

By the Committee on Commerce and Consumer Services; and
Senator Fasano

577-2210-06

1 A bill to be entitled

2 An act relating to the innovation incentives;

3 creating s. 288.1089, F.S.; creating the

4 Innovation Incentive Program within the Office

5 of Tourism, Trade, and Economic Development for

6 certain purposes; providing definitions;

7 providing an incentive-award limitation;

8 providing for award application and

9 eligibility; providing qualification

10 requirements; providing proposal evaluation and

11 recommendations requirements for Enterprise

12 Florida, Inc.; providing for negotiation of

13 award amounts by the office; providing for

14 agreements for payments of certain moneys under

15 certain circumstances; providing criteria for

16 award approval or disapproval; providing for

17 incentive payment agreements; requiring

18 Enterprise Florida, Inc., to assist the office

19 in validating certain business performances;

20 requiring a report to the Governor and

21 Legislature; authorizing the office to allocate

22 certain funds for certain purposes; amending s.

23 403.973, F.S.; providing for review of possible

24 sites for projects funded under s. 288.1089,

25 F.S.; providing appropriations; effectuating a

26 fund transfer; providing for future expiration

27 of the act; providing an effective date.

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29 Be It Enacted by the Legislature of the State of Florida:

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

3 288.1089 Innovation Incentive Program.--

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

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

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

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

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

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

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

28 (f) "Jobs" means full-time equivalent positions, as
29 that term is consistent with terms used by the Agency for
30 Workforce Innovation and the United States Department of Labor
31 for purposes of unemployment compensation tax administration

1 and employment estimation, resulting directly from a project
2 in this state. The term does not include temporary
3 construction jobs.

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

19 (h) "Office" means the Office of Tourism, Trade, and
20 Economic Development.

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

25 (j) "Research and development" means basic and applied
26 research in the sciences or engineering, as well as the
27 design, development, and testing, of prototypes or processes
28 of new or improved products. Research and development does not
29 include market research, routine consumer product testing,
30 sales research, research in the social sciences or psychology,
31 nontechnological activities, or technical services.

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

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

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

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

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

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

27 (e) The total investment, from all sources, in the
28 project.

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

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

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

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

11 (j) If applicable, an estimate of the proportion of
12 the revenues resulting from the project which will be
13 generated outside this state.

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

17 (a) The jobs created by the project must pay an
18 estimated annual average wage equaling at least 130 percent of
19 the average private-sector wage in the area where the project
20 is to be located or the average private-sector wage in the
21 state. The office may waive this average-wage requirement at
22 the request of Enterprise Florida, Inc., for a project located
23 in a brownfield area designated under s. 376.80, in a rural
24 city or county as defined in s. 288.106, or in an enterprise
25 zone if the merits of the individual project or the specific
26 circumstances of the community in relationship to the project
27 warrant such action. A recommendation for waiver by Enterprise
28 Florida, Inc., must include a specific justification
29 supporting the waiver and be transmitted in writing to the
30 office. If the director elects to waive the wage requirement,

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1 the waiver must be stated in writing and the reasons for
2 granting the waiver must be 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 communities, brownfields, 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 county or city as
20 defined in s. 288.106 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 3-year period; or

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

30 (5) Enterprise Florida, Inc., shall evaluate proposals
31 for innovation incentive awards and forward recommendations

1 for awards to the office. Such evaluation and recommendation
2 must include, but need not be limited to:

3 (a) A description of the project, its required
4 facilities, and the product, service, or research and
5 development associated with the project.

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

10 (c) The cumulative investment to be dedicated to the
11 project within 3 years and the total investment expected in
12 the project if more than 3 years.

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

15 (e) A statement of any special impacts the project is
16 expected to produce in a particular business sector in the
17 state or regional economy or in the state's universities and
18 community colleges.

19 (f) A statement of any anticipated or proposed
20 relationships with state universities.

21 (g) A statement of the role the incentive is expected
22 to play in the decision of the applicant to locate or expand
23 in this state.

24 (h) A recommendation and explanation of the amount of
25 the award needed to cause the applicant to expand or locate in
26 this state.

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

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1 (j) A recommendation for specific performance criteria
2 the applicant would be expected to achieve in order to receive
3 payments from the fund and penalties or sanctions for failure
4 to meet or maintain performance conditions.

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

7 1. A description of the extent to which the project
8 has the potential to serve as a catalyst for an emerging or
9 evolving cluster;

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

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

15 4. A description of the existing or projected impact
16 of the project on established clusters or targeted industry
17 sectors;

18 5. A description of the project's contribution to the
19 diversity and resiliency of this state's innovation economy;
20 and

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

24 (6) The office may, in consultation with Enterprise
25 Florida, Inc., negotiate the proposed amount of an award for
26 any applicant meeting the requirements of this section. In
27 negotiating such award, the office shall consider the amount
28 of the incentive needed to cause the applicant to locate or
29 expand in this state in conjunction with other relevant
30 applicant impact and cost information and analysis as outlined
31 in this section. Particular emphasis shall be given to the

1 potential of the project to stimulate additional private
2 investment and high-quality employment opportunities in the
3 state.

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

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

30 (9) Enterprise Florida, Inc., shall assist the office
31 in validating the performance of an innovation business or

1 research and development facility that has received an award.
2 At the conclusion of the innovation incentive award agreement,
3 or its earlier termination, Enterprise Florida, Inc., shall,
4 within 90 days, report the results of the innovation incentive
5 award to the Governor, the President of the Senate, and the
6 Speaker of the House of Representatives.

7 Section 2. Present subsections (16) through (19) of
8 section 403.973, Florida Statutes, are renumbered as
9 subsections (17) through (20), respectively, and new
10 subsection (16) is added to that section, to read:

11 403.973 Expedited permitting; comprehensive plan
12 amendments.--

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

24 Section 3. For the 2006-2007 fiscal year, the sum of
25 \$ million is appropriated from the General Revenue Fund for
26 transfer to the Economic Development Trust Fund within the
27 Office of Tourism, Trade, and Economic Development. Funds
28 transferred under this section are not subject to the service
29 charge set forth in s. 215.20, Florida Statutes. The sum of
30 \$ million is appropriated for the 2006-2007 fiscal year
31 from the Economic Development Trust Fund within the Office of

1 Tourism, Trade, and Economic Development to be used to
2 implement this act. These funds in the Economic Development
3 Trust Fund shall be placed in reserve by the Executive Office
4 of the Governor on July 1, 2006. The Office of Tourism, Trade,
5 and Economic Development may request the release of funds as
6 needed to implement the provisions of this act through the
7 Legislative Budget Commission. Funds not expended during the
8 2006-2007 fiscal year may be used in future fiscal years as
9 appropriated in the General Appropriations Act or other law.

10 Section 4. This act expires July 1, 2011. Upon that
11 date, any unobligated funds remaining in the Economic
12 Development Trust Fund from the transfer made in section 3 of
13 this act shall be transferred back to the General Revenue
14 Fund. Notwithstanding s. 216.301(1), Florida Statutes, and
15 pursuant to s. 216.351, Florida Statutes, any funds remaining
16 in the trust fund which are obligated to a properly approved
17 project under this act but only partially disbursed shall
18 remain in the trust fund to be disbursed by the Office of
19 Tourism, Trade, and Economic Development pursuant to the terms
20 of the originally approved contract.

21 Section 5. This act shall take effect July 1, 2006.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 2728

The committee substitute differs from the bill in the following ways:

- Defines "innovation business" as a business that expands or locates in Florida that is likely to serve as a catalyst for the growth of an existing or emerging technology cluster or will significantly impact the regional economy in which it is to expand or locate.
- Defines "project" as the location or expansion in Florida by an innovation business or research and development applicant approved for an award under the program.
- Provides that General Revenue funds are transferred directly to the Economic Development Trust Fund, rather than an account within the trust fund.
- Does not specify the amount of money to be appropriated for the Innovation Incentive Program.
- Requires the agencies involved in the project to work with the Office of Tourism, Trade, and Economic Development (OTTED) to review sites proposed for the location of facilities eligible for the Innovation Incentive Program. Within 20 days of the request of the review by OTTED, the agencies must provide the OTTED with a statement as to each site's necessary permits under local, state, and federal law and a statement identifying any significant permitting issues, which may result in a denial or significant delay in issuing a license.