

Bill No. CS for SB 2728

Barcode 352252

CHAMBER ACTION

Senate

House

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The Committee on Transportation and Economic Development
Appropriations (Fasano) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Section 288.1088, Florida Statutes, is
amended to read:

288.1088 Quick Action Closing Fund.--

(1)(a) The Legislature finds that attracting,
retaining, and providing favorable conditions for the growth
of certain high-impact business facilities, privately
developed critical rural infrastructure, or key facilities in
economically distressed urban or rural communities which
provide widespread economic benefits to the public through
high-quality employment opportunities in such facilities or in
related facilities attracted to the state, through the
increased tax base provided by the high-impact facility and
related businesses, through an enhanced entrepreneurial
climate in the state and the resulting business and employment

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1 opportunities, and through the stimulation and enhancement of
 2 the state's universities and community colleges. In the global
 3 economy, there exists serious and fierce international
 4 competition for these facilities, and in most instances, when
 5 all available resources for economic development have been
 6 used, the state continues to encounter severe competitive
 7 disadvantages in vying for these business facilities.
 8 Florida's rural areas must provide a competitive environment
 9 for business in the information age. This often requires an
 10 incentive to make it feasible for private investors to provide
 11 infrastructure in those areas.

12 (b) The Legislature therefore declares that sufficient
 13 resources shall be available to respond to extraordinary
 14 economic opportunities and to compete effectively for these
 15 high-impact business facilities, critical private
 16 infrastructure in rural areas, and key businesses in
 17 economically distressed urban or rural communities.

18 (2) There is created within the Office of Tourism,
 19 Trade, and Economic Development the Quick Action Closing Fund.
 20 Projects eligible for receipt of funds from the Quick Action
 21 Closing Fund shall:

22 (a) Be in an industry as referenced in s. 288.106.

23 (b) Have a positive payback ratio of at least 5 to 1.

24 (c) Be an inducement to the project's location or
 25 expansion in the state.

26 (d) Pay an average annual wage of at least 125 percent
 27 of the areawide or statewide private-sector average wage.

28 (e) Be supported by the local community in which the
 29 project is to be located.

30 (3)(a) Enterprise Florida, Inc., shall determine
 31 eligibility of each project consistent with the criteria in

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1 subsection (2). Enterprise Florida, Inc., in consultation with
 2 the Office of Tourism, Trade, and Economic Development, may
 3 waive these criteria based on extraordinary circumstances if
 4 the project would significantly benefit the local or regional
 5 economy. Enterprise Florida, Inc., shall evaluate individual
 6 proposals for high-impact business facilities and forward
 7 recommendations regarding the use of moneys in the fund for
 8 such facilities to the director of the Office of Tourism,
 9 Trade, and Economic Development. Such evaluation and
 10 recommendation must include, but need not be limited to:

11 1. A description of the type of facility or
 12 infrastructure, its operations, and the associated product or
 13 service associated with the facility.

14 2. The number of full-time-equivalent jobs that will
 15 be created by the facility and the total estimated average
 16 annual wages of those jobs or, in the case of privately
 17 developed rural infrastructure, the types of business
 18 activities and jobs stimulated by the investment.

19 3. The cumulative amount of investment to be dedicated
 20 to the facility within a specified period.

21 4. A statement of any special impacts the facility is
 22 expected to stimulate in a particular business sector in the
 23 state or regional economy or in the state's universities and
 24 community colleges.

25 5. A statement of the role the incentive is expected
 26 to play in the decision of the applicant business to locate or
 27 expand in this state or for the private investor to provide
 28 critical rural infrastructure.

29 6. A report evaluating the quality and value of the
 30 company submitting a proposal. The report must include:

31 a. A financial analysis of the company, including an

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1 evaluation of the company's short-term liquidity ratio as
 2 measured by its assets to liability, the company's
 3 profitability ratio, and the company's long-term solvency as
 4 measured by its debt-to-equity ratio;

5 b. The historical market performance of the company;

6 c. A review of any independent evaluations of the
 7 company;

8 d. A review of the latest audit of the company's
 9 financial statement and the related auditor's management
 10 letter; and

11 e. A review of any other types of audits that are
 12 related to the internal and management controls of the
 13 company.

14 (b) Upon receipt of the evaluation and recommendation
 15 from Enterprise Florida, Inc., the director shall recommend
 16 approval or disapproval of a project for receipt of funds from
 17 the Quick Action Closing Fund to the Governor. In recommending
 18 a project, the director shall include proposed performance
 19 conditions that the project must meet to obtain incentive
 20 funds. The Governor shall provide the evaluation of projects
 21 recommended for approval to the President of the Senate and
 22 the Speaker of the House of Representatives and consult
 23 directly with the President of the Senate and the Speaker of
 24 the House of Representatives before giving final approval for
 25 a project. The Executive Office of the Governor shall
 26 recommend approval of a project and the release of funds
 27 pursuant to the legislative consultation and review
 28 requirements set forth in s. 216.177. The recommendation must
 29 include proposed performance conditions that the project must
 30 meet in order to obtain funds.

31 (c) Upon the approval of the Governor, the director of

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1 the Office of Tourism, Trade, and Economic Development and the
2 business shall enter into a contract that sets forth the
3 conditions for payment of moneys from the fund. The contract
4 must include the total amount of funds awarded; the
5 performance conditions that must be met to obtain the award,
6 including, but not limited to, net new employment in the
7 state, average salary, and total capital investment;
8 demonstrate a baseline of current service and a measure of
9 enhanced capability; the methodology for validating
10 performance; the schedule of payments from the fund; and
11 sanctions for failure to meet performance conditions. The
12 contract must provide that payment of moneys from the fund is
13 contingent upon sufficient appropriation of funds by the
14 Legislature and upon sufficient release of appropriated funds
15 by the Legislative Budget Commission.

16 (d) Enterprise Florida, Inc., shall validate
17 contractor performance. Such validation shall be reported
18 within 6 months after completion of the contract to the
19 Governor, President of the Senate, and the Speaker of the
20 House of Representatives.

21 ~~(4) The Governor may, in an emergency or special~~
22 ~~circumstance, and in consultation with the President of the~~
23 ~~Senate and the Speaker of the House of Representatives,~~
24 ~~reallocate unencumbered funds appropriated to the Quick Action~~
25 ~~Closing Fund to supplement statutorily created economic~~
26 ~~development programs and operations. The Executive Office of~~
27 ~~the Governor shall recommend approval of the transfer and~~
28 ~~release of funds pursuant to the legislative consultation and~~
29 ~~review requirements set forth in s. 216.177.~~

30 Section 2. Section 288.1089, Florida Statutes, is
31 created to read:

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1 288.1089 Innovation Incentive Program.--

2 (1) There is created an Innovation Incentive Program
3 within the Governor's Office of Tourism, Trade, and Economic
4 Development, which is intended to ensure that sufficient
5 resources are available to allow the state to respond
6 expeditiously to extraordinary economic opportunities and to
7 compete effectively for high-value research and development
8 and innovation business projects.

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

10 (a) "Average private-sector wage" means the statewide
11 average wage in the private sector or the average of all
12 private-sector wages and salaries in the county or in the
13 standard metropolitan area in which the project is located as
14 determined by the Agency for Workforce Innovation.

15 (b) "Brownfield area" means an area designated as a
16 brownfield area pursuant to s.376.80.

17 (c) "Cumulative investment" means cumulative capital
18 investment and all eligible capital costs as defined in s.
19 220.191.

20 (d) "Director" means the director of the Office of
21 Tourism, Trade, and Economic Development.

22 (e) "Enterprise zone" means an area designated as an
23 enterprise zone pursuant to s. 290.0065.

24 (f) "Fiscal year" means the state fiscal year.

25 (g) "Innovation business" means a business expanding
26 or locating in this state which is likely to serve as a
27 catalyst for the growth of an existing or emerging technology
28 cluster or which will significantly impact the regional
29 economy in which it is to expand or locate.

30 (h) "Jobs" means full-time equivalent positions, as
31 that term is consistent with terms used by the Agency for

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1 Workforce Innovation and the United States Department of Labor
 2 for purposes of unemployment compensation tax administration
 3 and employment estimation, resulting directly from a project
 4 in this state. The term does not include temporary
 5 construction jobs.

6 (i) "Match" means funding from local sources, public
 7 or private, which is paid to the applicant and which equals
 8 100 percent of the award. Eligible match funding may include
 9 any tax abatement granted to the applicant under s. 196.1995
 10 or the appraised market value of land, buildings,
 11 infrastructure, or equipment conveyed or provided at a
 12 discount to the applicant. Complete documentation of match
 13 payment or other conveyance must be presented to and verified
 14 by the office before transfer of state funds to an applicant.
 15 An applicant may not provide, directly or indirectly, more
 16 than 5 percent of match funding in any fiscal year. The
 17 sources of such funding may not include, directly or
 18 indirectly, state funds appropriated from the General Revenue
 19 Fund or any state trust fund, excluding tax revenues shared
 20 with local governments pursuant to law.

21 (j) "Office" means the Office of Tourism, Trade, and
 22 Economic Development.

23 (k) "Project" means the location to or expansion in
 24 this state by an innovation business or research and
 25 development applicant approved for an award pursuant to this
 26 section.

27 (l) "Research and development" means basic and applied
 28 research in the sciences or engineering, as well as the
 29 design, development, and testing, of prototypes or processes
 30 of new or improved products. Research and development does not
 31 include market research, routine consumer product testing,

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1 sales research, research in the social sciences or psychology,
2 nontechnological activities, or technical services.

3 (m) "Research and development facility" means a
4 facility that is predominately engaged in research and
5 development activities. For purposes of this paragraph, the
6 term "predominately" means at least 51 percent of the time.

7 (n) "Rural area" means a rural city, a rural
8 community, or a rural county as defined in s. 288.106.

9 (3) To be eligible for consideration for an innovation
10 incentive award, an innovation business or research and
11 development entity must submit a written application to
12 Enterprise Florida, Inc., before making a decision to locate
13 new operations in this state or to expand an existing
14 operation in this state. The application must include, but
15 need not be limited to:

16 (a) The applicant's federal employer identification
17 number, unemployment account number, and state sales tax
18 registration number. If these numbers are not available at the
19 time of application, they must be submitted to the office in
20 writing before the disbursement of any payments under this
21 section.

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

24 (c) A description of the type of business activity,
25 product, or research and development to be undertaken by the
26 applicant, including six-digit North American Industry
27 Classification System codes for all activities included in the
28 project.

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

31 (e) The total investment, from all sources, in the

1 project.

2 (f) The number of net new full-time equivalent jobs in
3 this state which the applicant anticipates having created as
4 of December 31 of each year of the project and the average
5 annual wage of those jobs.

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

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

10 (i) A detailed explanation of why the innovation
11 incentive is needed to induce the applicant to expand or
12 locate in the state and whether an award would cause the
13 applicant to locate or expand in this state.

14 (j) If applicable, an estimate of the proportion of
15 the revenues resulting from the project which will be
16 generated outside this state.

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

20 (a) The jobs created by the project must pay an
21 estimated annual average wage equaling at least 130 percent of
22 the average private-sector wage. The office may waive this
23 average-wage requirement at the request of Enterprise Florida,
24 Inc., for a project located in a rural area, a brownfield
25 area, or in an enterprise zone if the merits of the individual
26 project or the specific circumstances of the community in
27 relationship to the project warrant such action. A
28 recommendation for waiver by Enterprise Florida, Inc., must
29 include a specific justification supporting the waiver and be
30 transmitted in writing to the office. If the director elects
31 to waive the wage requirement, the waiver must be stated in

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1 writing and the reasons for granting the waiver must be
2 explained.

3 (b) A research and development project must:

4 1. Serve as a catalyst of an emerging or evolving
5 cluster;

6 2. Demonstrate a plan for significant higher-education
7 collaboration;

8 3. Provide the state, at a minimum, a break-even
9 return on its investment within a 20-year period; and

10 4. Be provided with a one-to-one match from the local
11 community. The match requirement may be reduced or waived in
12 rural areas of critical economic concern or reduced in rural
13 areas, brownfield areas, and enterprise zones.

14 (c) An innovation business project, other than a
15 research and development project, must:

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

18 b. Result in the creation of at least 750 direct, new
19 jobs if the project is located in a rural area, a brownfield
20 area, or in an enterprise zone.

21 2. Have an activity or product that is within an
22 industry that is designated as a target industry business
23 under s. 288.106 or in a designated sector under s. 288.108.

24 3.a. Have a cumulative investment of at least \$500
25 million within a 5-year period; or

26 b. Have a cumulative investment that exceeds \$375
27 million within a 5-year period if the project is located in a
28 rural area, a brownfield area, or in an enterprise zone.

29 4. Be provided with a one-to-one match from the local
30 community. The match requirement may be reduced or waived in
31 rural areas of critical economic concern or reduced in rural

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1 areas, brownfield areas, and enterprise zones.

2 (5) Enterprise Florida, Inc., shall evaluate proposals
3 for innovation incentive awards and forward recommendations
4 for awards to the office. Such evaluation and recommendation
5 must include, but need not be limited to:

6 (a) A description of the project, its required
7 facilities, and the product, service, or research and
8 development associated with the project.

9 (b) The percentage of match provided for the project.

10 (c) The number of full-time equivalent jobs that will
11 be created by the project, the total estimated average annual
12 wages of those jobs, and the types of business activities and
13 jobs likely to be stimulated by the project.

14 (d) The cumulative investment to be dedicated to the
15 project within 3 years and the total investment expected in
16 the project if more than 3 years.

17 (e) The projected economic and fiscal impacts on the
18 local and state economies relative to investment.

19 (f) A statement of any special impacts the project is
20 expected to produce in a particular business sector in the
21 state or regional economy or in the state's universities and
22 community colleges.

23 (g) A statement of any anticipated or proposed
24 relationships with state universities.

25 (h) A statement of the role the incentive is expected
26 to play in the decision of the applicant to locate or expand
27 in this state.

28 (i) A recommendation and explanation of the amount of
29 the award needed to cause the applicant to expand or locate in
30 this state.

31 (j) A discussion of the efforts and commitments made

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1 by the local community in which the project is to be located
2 to induce the applicant's location or expansion in light of
3 local resources and abilities.

4 (k) A recommendation for specific performance criteria
5 the applicant would be expected to achieve in order to receive
6 payments from the fund and penalties or sanctions for failure
7 to meet or maintain performance conditions.

8 (1) For a research and development facility, an
9 evaluation and recommendation must include:

10 1. A description of the extent to which the project
11 has the potential to serve as a catalyst for an emerging or
12 evolving cluster;

13 2. A description of the extent to which the project
14 has or could have a long-term collaborative research and
15 development relationship with one or more universities or
16 community colleges in this state;

17 3. A description of the existing or projected impact
18 of the project on established clusters or targeted industry
19 sectors;

20 4. A description of the project's contribution to the
21 diversity and resiliency of this state's innovation economy;
22 and

23 5. A description of the project's impact on
24 special-needs communities, including, but not limited to,
25 rural areas, distressed urban areas, and enterprise zones.

26 (6) The office may, in consultation with Enterprise
27 Florida, Inc., negotiate the proposed amount of an award for
28 any applicant meeting the requirements of this section. In
29 negotiating such award, the office shall consider the amount
30 of the incentive needed to cause the applicant to locate or
31 expand in this state in conjunction with other relevant

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1 applicant impact and cost information and analysis as outlined
2 in this section. Particular emphasis shall be given to the
3 potential of the project to stimulate additional private
4 investment and high-quality employment opportunities in the
5 state.

6 (7) Upon receipt of the evaluation and recommendation
7 from Enterprise Florida, Inc., the director shall recommend
8 the approval or disapproval of an award to the Governor. In
9 recommending approval of an award, the director shall include
10 proposed performance conditions that the applicant must meet
11 in order to obtain incentive funds and any other conditions
12 that must be met before the receipt of any incentive funds.
13 The Governor shall consult with the President of the Senate
14 and the Speaker of the House of Representatives before giving
15 approval for an award. Upon approval of an award, the
16 Executive Office of the Governor shall release the funds
17 pursuant to the legislative consultation and review the
18 requirements set forth in s. 216.177.

19 (8) Upon approval by the Governor and release of the
20 funds as set forth in subsection (7), the director shall issue
21 a letter certifying the applicant as qualified for an award.
22 The office and the applicant shall enter into an agreement
23 that sets forth the conditions for payment of incentives. The
24 agreement must include the total amount of funds awarded; the
25 performance conditions that must be met in order to obtain the
26 award or portions of the award, including, but not limited to,
27 net new employment in the state, average wage, and total
28 cumulative investment; demonstration of a baseline of current
29 service and a measure of enhanced capability; the methodology
30 for validating performance; the schedule of payments; and
31 sanctions for failure to meet performance conditions.

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1 including any provisions for repayment of incentive payments.

2 (9) Enterprise Florida, Inc., shall assist the office
3 in validating the performance of an innovation business or
4 research and development facility that has received an award.
5 At the conclusion of the innovation incentive award agreement,
6 or its earlier termination, Enterprise Florida, Inc., shall,
7 within 90 days, report the results of the innovation incentive
8 award to the Governor, the President of the Senate, and the
9 Speaker of the House of Representatives.

10 Section 3. Present subsections (16) through (19) of
11 section 403.973, Florida Statutes, are renumbered as
12 subsections (17) through (20), respectively, and new
13 subsection (16) is added to that section, to read:

14 403.973 Expedited permitting; comprehensive plan
15 amendments.--

16 (16) The office, working with the agencies
17 participating in the memoranda of agreement, shall review
18 sites proposed for the location of facilities eligible for the
19 Innovation Incentive Program under s. 288.1089. Within 20 days
20 after the request for the review by the office, the agencies
21 shall provide to the office a statement as to each site's
22 necessary permits under local, state, and federal law and an
23 identification of significant permitting issues that, if
24 unresolved, might result in the denial of an agency permit or
25 approval or any significant delay caused by the permitting
26 process.

27 Section 4. For the 2006-2007 fiscal year, the sum of
28 \$10 million is appropriated from the General Revenue Fund to
29 the Office of Tourism, Trade, and Economic Development within
30 the Executive Office of the Governor to fund the Quick Action
31 Closing Fund as authorized in s. 288.1088, Florida Statutes.

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1 These funds shall be placed in reserve by the Executive Office
2 of the Governor on July 1, 2006. The Office of Tourism, Trade,
3 and Economic Development may request the release of funds as
4 needed to implement the provisions of s. 288.1088, Florida
5 Statutes, through the Legislative Budget Commission.

6 Section 5. For the 2006-2007 fiscal year, the sum of
7 \$150 million is appropriated from the General Revenue Fund for
8 transfer to the Economic Development Trust Fund within the
9 Office of Tourism, Trade, and Economic Development. Funds
10 transferred under this section are not subject to the service
11 charge set forth in s. 215.20, Florida Statutes. The sum of
12 \$150 million is appropriated for the 2006-2007 fiscal year
13 from the Economic Development Trust Fund within the Office of
14 Tourism, Trade, and Economic Development to be used to
15 implement this act. These funds in the Economic Development
16 Trust Fund shall be placed in reserve by the Executive Office
17 of the Governor on July 1, 2006. The Office of Tourism, Trade,
18 and Economic Development may request the release of funds as
19 needed to implement the provisions of this act through the
20 Legislative Budget Commission. Funds not expended during the
21 2006-2007 fiscal year may be used in future fiscal years as
22 appropriated in the General Appropriations Act or other law.

23 Section 6. This act expires July 1, 2011. Upon that
24 date, any unobligated funds remaining in the Economic
25 Development Trust Fund from the transfer made in section 5 of
26 this act shall be transferred back to the General Revenue
27 Fund. Notwithstanding s. 216.301(1), Florida Statutes, and
28 pursuant to s. 216.351, Florida Statutes, any funds remaining
29 in the trust fund which are obligated to a properly approved
30 project under this act but only partially disbursed shall
31 remain in the trust fund to be disbursed by the Office of

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1 Tourism, Trade, and Economic Development pursuant to the terms
2 of the originally approved contract.

3 Section 7. This act shall take effect July 1, 2006.

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6 ===== T I T L E A M E N D M E N T =====

7 And the title is amended as follows:

8 Delete everything before the enacting clause

9

10 and insert:

11 A bill to be entitled
12 An act relating to economic development
13 incentives; amending s. 288.1088, F.S.;
14 providing eligibility requirements for the
15 receipt of funds from the Quick Action Closing
16 Fund; authorizing the waiver of certain
17 criteria for projects that would significantly
18 benefit the economy; providing additional
19 requirements for Enterprise Florida, Inc., in
20 evaluating proposed projects; requiring that a
21 contract for payment from the Quick Action
22 Closing Fund provide that the payment of moneys
23 is contingent upon a sufficient appropriation
24 of funds by the Legislature and upon the
25 release of appropriated funds by the
26 Legislative Budget Commission; deleting
27 provisions authorizing the Governor to
28 reallocate unencumbered funds in the Quick
29 Action Closing Fund to other economic
30 development programs; creating s. 288.1089,
31 F.S.; creating the Innovation Incentive Program

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1 within the Office of Tourism, Trade, and
2 Economic Development for certain purposes;
3 providing definitions; providing an
4 incentive-award limitation; providing for award
5 application and eligibility; providing
6 qualification requirements; providing proposal
7 evaluation and recommendations requirements for
8 Enterprise Florida, Inc.; providing for
9 negotiation of award amounts by the office;
10 providing for agreements for payments of
11 certain moneys under certain circumstances;
12 providing criteria for award approval or
13 disapproval; providing for incentive payment
14 agreements; requiring Enterprise Florida, Inc.,
15 to assist the office in validating certain
16 business performances; requiring a report to
17 the Governor and Legislature; authorizing the
18 office to allocate certain funds for certain
19 purposes; amending s. 403.973, F.S.; providing
20 for review of possible sites for projects
21 funded under s. 288.1089, F.S.; providing
22 appropriations; effectuating a fund transfer;
23 providing for future expiration of the act;
24 providing an effective date.

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