

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1283 Innovation Incentives
SPONSOR(S): Attkisson and others
TIED BILLS: HB 1285 **IDEN./SIM. BILLS:** SB 2728

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Economic Development, Trade & Banking Committee		Olmedillo	Carlson
2) Fiscal Council			
3) Commerce Council			
4)			
5)			

SUMMARY ANALYSIS

The bill creates within the Office of Tourism, Trade, and Economic Development (OTTED) the Innovation Incentive Program for qualified innovation businesses (Program). The purpose of the Program is to improve the state's ability to compete effectively in attracting science-based research projects of significant scale and world class excellence and innovation business projects to this state.

The bill establishes the Innovation Incentive Account within the Economic Development Trust Fund (EDTF). The bill transfers \$250,000,000 from the General Revenue Fund to the Innovation Incentive Account within EDTF for fiscal year 2006-2007. The bill appropriates \$50,000,000 from the Innovation Incentive Account within the EDTF to OTTED beginning in the fiscal year 2006-2007 and annually thereafter for 4 fiscal years. The bill requires the allocation to be used to implement the purposes of the Innovation Incentive Program.

The bill requires Enterprise Florida, Inc. (EFI) to evaluate applications for incentive awards and make recommendations to OTTED, which in turn, shall make recommendations for approval to the Governor. The bill requires the Governor to consult with the Legislature and receive approval prior to releasing funds.

The bill provides an effective date and repeal date of July 1, 2006 and July 1, 2011, respectively.

See Fiscal Comments for fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government – The bill creates the Innovation Program for qualified innovation businesses and appropriates \$250,000,000 to the Innovation Incentive Account.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Quick Action Closing Fund

The 1999 Legislature created the Quick Action Closing Fund (QACF) (s. 288.1088, F.S.) within the Office of Tourism, Trade, and Economic Development for the purpose of helping Florida compete for high-impact business facilities, critical private infrastructure in rural areas, and key businesses in economically distressed urban or rural communities.² Enterprise Florida, Inc., evaluates proposals for the use of the Quick Action Closing Fund, and makes recommendations to OTTED.³

Once Enterprise Florida, Inc. makes its evaluation and recommendation to OTTED, the director of OTTED must make a recommendation of approval or disapproval to the Governor. OTTED must also provide the Governor with proposed performance conditions the project must meet to obtain the incentive funds.

The Governor must consult with the Legislature before giving final approval for using the QACF for the project and must recommend approval of the project and release of moneys from the QACF pursuant to legislative consultation and review requirements of s. 216.177, F.S. This requires notice to the Legislative Budget Commission, which may deny the funding request if it exceeds the delegated authority of the Governor or is contrary to legislative policy and intent.

Once approved by the Governor, OTTED enters into a performance contract with the business and establishes the conditions for payment of moneys from the QACF.

EFI shall validate the contractor's performance and provide a report regarding such performance to the Governor, the President of the Senate and the Speaker of the House, within 6 months after completion of the contract.

The Governor may, in an emergency or special circumstance, and in consultation with the Legislature pursuant to s. 216.177, reallocate unencumbered funds appropriated to the QACF to supplement statutorily created economic development programs and operations.

Effect of Proposed Changes

Background

In a press release dated January 30, 2006, Governor Bush launched new economic development initiatives to bolster the state's efforts to diversify and build Florida's Innovation Economy. To coincide with this initiative, the Governor is recommending a \$630 million investment in the 2006-2007 budget for programs that will generate the innovation needed to create the industries of the future; this includes \$250 million to create the Florida Innovation Incentive Fund to enable Florida to take advantage of

² The 1996 Legislature created the Office of Tourism, Trade, and Economic Development (OTTED) in the Executive Office of the Governor. OTTED is responsible for promoting economic development, tourism, and international trade. OTTED oversees the activities public-private partnerships, including Enterprise Florida, Inc. (s. 14.2015, F.S.).

³ In 1992, the Legislature created Enterprise Florida, Inc. (EFI), to assist in the coordination of the state's economic development efforts and to develop a strategic plan for economic development for Florida (s. 288.901, F.S.).

“once-in-a-lifetime opportunities” and big, statewide priorities that will yield a significant return for the tax payer in the long run.

Appropriations

The bill transfers \$250,000,000 from the General Revenue Fund to the Innovation Incentive Account within EDTF. The bill appropriates \$50,000,000 from the Innovation Incentive Account to OTTED beginning in the fiscal year 2006-2007 and annually thereafter for 4 fiscal years. The allocation must be used to implement the purposes of the Innovation Incentive Program. In addition, during the fiscal years to which this act applies, OTTED may request additional budget authority necessary to locate a new business in Florida or expand an existing business, if such request meets the purposes of the Innovation Incentive Program and is approved pursuant to s. 288.1089(8), F.S. However, the total funds used to implement the Innovation Incentive Program shall never exceed the total amount funded, which is \$250,000,000.

Innovation Incentive Program

The bill creates within OTTED the Innovation Incentive Program for qualified innovation businesses and establishes the Innovation Incentive Account within the Economic Development Trust Fund. The purpose of the Program is to ensure the availability of sufficient resources to respond to extraordinary economic opportunities and compete effectively for science-based research projects of significant scale and world class excellence, and innovation business projects in this state.

Definitions

The bill provides the following definitions:

- "Average wage" means the statewide private sector average wage or the average of all private sector wages and salaries in the county or in the standard metropolitan area in which the applicant is located as determined by the Agency for Workforce Innovation.
- "Competitive gap" means the difference between the cost and benefits of locating the project in this state versus identified locations under consideration in other states or countries when the total cost of start-up and operations, incentive offers, and other relevant factors are considered in this state versus those alternative locations.
- "Cumulative investment" means the total private investment in buildings and equipment made by a qualified, new business since the beginning of construction of such facility or an expanding business in this state since the beginning of the expansion project.
- "Director" means the director of the Office of Tourism, Trade, and Economic Development.
- "Eligible business" means a business meeting the requirements of the bill.
- "Fiscal year" means the state fiscal year.
- "Jobs" means full-time equivalent positions, as that term is consistent with terms used by the Agency for Workforce Innovation and the United States Department of Labor for purposes of unemployment compensation tax administration and employment estimation, resulting directly from a project in this state. The term does not include temporary construction jobs involved in the construction of a project facility.
- "Match" means funding from local sources, public or private, which is paid to the qualified business and which is equal to 100 percent of an award. Eligible match funding may include any tax abatement granted to that business under s. 196.1995 or the appraised market value of land, buildings, infrastructure, or equipment conveyed or provided at a discount to that business.
- "Office" means the Office of Tourism, Trade, and Economic Development.
- "Predominately" means at least 50 percent of the time.
- "Qualified business" means an eligible business that has been approved to receive an economic investment innovation fund incentive award.
- "Research and development" means basic and applied research in the sciences or engineering, as well as the design, development, and testing of prototypes or processes of new or improved products. Research and development does not include market research, routine consumer product testing, sales research, research in the social sciences or psychology, nontechnological activities, or technical services.

- "Research and development facility" means a facility that is predominately engaged in research and development activities.

Application

A business or research and development entity shall submit an application to Enterprise Florida, Inc. (EFI), prior to deciding to locate or expand in Florida, which shall include:

- The applicants' Federal Employer Identification Number (FEIN), unemployment account number, state sales tax registration number;⁴
- The proposed location of a project within Florida;
- A description of the type of business activity, product, or research and development undertaken by the project, including North American Industry Classification codes;
- The applicant's projected investment in project;
- The total investment from all sources in the project;
- The anticipated number of net new full-time equivalent jobs created as of December 31st of each year in Florida and the average wage of such jobs;
- The total number of full-time equivalent employees currently employed by the applicant in Florida and the number employed at the facility;
- The anticipated project commencement date;
- An explanation regarding the significance of the award as a factor to induce business to locate or expand in Florida; and
- An estimate of proportion of revenues from project that will be generated outside Florida, if applicable.

Eligibility

To be eligible, an applicant must establish the following to the satisfaction of EFI and OTTED:

1. The proposed jobs will pay at least 130% of the average private sector wage in the anticipated location area or statewide. OTTED may waive this requirement at its discretion or at the request of EFI, only if:
 - Project is located in brownfield area, rural city, rural county, or in an Enterprise Zone,
 - The merits of the project or specific circumstances in the community in relationship to the project warrant such action;
 - If Enterprise Florida, Inc. recommends such waiver, it must be in writing and explain justification for such waiver; and
 - If the director of OTTED waives the requirement, it must be stated in writing and explained the justification for such waiver.
2. For research and development projects, the project will serve as a catalyst for an emerging or evolving technology cluster, demonstrate a plan for significant higher education collaboration, provide the state a break-even return on investment within a 20-year period, and receive a one-to-one match from the local community. However, the match requirement may be reduced or waived in rural areas of critical economic concern or reduced in rural communities, brownfields, and enterprise zones within an urban county.
3. For innovation business projects, the project will:
 - Create at least 1,000 direct, new jobs at the business; or if the project is located in a rural city or rural county, the project will create at least 750 direct, new jobs.
 - The activity or product for the applicant's project must be within an industry or industries that have been designated as a target industry business under s. 288.106 or a high-impact sector under s. 288.108.

⁴ These items must be provided if available, however, they shall be provided prior to disbursement.

- The cumulative investment in the project is at least \$500 million within a 3-year period; or if the project is located in a rural city or rural county, or in an enterprise zone, the cumulative investment in the project must exceed \$375 million within a 3-year period.

Evaluation

The bill requires Enterprise Florida, Inc, to evaluate proposals for innovation incentive projects and recommend use of appropriated funds to OTTED. In its recommendation to OTTED, Enterprise Florida, Inc. must:

- Describe the type of operation, its required facilities, and the associated product, service, or research and development associated with the project;
- Provide the number of full-time equivalent jobs that will be created by the project, the total estimated average annual wages of such jobs, and the types of business activities and jobs stimulated by the investment;
- Provide the amount of the cumulative investment to be dedicated to the project within 3 years and the total investment expected in the project if more than 3 years;
- Describe the economic and fiscal impacts on the local and state economies relative to the investment
- Provide a statement of any special impacts the project is expected to stimulate in a particular business sector in the state or regional economy or in the state's universities and community colleges;
- Provide a statement of any anticipated or proposed relationships with state universities;
- Provide a statement of the role the incentive is expected to play in the decision of the applicant to locate or expand in this state;
- Provide a recommendation of the amount of the innovation incentive that is needed to close a competitive gap, including an explanation of why an incentive of that amount is needed to induce the applicant to expand or locate in this state;
- Provide a discussion of the efforts and commitments made by the local community in which the project is to be located to induce the project location or expansion, taking into consideration local resources and abilities;
- Provide a recommendation for specific performance criteria the applicant would be expected to achieve to receive any payments from the fund and penalties or sanctions for failure to meet or maintain performance conditions; and

For research and development facility projects, Enterprise Florida, Inc. must:

- Provide OTTED with a description of the projects' potential to serve as a catalyst for an emerging or evolving technology cluster;
- Provide the percentage of match provided for the project;
- Describe the extent to which the project has or could have a long-term collaborative research and development relationship with a state university or community college;
- Describe the existing or projected impact of the project on established technology clusters or targeted industry sectors;
- Describe the project's contribution to the diversity and resiliency of the innovation economy of Florida; and
- Describe the project's impact on special needs communities, including rural areas, distressed urban areas, and enterprise zones.

Negotiation of Awards/Process for Approval

OTTED may negotiate the proposed award for any eligible applicant, after consultation with Enterprise Florida, Inc., taking into consideration the incentive needed to close the competitive gap, and other relevant potential impact, cost information and analysis. Emphasis must be given to those projects with a potential to stimulate additional private investment and high-quality employment opportunities.

Once Enterprise Florida, Inc. makes its evaluation and recommendation to OTTED, the director of OTTED must make a recommendation of approval or disapproval to the Governor. In addition, OTTED must provide the Governor with proposed performance conditions the project must meet to obtain the incentive funds. The Governor must consult with the President of the Senate and Speaker of the House of Representatives before giving approval. Thereafter, the Governor shall release funds pursuant to the requirements of s. 216.177, F.S. This requires notice to the Legislative Budget Commission, which may deny the funding request if it exceeds the delegated authority of the Governor or is contrary to legislative policy and intent. This process takes between 3-14 days.

Performance Contract

Once approved by the Governor, OTTED enters into a contract with the business and establishes the conditions and the payment of moneys from the Account. Conditions in the contract include those factors identified by Enterprise Florida, Inc. in its request to OTTED, and sanctions for not meeting performance conditions. Enterprise Florida, Inc. shall assist OTTED in validating the performance of the contract. Moreover, at the conclusion of the agreement, Enterprise Florida, Inc., shall report, within 90 days, the result of the innovation incentive award to the Governor and the Legislature.

Economic Development Trust Fund

Funds allocated to EDTF shall be invested pursuant to s. 17.57 and any interest earned on such investments shall be transferred from EDTF to the General Revenue Fund.⁵

Governor's Authority to Use Account funds

The bill authorizes the Governor, in an emergency basis or special circumstance, and in consultation with the Senate and House of Representatives, pursuant to s. 216.177, to reallocate unencumbered funds appropriated to the Innovation Incentive Program to supplement economic development programs and operation established by law.

Effective Date; Repeal of Prior Acts The bill provides that the law will take effect on July 1, 2006 and will be repealed on July 1, 2011. Any unobligated funds remaining in EDTF shall be transferred back to the General Revenue Fund.

C. SECTION DIRECTORY:

Section 1. Creates s. 288.1089, F.S.; providing legislative findings and intent; definitions, awards, limitations, application procedure, eligibility requirements, review and award process, investment of funds, report requirements, additional uses of appropriations.

Section 2. Provides a repeal date of July 1, 2011 and provides for the transfer of remaining funds.

Section 3. Provides transfer of funds to the Innovation Incentive Account.

Section 4. Provides appropriations and limitations.

Section 5. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill transfers \$250,000,000 from the General Revenue Fund to the Innovation Incentive Account within EDTF. The bill appropriates \$50,000,000 from the Innovation Incentive Account within the EDTF to OTTED beginning in the fiscal year 2006-2007 and annually thereafter for 4 fiscal years.

⁵ s. 17.57, F.S., provides procedures to deposit and invest state money.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to spend funds or to take any action requiring the expenditure of funds, does not reduce the county's authority to raise revenue, and does not reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

1. On line 233, the bill refers to a "rural city or rural city." The latter term should be replaced with "county" to make the bill internally consistent.
2. The bill authorizes the Governor, in an emergency or special circumstance to seek approval to reallocate unencumbered funds appropriated to EDTF to supplement statutorily created economic development programs and operations through the legislative consultation and review requirements set forth in s. 216.177, F.S. The terms "emergency" and "special circumstance" are undefined and are unclear.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES