

CHAMBER ACTION

1 The Economic Development, Trade & Banking Committee recommends
2 the following:

3
4 **Council/Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

7 An act relating to innovation incentives; creating s.
8 288.1089, F.S.; creating within the Office of Tourism,
9 Trade, and Economic Development the Innovation Incentive
10 Program for certain purposes; providing definitions;
11 creating the Innovation Incentive Account within the
12 Economic Development Trust Fund; providing for innovation
13 incentive awards; providing limitations; providing
14 requirements and limitations on account funds; providing
15 qualification requirements for review of applicants and
16 projects by the office and Enterprise Florida, Inc.;
17 providing proposal evaluation and recommendation
18 requirements for Enterprise Florida, Inc.; authorizing the
19 office to negotiate award amounts to applicants; providing
20 negotiation requirements; requiring the director of the
21 office to make recommendations to the Governor for
22 approval or disapproval of certain projects; providing
23 recommendation requirements; requiring consultation with

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24 | the Legislature; providing for certification of applicants
 25 | as qualified innovation businesses; providing for
 26 | incentive payment agreements; requiring Enterprise
 27 | Florida, Inc., to assist the office in validating certain
 28 | business performances; requiring a report; amending s.
 29 | 403.973, F.S.; requiring the office to review certain
 30 | sites for projects funded under the Innovation Incentive
 31 | Program; amending s. 288.0655, F.S.; correcting a cross-
 32 | reference; providing an appropriation; providing for
 33 | carrying forward certain unexpended balances of
 34 | appropriations until a time certain; providing for office
 35 | retention of obligated funds to be used for certain
 36 | purposes; providing for reversion of unobligated funds;
 37 | providing an effective date.

38 |
 39 | Be It Enacted by the Legislature of the State of Florida:

40 |
 41 | Section 1. Section 288.1089, Florida Statutes, is created
 42 | to read:

43 | 288.1089 Innovation Incentive Program.--

44 | (1) The Innovation Incentive Program is created within the
 45 | Office of Tourism, Trade, and Economic Development to ensure
 46 | that sufficient resources are available to allow the state to
 47 | respond expeditiously to extraordinary economic opportunities
 48 | and to compete effectively for high value research and
 49 | development and innovation business projects.

50 | (2) As used in this section, the term:

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51 (a) "Average wage" means the statewide average wage in the
52 private sector or the average of all private sector wages in the
53 county or in the standard metropolitan area in which the project
54 is located as determined by the Agency for Workforce Innovation.

55 (b) "Cumulative investment" means the total private
56 investment in buildings and equipment made by an applicant under
57 a project approved pursuant to this section.

58 (c) "Director" means the director of the Office of
59 Tourism, Trade, and Economic Development.

60 (d) "Innovation business" means a business expanding or
61 locating in this state that is likely to serve as a catalyst for
62 the growth of an existing or emerging technology cluster or will
63 significantly impact the regional economy in which it is to
64 expand or locate.

65 (e) "Fiscal year" means the state fiscal year.

66 (f) "Jobs" means full-time equivalent positions, as that
67 term is consistent with terms used by the Agency for Workforce
68 Innovation and the United States Department of Labor for
69 purposes of unemployment compensation tax administration and
70 employment estimation, resulting directly from a project in this
71 state. The term does not include temporary construction jobs.

72 (g) "Match" means funding from local sources, public or
73 private, which will be paid to the applicant and which is equal
74 to 100 percent of an award. Eligible match funding may include
75 any tax abatement granted to the applicant under s. 196.1995 or
76 the appraised market value of land, buildings, infrastructure,
77 or equipment conveyed or provided at a discount to the
78 applicant. Complete documentation of a match payment or other

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79 conveyance must be presented to and verified by the office prior
80 to transfer of state funds to an applicant. An applicant may not
81 provide, directly or indirectly, more than 5 percent of match
82 funding in any fiscal year. The sources of such funding may not
83 include, directly or indirectly, state funds appropriated from
84 the General Revenue Fund or any state trust fund, excluding tax
85 revenues shared with local governments pursuant to law.

86 (h) "Office" means the Office of Tourism, Trade, and
87 Economic Development.

88 (i) "Project" means the location to or expansion in this
89 state by an innovation business or research and development
90 applicant approved for an award pursuant to this section.

91 (j) "Research and development" means basic and applied
92 research in the sciences or engineering, as well as the design,
93 development, and testing of prototypes or processes of new or
94 improved products. Research and development does not include
95 market research, routine consumer product testing, sales
96 research, research in the social sciences or psychology,
97 nontechnological activities, or technical services.

98 (k) "Research and development facility" means a facility
99 that is predominately engaged in research and development
100 activities. For purposes of this paragraph, the term
101 "predominantly" means at least 51 percent of the time.

102 (3) The Innovation Incentive Account is created within the
103 Economic Development Trust Fund created by 288.095. Funds
104 allocated in the Innovation Incentive Account shall be invested
105 in accordance with s. 17.57, and any interest earned on such
106 funds shall be transferred from the Economic Development Trust

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107 Fund to the General Revenue Fund. The total amount of active
108 innovation incentive awards may not exceed the balance remaining
109 in the Innovation Incentive Account.

110 (4) To be eligible for consideration for an innovation
111 incentive award, an innovation business or research and
112 development entity must submit a written application to
113 Enterprise Florida, Inc., before making a decision to locate new
114 operations in this state or expand an existing operation in this
115 state. The application must include, but not be limited to:

116 (a) The applicant's federal employer identification
117 number, unemployment account number, and state sales tax
118 registration number. If such numbers are not available at the
119 time of application, they must be submitted to the office in
120 writing prior to the disbursement of any payments under this
121 section.

122 (b) The location in this state at which the project is
123 located or is to be located.

124 (c) A description of the type of business activity,
125 product, or research and development undertaken by the
126 applicant, including six-digit North American Industry
127 Classification System codes for all activities included in the
128 project.

129 (d) The applicant's projected investment in the project.

130 (e) The total investment, from all sources, in the
131 project.

132 (f) The number of net new full-time equivalent jobs in
133 this state the applicant anticipates having created as of

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134 December 31 of each year in the project and the average annual
135 wage of such jobs.

136 (g) The total number of full-time equivalent employees
137 currently employed by the applicant in this state, if
138 applicable.

139 (h) The anticipated commencement date of the project.

140 (i) A detailed explanation of why the innovation incentive
141 is needed to induce the applicant to expand or locate in the
142 state and whether an award would cause the applicant to locate
143 or expand in this state.

144 (j) If applicable, an estimate of the proportion of the
145 revenues resulting from the project that will be generated
146 outside this state.

147 (5) To qualify for review by the office, the applicant
148 must, at a minimum, establish the following to the satisfaction
149 of Enterprise Florida, Inc., and the office:

150 (a) The jobs created by the project must pay an estimated
151 annual average wage equaling at least 130 percent of the average
152 private sector wage in the area where the project is to be
153 located or the average private sector wage in the state. The
154 office may waive this average wage requirement at the request of
155 Enterprise Florida, Inc., for a project located in a brownfield
156 area designated under s. 376.80, in a rural city or rural county
157 as defined in s. 288.106, or in an enterprise zone, when the
158 merits of the individual project or the specific circumstances
159 in the community in relationship to the project warrant such
160 action. A recommendation for waiver by Enterprise Florida, Inc.,
161 must include a specific justification for the waiver and be

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162 transmitted to the office in writing. If the director elects to
163 waive the wage requirement, the waiver must be stated in writing
164 and the reasons for granting the waiver must be explained.

165 (b) A research and development project must:

166 1. Serve as a catalyst for an emerging or evolving
167 technology cluster.

168 2. Demonstrate a plan for significant higher education
169 collaboration.

170 3. Provide the state, at a minimum, a break-even return on
171 investment within a 20-year period.

172 4. Be provided with a one to one match from the local
173 community. The match requirement may be reduced or waived in
174 rural areas of critical economic concern or reduced in rural
175 communities, brownfields, and enterprise zones.

176 (c) An innovation business project in this state, other
177 than a research and development project, must:

178 1.a. Result in the creation of at least 1,000 direct, new
179 jobs at the business; or

180 b. Result in the creation of at least 750 direct, new jobs
181 if the project is located in a rural city or rural county as
182 defined in s. 288.106 or in an enterprise zone.

183 2. Have an activity or product that is within an industry
184 that is designated as a target industry business under s.
185 288.106 or a designated sector under s. 288.108.

186 3.a. Have a cumulative investment of at least \$500 million
187 within a 3-year period; or

188 b. Have a cumulative investment that exceeds \$375 million
189 within a 3-year period if the project is located in a rural

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190 county or rural city as defined in s. 288.106 or in an
191 enterprise zone.

192 (6) Enterprise Florida, Inc., shall evaluate proposals for
193 innovation incentive awards and transmit recommendations for
194 awards to the office. Such evaluation and recommendation must
195 include, but need not be limited to:

196 (a) A description of the project, its required facilities,
197 and the associated product, service, or research and development
198 associated with the project.

199 (b) The number of full-time equivalent jobs that will be
200 created by the project, the total estimated average annual wages
201 of such jobs, and the types of business activities and jobs
202 likely to be stimulated by the investment.

203 (c) The cumulative investment to be dedicated to the
204 project within 3 years and the total investment expected in the
205 project if more than 3 years.

206 (d) The projected economic and fiscal impacts on the local
207 and state economies relative to investment.

208 (e) A statement of any special impacts the project is
209 expected to stimulate in a particular business sector in the
210 state or regional economy or in the state's universities and
211 community colleges.

212 (f) A statement of any anticipated or proposed
213 relationships with state universities.

214 (g) A statement of the role the incentive is expected to
215 play in the decision of the applicant to locate or expand in
216 this state.

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217 (h) A recommendation and explanation of the amount of the
218 award needed to cause the applicant to expand or locate in this
219 state.

220 (i) A discussion of the efforts and commitments made by
221 the local community in which the project is to be located to
222 induce the applicant's location or expansion, taking into
223 consideration local resources and abilities.

224 (j) A recommendation for specific performance criteria the
225 applicant would be expected to achieve in order to receive
226 payments from the fund and penalties or sanctions for failure to
227 meet or maintain performance conditions.

228 (k) For a research and development facility project:

229 1. A description of the extent to which the project has
230 the potential to serve as catalyst for an emerging or evolving
231 cluster.

232 2. The percentage of match provided for the project.

233 3. A description of the extent to which the project has or
234 could have a long-term collaborative research and development
235 relationship with one or more universities or community colleges
236 in this state.

237 4. A description of the existing or projected impact of
238 the project on established clusters or targeted industry
239 sectors.

240 5. A description of the project's contribution to the
241 diversity and resiliency of the innovation economy of this
242 state.

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243 6. A description of the project's impact on special-needs
244 communities, including, but not limited to, rural areas,
245 distressed urban areas, and enterprise zones.

246 (7) In consultation with Enterprise Florida, Inc., the
247 office may negotiate the proposed amount of an award for any
248 applicant meeting the requirements of this section. In
249 negotiating such award, the office shall consider the amount of
250 the incentive needed to cause the applicant to locate or expand
251 in this state in conjunction with other relevant applicant
252 impact and cost information and analysis as described in this
253 section. Particular emphasis shall be given to the potential for
254 the project to stimulate additional private investment and high-
255 quality employment opportunities in the area.

256 (8) Upon receipt of the evaluation and recommendation from
257 Enterprise Florida, Inc., the director shall recommend to the
258 Governor the approval or disapproval of an award. In
259 recommending approval of an award, the director shall include
260 proposed performance conditions that the applicant must meet in
261 order to obtain incentive funds and any other conditions that
262 must be met before the receipt of any incentive funds. The
263 Governor shall consult with the President of the Senate and the
264 Speaker of the House of Representatives before giving approval
265 for an award. Upon approval of an award, the Executive Office of
266 the Governor shall release the funds pursuant to the legislative
267 consultation and review requirements set forth in s. 216.177.

268 (9) Upon approval by the Governor and release of the funds
269 as set forth in subsection (8), the director shall issue a
270 letter certifying the applicant as qualified for an award. The

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271 office and the applicant shall enter into an agreement that sets
 272 forth the conditions for payment of incentives. The agreement
 273 must include the total amount of funds awarded; the performance
 274 conditions that must be met to obtain the award or portions of
 275 the award, including, but not limited to, net new employment in
 276 the state, average wage, and total investment; demonstration of
 277 a baseline of current service and a measure of enhanced
 278 capability; the methodology for validating performance; the
 279 schedule of payments; and sanctions for failure to meet
 280 performance conditions.

281 (10) Enterprise Florida, Inc., shall assist the office in
 282 validating the performance of an innovation business or research
 283 and development facility that has received an award. At the
 284 conclusion of the innovation incentive award agreement, or its
 285 earlier termination, Enterprise Florida, Inc., shall, within 90
 286 days, report the results of the innovation incentive award to
 287 the Governor, the President of the Senate, and the Speaker of
 288 the House of Representatives.

289 Section 2. Subsections (16) through (19) of section
 290 403.973, Florida Statutes, are renumbered as subsections (17)
 291 through (20), respectively, and a new subsection (16) is added
 292 to that section, to read:

293 403.973 Expedited permitting; comprehensive plan
 294 amendments.--

295 (16) The office, working with the agencies participating
 296 in the memoranda of agreement, shall review sites proposed for
 297 the location of facilities eligible for the Innovation Incentive
 298 Program under s. 288.1089. Within 20 days after the request for

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299 | the review by the office, the agencies shall provide to the
 300 | office a statement as to each site's necessary permits under
 301 | local, state, and federal law and an identification of
 302 | significant permitting issues, which if unresolved, may result
 303 | in the denial of an agency permit or approval or any significant
 304 | delay caused by the permitting process.

305 | Section 3. Paragraph (e) of subsection (2) of section
 306 | 288.0655, Florida Statutes, is amended to read:

307 | 288.0655 Rural Infrastructure Fund.--

308 | (2)

309 | (e) To enable local governments to access the resources
 310 | available pursuant to s. 403.973 (19) ~~(18)~~, the office may award
 311 | grants for surveys, feasibility studies, and other activities
 312 | related to the identification and preclearance review of land
 313 | which is suitable for preclearance review. Authorized grants
 314 | under this paragraph shall not exceed \$75,000 each, except in
 315 | the case of a project in a rural area of critical economic
 316 | concern, in which case the grant shall not exceed \$300,000. Any
 317 | funds awarded under this paragraph must be matched at a level of
 318 | 50 percent with local funds, except that any funds awarded for a
 319 | project in a rural area of critical economic concern must be
 320 | matched at a level of 33 percent with local funds. In evaluating
 321 | applications under this paragraph, the office shall consider the
 322 | extent to which the application seeks to minimize administrative
 323 | and consultant expenses.

324 | Section 4. For fiscal year 2006-2007, the sum of
 325 | \$250,000,000 is appropriated from nonrecurring general revenue
 326 | to the Office of Tourism, Trade, and Economic Development.

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327 Notwithstanding s. 216.301, Florida Statutes, and pursuant to s.
328 216.351, Florida Statutes, any unexpended balance from this
329 appropriation shall be carried forward at the end of each fiscal
330 year until the 2010-2011 fiscal year. At the end of the 2010-
331 2011 fiscal year, any obligated funds for qualified projects
332 that are not yet disbursed shall remain with the office to be
333 used for the purposes of this act. Any unobligated funds of this
334 appropriation shall revert to the General Revenue Fund
335 unallocated at the end of the 2010-2011 fiscal year.

336 Section 5. This act shall take effect July 1, 2006.