

CHAMBER ACTION

1 The Fiscal Council recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

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

HB 1283 CS

2006
CS

24 | in validating certain business performances; requiring a
 25 | report; amending s. 403.973, F.S.; requiring the office to
 26 | review certain sites for projects funded under the
 27 | Innovation Incentive Program; amending s. 288.0655, F.S.;
 28 | correcting a cross-reference; providing an appropriation;
 29 | providing for carrying forward certain unexpended balances
 30 | of appropriations until a time certain; providing for
 31 | office retention of obligated funds to be used for certain
 32 | purposes; providing for reversion of unobligated funds;
 33 | providing an effective date.

34 |
 35 | Be It Enacted by the Legislature of the State of Florida:

36 |
 37 | Section 1. Section 288.1089, Florida Statutes, is created
 38 | to read:

39 | 288.1089 Innovation Incentive Program.--

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

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

47 | (a) "Average wage" means the statewide average wage in the
 48 | private sector or the average of all private sector wages in the
 49 | county or in the standard metropolitan area in which the project
 50 | is located as determined by the Agency for Workforce Innovation.

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

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

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

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

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

68 (g) "Match" means funding from local sources, public or
69 private, which will be paid to the applicant and which is equal
70 to 100 percent of an award. Eligible match funding may include
71 any tax abatement granted to the applicant under s. 196.1995 or
72 the appraised market value of land, buildings, infrastructure,
73 or equipment conveyed or provided at a discount to the
74 applicant. Complete documentation of a match payment or other
75 conveyance must be presented to and verified by the office prior
76 to transfer of state funds to an applicant. An applicant may not
77 provide, directly or indirectly, more than 5 percent of match
78 funding in any fiscal year. The sources of such funding may not

79 | include, directly or indirectly, state funds appropriated from
 80 | the General Revenue Fund or any state trust fund, excluding tax
 81 | revenues shared with local governments pursuant to law.

82 | (h) "Office" means the Office of Tourism, Trade, and
 83 | Economic Development.

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

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

94 | (k) "Research and development facility" means a facility
 95 | that is predominately engaged in research and development
 96 | activities. For purposes of this paragraph, the term
 97 | "predominantly" means at least 51 percent of the time.

98 | (3) To be eligible for consideration for an innovation
 99 | incentive award, an innovation business or research and
 100 | development entity must submit a written application to
 101 | Enterprise Florida, Inc., before making a decision to locate new
 102 | operations in this state or expand an existing operation in this
 103 | state. The application must include, but not be limited to:

104 | (a) The applicant's federal employer identification
 105 | number, unemployment account number, and state sales tax
 106 | registration number. If such numbers are not available at the

HB 1283 CS

2006
CS

107 | time of application, they must be submitted to the office in
108 | writing prior to the disbursement of any payments under this
109 | section.

110 | (b) The location in this state at which the project is
111 | located or is to be located.

112 | (c) A description of the type of business activity,
113 | product, or research and development undertaken by the
114 | applicant, including six-digit North American Industry
115 | Classification System codes for all activities included in the
116 | project.

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

118 | (e) The total investment, from all sources, in the
119 | project.

120 | (f) The number of net new full-time equivalent jobs in
121 | this state the applicant anticipates having created as of
122 | December 31 of each year in the project and the average annual
123 | wage of such jobs.

124 | (g) The total number of full-time equivalent employees
125 | currently employed by the applicant in this state, if
126 | applicable.

127 | (h) The anticipated commencement date of the project.

128 | (i) A detailed explanation of why the innovation incentive
129 | is needed to induce the applicant to expand or locate in the
130 | state and whether an award would cause the applicant to locate
131 | or expand in this state.

132 | (j) If applicable, an estimate of the proportion of the
133 | revenues resulting from the project that will be generated
134 | outside this state.

135 (4) To qualify for review by the office, the applicant
 136 must, at a minimum, establish the following to the satisfaction
 137 of Enterprise Florida, Inc., and the office:

138 (a) The jobs created by the project must pay an estimated
 139 annual average wage equaling at least 130 percent of the average
 140 private sector wage in the area where the project is to be
 141 located or the average private sector wage in the state. The
 142 office may waive this average wage requirement at the request of
 143 Enterprise Florida, Inc., for a project located in a brownfield
 144 area designated under s. 376.80, in a rural city or rural county
 145 as defined in s. 288.106, or in an enterprise zone, when the
 146 merits of the individual project or the specific circumstances
 147 in the community in relationship to the project warrant such
 148 action. A recommendation for waiver by Enterprise Florida, Inc.,
 149 must include a specific justification for the waiver and be
 150 transmitted to the office in writing. If the director elects to
 151 waive the wage requirement, the waiver must be stated in writing
 152 and the reasons for granting the waiver must be explained.

153 (b) A research and development project must:

154 1. Serve as a catalyst for an emerging or evolving
 155 technology cluster.

156 2. Demonstrate a plan for significant higher education
 157 collaboration.

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

160 4. Be provided with a one to one match from the local
 161 community. The match requirement may be reduced or waived in

162 rural areas of critical economic concern or reduced in rural
 163 communities, brownfields, and enterprise zones.

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

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

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

171 2. Have an activity or product that is within an industry
 172 that is designated as a target industry business under s.
 173 288.106 or a designated sector under s. 288.108.

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

176 b. Have a cumulative investment that exceeds \$375 million
 177 within a 3-year period if the project is located in a rural
 178 county or rural city as defined in s. 288.106 or in an
 179 enterprise zone.

180 (5) Enterprise Florida, Inc., shall evaluate proposals for
 181 innovation incentive awards and transmit recommendations for
 182 awards to the office. Such evaluation and recommendation must
 183 include, but need not be limited to:

184 (a) A description of the project, its required facilities,
 185 and the associated product, service, or research and development
 186 associated with the project.

187 (b) The number of full-time equivalent jobs that will be
 188 created by the project, the total estimated average annual wages

HB 1283 CS

2006
CS

189 of such jobs, and the types of business activities and jobs
190 likely to be stimulated by the investment.

191 (c) The cumulative investment to be dedicated to the
192 project within 3 years and the total investment expected in the
193 project if more than 3 years.

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

196 (e) A statement of any special impacts the project is
197 expected to stimulate in a particular business sector in the
198 state or regional economy or in the state's universities and
199 community colleges.

200 (f) A statement of any anticipated or proposed
201 relationships with state universities.

202 (g) A statement of the role the incentive is expected to
203 play in the decision of the applicant to locate or expand in
204 this state.

205 (h) A recommendation and explanation of the amount of the
206 award needed to cause the applicant to expand or locate in this
207 state.

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

212 (j) A recommendation for specific performance criteria the
213 applicant would be expected to achieve in order to receive
214 payments from the fund and penalties or sanctions for failure to
215 meet or maintain performance conditions.

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

HB 1283 CS

2006
CS

217 1. A description of the extent to which the project has
218 the potential to serve as catalyst for an emerging or evolving
219 cluster.

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

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

225 4. A description of the existing or projected impact of
226 the project on established clusters or targeted industry
227 sectors.

228 5. A description of the project's contribution to the
229 diversity and resiliency of the innovation economy of this
230 state.

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

234 (6) In consultation with Enterprise Florida, Inc., the
235 office may negotiate the proposed amount of an award for any
236 applicant meeting the requirements of this section. In
237 negotiating such award, the office shall consider the amount of
238 the incentive needed to cause the applicant to locate or expand
239 in this state in conjunction with other relevant applicant
240 impact and cost information and analysis as described in this
241 section. Particular emphasis shall be given to the potential for
242 the project to stimulate additional private investment and high-
243 quality employment opportunities in the area.

HB 1283 CS

2006
CS

244 (7) Upon receipt of the evaluation and recommendation from
245 Enterprise Florida, Inc., the director shall recommend to the
246 Governor the approval or disapproval of an award. In
247 recommending approval of an award, the director shall include
248 proposed performance conditions that the applicant must meet in
249 order to obtain incentive funds and any other conditions that
250 must be met before the receipt of any incentive funds. The
251 Governor shall consult with the President of the Senate and the
252 Speaker of the House of Representatives before giving approval
253 for an award. Upon approval of an award, the Executive Office of
254 the Governor shall release the funds pursuant to the legislative
255 consultation and review requirements set forth in s. 216.177.

256 (8) Upon approval by the Governor and release of the funds
257 as set forth in subsection (7), the director shall issue a
258 letter certifying the applicant as qualified for an award. The
259 office and the applicant shall enter into an agreement that sets
260 forth the conditions for payment of incentives. The agreement
261 must include the total amount of funds awarded; the performance
262 conditions that must be met to obtain the award or portions of
263 the award, including, but not limited to, net new employment in
264 the state, average wage, and total investment; demonstration of
265 a baseline of current service and a measure of enhanced
266 capability; the methodology for validating performance; the
267 schedule of payments; and sanctions for failure to meet
268 performance conditions.

269 (9) Enterprise Florida, Inc., shall assist the office in
270 validating the performance of an innovation business or research
271 and development facility that has received an award. At the

HB 1283 CS

2006
CS

272 conclusion of the innovation incentive award agreement, or its
273 earlier termination, Enterprise Florida, Inc., shall, within 90
274 days, report the results of the innovation incentive award to
275 the Governor, the President of the Senate, and the Speaker of
276 the House of Representatives.

277 Section 2. Subsections (16) through (19) of section
278 403.973, Florida Statutes, are renumbered as subsections (17)
279 through (20), respectively, and a new subsection (16) is added
280 to that section, to read:

281 403.973 Expedited permitting; comprehensive plan
282 amendments.--

283 (16) The office, working with the agencies participating
284 in the memoranda of agreement, shall review sites proposed for
285 the location of facilities eligible for the Innovation Incentive
286 Program under s. 288.1089. Within 20 days after the request for
287 the review by the office, the agencies shall provide to the
288 office a statement as to each site's necessary permits under
289 local, state, and federal law and an identification of
290 significant permitting issues, which if unresolved, may result
291 in the denial of an agency permit or approval or any significant
292 delay caused by the permitting process.

293 Section 3. Paragraph (e) of subsection (2) of section
294 288.0655, Florida Statutes, is amended to read:

295 288.0655 Rural Infrastructure Fund.--

296 (2)

297 (e) To enable local governments to access the resources
298 available pursuant to s. 403.973 (19) ~~(18)~~, the office may award
299 grants for surveys, feasibility studies, and other activities

HB 1283 CS

2006
CS

300 related to the identification and preclearance review of land
301 which is suitable for preclearance review. Authorized grants
302 under this paragraph shall not exceed \$75,000 each, except in
303 the case of a project in a rural area of critical economic
304 concern, in which case the grant shall not exceed \$300,000. Any
305 funds awarded under this paragraph must be matched at a level of
306 50 percent with local funds, except that any funds awarded for a
307 project in a rural area of critical economic concern must be
308 matched at a level of 33 percent with local funds. In evaluating
309 applications under this paragraph, the office shall consider the
310 extent to which the application seeks to minimize administrative
311 and consultant expenses.

312 Section 4. For fiscal year 2006-2007, the sum of
313 \$250,000,000 is appropriated from nonrecurring general revenue
314 to the Office of Tourism, Trade, and Economic Development.
315 Notwithstanding s. 216.301, Florida Statutes, and pursuant to s.
316 216.351, Florida Statutes, any unexpended balance from this
317 appropriation shall be carried forward at the end of each fiscal
318 year until the 2010-2011 fiscal year. At the end of the 2010-
319 2011 fiscal year, any obligated funds for qualified projects
320 that are not yet disbursed shall remain with the office to be
321 used for the purposes of this act. Any unobligated funds of this
322 appropriation shall revert to the General Revenue Fund
323 unallocated at the end of the 2010-2011 fiscal year.

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