

Bill No. SB 2728

Barcode 630608

CHAMBER ACTION

Senate

House

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The Committee on Commerce and Consumer Services (Saunders)
recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Section 288.1089, Florida Statutes, is
created to read:

288.1089 Innovation Incentive Program.--

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

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

(a) "Average wage" means the statewide average wage in
the private sector or the average of all private-sector wages
and salaries in the county or in the standard metropolitan

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1 area in which the project is located as determined by the
2 Agency for Workforce Innovation.

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

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

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

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

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

21 (g) "Match" means funding from local sources, public
22 or private, which will be paid to the applicant and which is
23 equal to 100 percent of the award. Eligible match funding may
24 include any tax abatement granted to the applicant under s.
25 196.1995 or the appraised market value of land, buildings,
26 infrastructure, or equipment conveyed or provided at a
27 discount to the applicant. Complete documentation of match
28 payment or other conveyance must be presented to and verified
29 by the office before transfer of state funds to an applicant.
30 An applicant may not provide, directly or indirectly, more
31 than 5 percent of match funding in any fiscal year. The

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1 sources of such funding may not include, directly or
2 indirectly, state funds appropriated from the General Revenue
3 Fund or any state trust fund, excluding tax revenues shared
4 with local governments pursuant to law.

5 (h) "Office" means the Office of Tourism, Trade, and
6 Economic Development.

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

11 (j) "Research and development" means basic and applied
12 research in the sciences or engineering, as well as the
13 design, development, and testing, of prototypes or processes
14 of new or improved products. Research and development does not
15 include market research, routine consumer product testing,
16 sales research, research in the social sciences or psychology,
17 nontechnological activities, or technical services.

18 (k) "Research and development facility" means a
19 facility that is predominately engaged in research and
20 development activities. For purposes of this paragraph, the
21 term "predominately" means at least 51 percent of the time.

22 (3) To be eligible for consideration for an innovation
23 incentive award, an innovation business or research and
24 development entity must submit a written application to
25 Enterprise Florida, Inc., before making a decision to locate
26 new operations in this state or to expand an existing
27 operation in this state. The application must include, but
28 need not be limited to:

29 (a) The applicant's federal employer identification
30 number, unemployment account number, and state sales tax
31 registration number. If these numbers are not available at the

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1 time of application, they must be submitted to the office in
2 writing before the disbursement of any payments under this
3 section.

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

6 (c) A description of the type of business activity,
7 product, or research and development to be undertaken by the
8 applicant, including six-digit North American Industry
9 Classification System codes for all activities included in the
10 project.

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

13 (e) The total investment, from all sources, in the
14 project.

15 (f) The number of net new full-time equivalent jobs in
16 this state the applicant anticipates having created as of
17 December 31 of each year in the project and the average annual
18 wage of those jobs.

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

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

23 (i) A detailed explanation of why the innovation
24 incentive is needed to induce the applicant to expand or
25 locate in the state and whether an award would cause the
26 applicant to locate or expand in this state.

27 (j) If applicable, an estimate of the proportion of
28 the revenues resulting from the project which will be
29 generated outside this state.

30 (4) To qualify for review by the office, the applicant
31 must, at a minimum, establish the following to the

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1 satisfaction of Enterprise Florida, Inc., and the office:

2 (a) The jobs created by the project must pay an
3 estimated annual average wage equaling at least 130 percent of
4 the average private-sector wage in the area where the project
5 is to be located or the average private sector wage in the
6 state. The office may waive this average wage requirement at
7 the request of Enterprise Florida, Inc., for a project located
8 in a brownfield area designated under s. 376.80, in a rural
9 city or county as defined in s. 288.106, or in an enterprise
10 zone, when the merits of the individual project or the
11 specific circumstances of the community in relationship to the
12 project warrant such action. A recommendation for waiver by
13 Enterprise Florida, Inc., must include a specific
14 justification supporting the waiver and be transmitted in
15 writing to the office. If the director elects to waive the
16 wage requirement, the waiver must be stated in writing and the
17 reasons for granting the waiver must be explained.

18 (b) A research and development project must:

- 19 1. Serve as a catalyst of an emerging or evolving
20 cluster;
- 21 2. Demonstrate a plan for significant higher education
22 collaboration;
- 23 3. Provide the state, at a minimum, a break-even
24 return on its investment within a 20-year period; and
- 25 4. Be provided with a one-to-one match from the local
26 community. The match requirement may be reduced or waived in
27 rural areas of critical economic concern or reduced in rural
28 communities, brownfields, and enterprise zones.

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

- 31 1.a. Result in the creation of at least 1,000 direct,

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1 new jobs at the business; or

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

5 2. Have an activity or product that is within an
6 industry that is designated as a target industry business
7 under s. 288.106 or a designated sector under s. 288.108.

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

10 b. Have a cumulative investment that exceeds \$375
11 million within a 3-year period if the project is located in a
12 rural county or city, as defined in s. 288.106, or in an
13 enterprise zone.

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

18 (a) A description of the project, its required
19 facilities, and the product, service, or research and
20 development associated with the project.

21 (b) The number of full-time equivalent jobs that will
22 be created by the project, the total estimated average annual
23 wages of those jobs, and the types of business activities and
24 jobs likely to be stimulated by the project.

25 (c) The cumulative investment to be dedicated to the
26 project within 3 years and the total investment expected in
27 the project if more than 3 years.

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

30 (e) A statement of any special impacts the project is
31 expected to produce in a particular business sector in the

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1 state or regional economy or in the state's universities and
2 community colleges.

3 (f) A statement of any anticipated or proposed
4 relationships with state universities.

5 (g) A statement of the role the incentive is expected
6 to play in the decision of the applicant to locate or expand
7 in this state.

8 (h) A recommendation and explanation of the amount of
9 the award needed to cause the applicant to expand or locate in
10 this state.

11 (i) A discussion of the efforts and commitments made
12 by the local community in which the project is to be located
13 to induce the applicant's location or expansion in light of
14 local resources and abilities.

15 (j) A recommendation for specific performance criteria
16 the applicant would be expected to achieve in order to receive
17 payments from the fund and penalties or sanctions for failure
18 to meet or maintain performance conditions.

19 (k) For a research and development facility, an
20 evaluation and recommendation must include:

21 1. A description of the extent to which the project
22 has the potential to serve as catalyst for an emerging or
23 evolving cluster;

24 2. The percentage of match provided for the project;

25 3. A description of the extent to which the project
26 has or could have a long-term collaborative research and
27 development relationship with one or more universities or
28 community colleges in this state;

29 4. A description of the existing or projected impact
30 of the project on established clusters or targeted industry
31 sectors;

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1 5. A description of the project's contribution to the
2 diversity and resiliency of this state's innovation economy;
3 and

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

7 (6) The office may, in consultation with Enterprise
8 Florida, Inc., negotiate the proposed amount of an award for
9 any applicant meeting the requirements of this section. In
10 negotiating such award, the office shall consider the amount
11 of the incentive needed to cause the applicant to locate or
12 expand in this state in conjunction with other relevant
13 applicant impact and cost information and analysis as outlined
14 in this section. Particular emphasis shall be given to the
15 potential for the project to stimulate additional private
16 investment and high-quality employment opportunities in the
17 state.

18 (7) Upon receipt of the evaluation and recommendation
19 from Enterprise Florida, Inc., the director shall recommend
20 the approval or disapproval of an award to the Governor. In
21 recommending approval of an award, the director shall include
22 proposed performance conditions that the applicant must meet
23 in order to obtain incentive funds and any other conditions
24 that must be met before the receipt of any incentive funds.
25 The Governor shall consult with the President of the Senate
26 and the Speaker of the House of Representatives before giving
27 approval for an award. Upon approval of an award, the
28 Executive Office of the Governor shall release the funds
29 pursuant to the legislative consultation and review
30 requirements set forth in s. 216.177.

31 (8) Upon approval by the Governor and release of the

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1 funds as set forth in subsection (8), the director shall issue
2 a letter certifying the applicant as qualified for an award.
3 The office and the applicant shall enter into an agreement
4 that sets forth the conditions for payment of incentives. The
5 agreement must include the total amount of funds awarded; the
6 performance conditions that must be met to obtain the award or
7 portions of the award, including, but not limited to, net new
8 employment in the state, average wage, and total investment;
9 demonstration of a baseline of current service and a measure
10 of enhanced capability; the methodology for validating
11 performance; the schedule of payments; and sanctions for
12 failure to meet performance conditions.

13 (9) Enterprise Florida, Inc., shall assist the office
14 in validating the performance of an innovation business or
15 research and development facility that has received an award.
16 At the conclusion of the innovation incentive award agreement,
17 or its earlier termination, Enterprise Florida, Inc., shall,
18 within 90 days, report the results of the innovation incentive
19 award to the Governor, the President of the Senate, and the
20 Speaker of the House of Representatives.

21 Section 2. New subsection (16) of s. 403.973, Florida
22 Statutes, is created, and present subsections (16) through
23 (19) are renumbered as subsections (17) through (20).

24 403.973 Expedited permitting; comprehensive plan
25 amendments.--

26 (16) The office, working with the agencies
27 participating in the memoranda of agreement, shall review
28 sites proposed for the location of facilities eligible for the
29 Innovation Incentive Program under s. 288.1089. Within 20 days
30 of the request for the review by the office, the agencies will
31 provide to the office a statement as to each site's necessary

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1 permits under local, state and federal law and an
 2 identification of significant permitting issues, which if
 3 unresolved, may result in the denial of an agency permit or
 4 approval or any significant delay caused by the permitting
 5 process.

6 Section 3. For the 2006-2007 fiscal year, the sum of
 7 \$ _____ 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 \$ _____ 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 4. 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 2 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 5. 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 the innovation incentives;
13 creating s. 288.1089, F.S.; creating the
14 Innovation Incentive Program within the Office
15 of Tourism, Trade, and Economic Development for
16 certain purposes; providing definitions;
17 providing an incentive-award limitation;
18 providing for award application and
19 eligibility; providing qualification
20 requirements; providing proposal evaluation and
21 recommendations requirements for Enterprise
22 Florida, Inc.; providing for negotiation of
23 award amounts by the office; providing for
24 agreements for payments of certain monies under
25 certain circumstances; providing criteria for
26 award approval or disapproval; providing for
27 incentive payment agreements; requiring
28 Enterprise Florida, Inc., to assist the office
29 in validating certain business performances;
30 requiring a report to the Governor and
31 Legislature; authorizing the office to allocate

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1 certain funds for certain purposes; providing
2 appropriations; effectuating a fund transfer;
3 providing for future expiration of the act;
4 amending s. 403.973, F.S.; providing for review
5 of possible sites for projects funded under s.
6 288.1089; providing an effective date.

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