office shall specifically address each of the factors  
20 specified in paragraph (c) and shall make a specific  
21 assessment with respect to the minimum requirements  
22 established in paragraph (b). The office shall include in its  
23 report projections of the tax refunds the business would be  
24 eligible to receive ~~refund claim that will be sought by the~~  
25 ~~target industry business~~ in each fiscal year based on the  
26 creation and maintenance of the net new Florida jobs specified  
27 in subparagraph (a)4. as of December 31 of the preceding state  
28 fiscal year ~~information submitted in the application.~~

29 (4) TAX REFUND AGREEMENT.--  
30  
31

1 (a) Each qualified target industry business must enter  
2 into a written agreement with the office which specifies, at a  
3 minimum:

4 1. The total number of full-time equivalent jobs in  
5 this state that will be dedicated to the project, the average  
6 wage of those jobs, the definitions that will apply for  
7 measuring the achievement of these terms during the pendency  
8 of the agreement, and a time schedule or plan for when such  
9 jobs will be in place and active in this state. ~~This~~  
10 ~~information must be the same as the information contained in~~  
11 ~~the application submitted by the business under subsection~~  
12 ~~(3).~~

13 2. The maximum amount of tax refunds which the  
14 qualified target industry business is eligible to receive on  
15 the project and the maximum amount of a tax refund that the  
16 qualified target industry business is eligible to receive in  
17 each fiscal year, based on the job creation and maintenance  
18 schedule specified in subparagraph 1.

19 3. That the office may review and verify the financial  
20 and personnel records of the qualified target industry  
21 business to ascertain whether that business is in compliance  
22 with this section.

23 4. The date by ~~after~~ which, in each fiscal year, the  
24 qualified target industry business may file a an annual claim  
25 under subsection (5) to be considered to receive a tax refund  
26 in the following fiscal year.

27 5. That local financial support will be annually  
28 available and will be paid to the account. The director may  
29 not enter into a written agreement with a qualified target  
30 industry business if the local financial support resolution is  
31 not passed by the local governing authority within 90 days

1 after he or she has issued the letter of certification under  
2 subsection (3).

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4 Any tax refund agreement or amendment executed prior to the  
5 effective date of this act shall be subject to the terms and  
6 conditions specified in that agreement as dictated by the laws  
7 in force at the time of execution, except with respect to  
8 paragraphs (5)(e), (g), and (i).

9 (5) ANNUAL CLAIM FOR REFUND.--

10 (a) To be eligible to claim any scheduled tax refund,  
11 a qualified target industry business that has entered into a  
12 tax refund agreement with the office under subsection (4) must  
13 ~~may~~ apply by January 31 of ~~once~~ each fiscal year to the office  
14 for the a tax refund scheduled to be paid from the  
15 appropriation for the fiscal year which begins on July 1  
16 following the January 31 claims submission date. The office  
17 may, upon written request, grant a 30-day extension of the  
18 filing date. The application must be made on or after the date  
19 specified in that agreement.

20 (b) The claim for refund by the qualified target  
21 industry business must include a copy of all receipts  
22 pertaining to the payment of taxes for which the refund is  
23 sought and data related to achievement of each performance  
24 item specified in the tax refund agreement. The amount  
25 requested as a tax refund may not exceed the amount specified  
26 for the relevant ~~that~~ fiscal year in that agreement.

27 (c) A tax refund may not be approved for a qualified  
28 target industry business unless the required local financial  
29 support has been paid into the account for that refund in that  
30 ~~fiscal year~~. If the local financial support provided is less  
31 than 20 percent of the approved tax refund, the tax refund

1 must be reduced. In no event may the tax refund exceed an  
2 amount that is equal to 5 times the amount of the local  
3 financial support received. Further, funding from local  
4 sources includes any tax abatement granted to that business  
5 under s. 196.1995 or the appraised market value of municipal  
6 or county land conveyed or provided at a discount to that  
7 business. The amount of any tax refund for such business  
8 approved under this section must be reduced by the amount of  
9 any such tax abatement granted or the value of the land  
10 granted; and the limitations in subsection (2) and paragraph  
11 (3)(f) must be reduced by the amount of any such tax abatement  
12 or the value of the land granted. A report listing all sources  
13 of the local financial support shall be provided to the office  
14 when such support is paid to the account.

15 (d) A prorated tax refund, less a 5-percent penalty,  
16 shall be approved for a qualified target industry business  
17 provided all other applicable requirements have been satisfied  
18 and the business proves to the satisfaction of the director  
19 that it has achieved at least 80 percent of its projected  
20 employment.

21 (e) The director, with such assistance as may be  
22 required from the office, the Department of Revenue, or the  
23 Agency for Workforce Innovation ~~Department of Labor and~~  
24 ~~Employment Security~~, shall, by June 30 following the scheduled  
25 date for the tax refund claim submission, specify by written  
26 ~~final~~ order the approval or disapproval of the tax refund  
27 claim and, if approved, the amount of the tax refund that is  
28 authorized to be paid to for the qualified target industry  
29 business for the ~~fiscal year within 30 days after the date~~  
30 ~~that the claim for the annual tax refund is received by the~~  
31 office. The office may grant an extension of this date on the

1 request of the qualified target industry business for the  
2 purpose of filing additional information in support of the  
3 claim.

4 (f) The total amount of tax refund claims approved by  
5 the director under this section in any fiscal year must not  
6 exceed the amount authorized under s. 288.095(3).

7 (g) Nothing in this section shall create a presumption  
8 that a scheduled tax refund claim will be approved and paid.

9 (h)~~(g)~~ Upon approval of the tax refund under  
10 paragraphs (c), (d), and (e), the Comptroller shall issue a  
11 warrant for the amount specified in the ~~final~~ order. If the  
12 ~~final~~ order is appealed, the Comptroller may not issue a  
13 warrant for a refund to the qualified target industry business  
14 until the conclusion of all appeals of that order.

15 (i) Claims authorized in tax refund agreements or  
16 amendments executed prior to the effective date of this act  
17 shall be filed and evaluated under the terms and conditions  
18 specified in those agreements or amendments and the laws in  
19 effect at the time of execution, unless amended after that  
20 date.

21 (6) ADMINISTRATION.--

22 (a) The office is authorized to verify information  
23 provided in any claim submitted for tax credits under this  
24 section with regard to employment and wage levels or the  
25 payment of the taxes to the appropriate agency or authority,  
26 including the Department of Revenue, the Agency for Workforce  
27 Innovation ~~Department of Labor and Employment Security~~, or any  
28 local government or authority.

29 (b) To facilitate the process of monitoring and  
30 auditing applications made under this program, the office may  
31 provide a list of qualified target industry businesses to the

1 Department of Revenue, to the Agency for Workforce Innovation  
2 ~~Department of Labor and Employment Security~~, or to any local  
3 government or authority. The office may request the assistance  
4 of those entities with respect to monitoring the payment of  
5 the taxes listed in subsection (2).

6 Section 4. Subsection (8) of section 288.90151,  
7 Florida Statutes, is amended to read:

8 288.90151 Return on investment from activities of  
9 Enterprise Florida, Inc.--

10 (8) Enterprise Florida, Inc., in consultation with the  
11 Office of Program Policy Analysis and Government  
12 Accountability, shall hire a private accounting firm or an  
13 economic analysis firm to develop the methodology for  
14 establishing and reporting return-on-investment and in-kind  
15 contributions as described in this section and a survey firm  
16 to develop, analyze, and report on the results of the  
17 customer-satisfaction survey. The Office of Program Policy  
18 Analysis and Government Accountability shall review and offer  
19 feedback on the methodology before it is implemented. The  
20 firms used to satisfy the requirements of this subsection  
21 ~~private accounting firm~~ shall certify whether the applicable  
22 statements in the annual report comply with this subsection.

23 Section 5. Subsection (2) of section 288.905, Florida  
24 Statutes, is amended to read:

25 288.905 Duties of the board of directors of Enterprise  
26 Florida, Inc.--

27 (2) The board of directors shall, in conjunction with  
28 the Office of Tourism, Trade, and Economic Development, the  
29 Office of Urban Opportunities, and local and regional economic  
30 development partners, develop a strategic plan for economic  
31 development for the State of Florida. Such plan shall be

1 submitted to the Governor, the President of the Senate, the  
2 Speaker of the House of Representatives, the Senate Minority  
3 Leader, and the House Minority Leader and shall be updated or  
4 modified before January 31 ~~±~~ of each year. The plan must be  
5 approved by the board of directors prior to submission to the  
6 Governor and Legislature.

7 Section 6. Paragraph (a) of subsection (2) of section  
8 288.980, Florida Statutes, is amended to read:

9 288.980 Military base retention; legislative intent;  
10 grants program.--

11 (2)(a) The Office of Tourism, Trade, and Economic  
12 Development is authorized to award grants from ~~any~~ funds  
13 specifically appropriated ~~available~~ to it to support  
14 activities related to the retention of military installations  
15 potentially affected by federal base closure or realignment.

16 Section 7. This act shall take effect July 1, 2001.

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18 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
19 COMMITTEE SUBSTITUTE FOR  
20 SB 2008

21 The committee substitute makes the following changes to SB  
22 2008:

- 23 1. Amends s. 288.106, F.S., to improve the budgetary  
24 process for the Qualified Target Industry Tax Refund  
25 Program by altering the timeline for approval of program  
26 refunds by the Office of Tourism, Trade, and Economic  
27 Development (OTTED).
- 28 2. Amends s. 288.980, F.S., to clarify that OTTED may only  
29 utilize funds specifically appropriated for military  
30 base retention activities for such programs.
- 31 3. Strikes proposed language requiring agencies with the  
authority to audit Enterprise Florida, Inc., to  
coordinate, to the maximum extent practicable, with each  
other so that a single state audit is conducted each  
year.