

1 A bill to be entitled
2 An act relating to economic development
3 incentives; amending s. 288.1088, F.S.;
4 providing eligibility requirements for the
5 receipt of funds from the Quick Action Closing
6 Fund; authorizing the waiver of certain
7 criteria for projects that would significantly
8 benefit the economy; providing additional
9 requirements for Enterprise Florida, Inc., in
10 evaluating proposed projects; requiring that a
11 contract for payment from the Quick Action
12 Closing Fund provide that the payment of moneys
13 is contingent upon a sufficient appropriation
14 of funds by the Legislature and upon the
15 release of appropriated funds by the
16 Legislative Budget Commission; deleting
17 provisions authorizing the Governor to
18 reallocate unencumbered funds in the Quick
19 Action Closing Fund to other economic
20 development programs; creating s. 288.1089,
21 F.S.; creating the Innovation Incentive Program
22 within the Office of Tourism, Trade, and
23 Economic Development for certain purposes;
24 providing definitions; providing an
25 incentive-award limitation; providing for award
26 application and eligibility; providing
27 qualification requirements; providing proposal
28 evaluation and recommendations requirements for
29 Enterprise Florida, Inc.; providing for
30 negotiation of award amounts by the office;
31 providing for agreements for payments of

1 certain moneys under certain circumstances;
2 providing criteria for award approval or
3 disapproval; providing for incentive payment
4 agreements; requiring Enterprise Florida, Inc.,
5 to assist the office in validating certain
6 business performances; requiring a report to
7 the Governor and Legislature; authorizing the
8 office to allocate certain funds for certain
9 purposes; amending s. 403.973, F.S.; providing
10 for review of possible sites for projects
11 funded under s. 288.1089, F.S.; providing
12 appropriations; effectuating a fund transfer;
13 providing for future expiration of the act;
14 providing an effective date.

15
16 Be It Enacted by the Legislature of the State of Florida:

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

20 288.1088 Quick Action Closing Fund.--

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

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

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:
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1 a. A financial analysis of the company, including an
2 evaluation of the company's short-term liquidity ratio as
3 measured by its assets to liability, the company's
4 profitability ratio, and the company's long-term solvency as
5 measured by its debt-to-equity ratio;

6 b. The historical market performance of the company;

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

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

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

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

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

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

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

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1 Section 2. 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 private-sector wage" means the statewide
13 average wage in the private sector or the average of all
14 private-sector wages and salaries in the county or in the
15 standard metropolitan area in which the project is located as
16 determined by the Agency for Workforce Innovation.

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

19 (c) "Cumulative investment" means cumulative capital
20 investment and all eligible capital costs as defined in s.
21 220.191.

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

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

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

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

1 (h) "Jobs" means full-time equivalent positions, as
2 that term is consistent with terms used by the Agency for
3 Workforce Innovation and the United States Department of Labor
4 for purposes of unemployment compensation tax administration
5 and employment estimation, resulting directly from a project
6 in this state. The term does not include temporary
7 construction jobs.

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

23 (j) "Office" means the Office of Tourism, Trade, and
24 Economic Development.

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

29 (l) "Research and development" means basic and applied
30 research in the sciences or engineering, as well as the
31 design, development, and testing, of prototypes or processes

1 of new or improved products. Research and development does not
2 include market research, routine consumer product testing,
3 sales research, research in the social sciences or psychology,
4 nontechnological activities, or technical services.

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

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

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

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

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

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

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- 1 (d) The applicant's projected investment in the
2 project.
- 3 (e) The total investment, from all sources, in the
4 project.
- 5 (f) The number of net new full-time equivalent jobs in
6 this state which the applicant anticipates having created as
7 of December 31 of each year of the project and the average
8 annual wage of those jobs.
- 9 (g) The total number of full-time equivalent employees
10 currently employed by the applicant in this state, if
11 applicable.
- 12 (h) The anticipated commencement date of the project.
- 13 (i) A detailed explanation of why the innovation
14 incentive is needed to induce the applicant to expand or
15 locate in the state and whether an award would cause the
16 applicant to locate or expand in this state.
- 17 (j) If applicable, an estimate of the proportion of
18 the revenues resulting from the project which will be
19 generated outside this state.
- 20 (4) To qualify for review by the office, the applicant
21 must, at a minimum, establish the following to the
22 satisfaction of Enterprise Florida, Inc., and the office:
- 23 (a) The jobs created by the project must pay an
24 estimated annual average wage equaling at least 130 percent of
25 the average private-sector wage. The office may waive this
26 average-wage requirement at the request of Enterprise Florida,
27 Inc., for a project located in a rural area, a brownfield
28 area, or in an enterprise zone if the merits of the individual
29 project or the specific circumstances of the community in
30 relationship to the project warrant such action. A
31 recommendation for waiver by Enterprise Florida, Inc., must

1 include a specific justification supporting the waiver and be
2 transmitted in writing to the office. If the director elects
3 to waive the wage requirement, the waiver must be stated in
4 writing and the reasons for granting the waiver must be
5 explained.

6 (b) A research and development project must:

7 1. Serve as a catalyst of an emerging or evolving
8 cluster;

9 2. Demonstrate a plan for significant higher-education
10 collaboration;

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

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

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

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

21 b. Result in the creation of at least 500 direct, new
22 jobs if the project is located in a rural area, a brownfield
23 area, or an enterprise zone.

24 2. Have an activity or product that is within an
25 industry that is designated as a target industry business
26 under s. 288.106 or in a designated sector under s. 288.108.

27 3.a. Have a cumulative investment of at least \$250
28 million within a 10-year period; or

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

- 1 4. Be provided with a one-to-one match from the local
2 community. The match requirement may be reduced or waived in
3 rural areas of critical economic concern or reduced in rural
4 areas, brownfield areas, and enterprise zones.
- 5 (5) Enterprise Florida, Inc., shall evaluate proposals
6 for innovation incentive awards and forward recommendations
7 for awards to the office. Such evaluation and recommendation
8 must include, but need not be limited to:
- 9 (a) A description of the project, its required
10 facilities, and the product, service, or research and
11 development associated with the project.
- 12 (b) The percentage of match provided for the project.
- 13 (c) The number of full-time equivalent jobs that will
14 be created by the project, the total estimated average annual
15 wages of those jobs, and the types of business activities and
16 jobs likely to be stimulated by the project.
- 17 (d) The cumulative investment to be dedicated to the
18 project within 3 years and the total investment expected in
19 the project if more than 3 years.
- 20 (e) The projected economic and fiscal impacts on the
21 local and state economies relative to investment.
- 22 (f) A statement of any special impacts the project is
23 expected to produce in a particular business sector in the
24 state or regional economy or in the state's universities and
25 community colleges.
- 26 (g) A statement of any anticipated or proposed
27 relationships with state universities.
- 28 (h) A statement of the role the incentive is expected
29 to play in the decision of the applicant to locate or expand
30 in this state.
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1 (i) A recommendation and explanation of the amount of
2 the award needed to cause the applicant to expand or locate in
3 this state.

4 (j) A discussion of the efforts and commitments made
5 by the local community in which the project is to be located
6 to induce the applicant's location or expansion in light of
7 local resources and abilities.

8 (k) A recommendation for specific performance criteria
9 the applicant would be expected to achieve in order to receive
10 payments from the fund and penalties or sanctions for failure
11 to meet or maintain performance conditions.

12 (l) For a research and development facility, an
13 evaluation and recommendation must include:

14 1. A description of the extent to which the project
15 has the potential to serve as a catalyst for an emerging or
16 evolving cluster;

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

21 3. A description of the existing or projected impact
22 of the project on established clusters or targeted industry
23 sectors;

24 4. A description of the project's contribution to the
25 diversity and resiliency of this state's innovation economy;
26 and

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

30 (6) The office may, in consultation with Enterprise
31 Florida, Inc., negotiate the proposed amount of an award for

1 any applicant meeting the requirements of this section. In
2 negotiating such award, the office shall consider the amount
3 of the incentive needed to cause the applicant to locate or
4 expand in this state in conjunction with other relevant
5 applicant impact and cost information and analysis as outlined
6 in this section. Particular emphasis shall be given to the
7 potential of the project to stimulate additional private
8 investment and high-quality employment opportunities in the
9 state.

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

23 (8) Upon approval by the Governor and release of the
24 funds as set forth in subsection (7), the director shall issue
25 a letter certifying the applicant as qualified for an award.
26 The office and the applicant shall enter into an agreement
27 that sets forth the conditions for payment of incentives. The
28 agreement must include the total amount of funds awarded; the
29 performance conditions that must be met in order to obtain the
30 award or portions of the award, including, but not limited to,
31 net new employment in the state, average wage, and total

1 cumulative investment; demonstration of a baseline of current
2 service and a measure of enhanced capability; the methodology
3 for validating performance; the schedule of payments; and
4 sanctions for failure to meet performance conditions,
5 including any provisions for repayment of incentive payments.

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

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

18 403.973 Expedited permitting; comprehensive plan
19 amendments.--

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

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1 Section 4. For the 2006-2007 fiscal year, the sum of
2 \$10 million is appropriated from the General Revenue Fund to
3 the Office of Tourism, Trade, and Economic Development within
4 the Executive Office of the Governor to fund the Quick Action
5 Closing Fund as authorized in s. 288.1088, Florida Statutes.
6 These funds shall be placed in reserve by the Executive Office
7 of the Governor on July 1, 2006. The Office of Tourism, Trade,
8 and Economic Development may request the release of funds as
9 needed to implement the provisions of s. 288.1088, Florida
10 Statutes, through the Legislative Budget Commission.

11 Section 5. For the 2006-2007 fiscal year, the sum of
12 \$150 million is appropriated from the General Revenue Fund for
13 transfer to the Economic Development Trust Fund within the
14 Office of Tourism, Trade, and Economic Development. Funds
15 transferred under this section are not subject to the service
16 charge set forth in s. 215.20, Florida Statutes. The sum of
17 \$150 million is appropriated for the 2006-2007 fiscal year
18 from the Economic Development Trust Fund within the Office of
19 Tourism, Trade, and Economic Development to be used to
20 implement this act. These funds in the Economic Development
21 Trust Fund shall be placed in reserve by the Executive Office
22 of the Governor on July 1, 2006. The Office of Tourism, Trade,
23 and Economic Development may request the release of funds as
24 needed to implement the provisions of this act through the
25 Legislative Budget Commission. Funds not expended during the
26 2006-2007 fiscal year may be used in future fiscal years as
27 appropriated in the General Appropriations Act or other law.

28 Section 6. This act expires July 1, 2011. Upon that
29 date, any unobligated funds remaining in the Economic
30 Development Trust Fund from the transfer made in section 5 of
31 this act shall be transferred back to the General Revenue

1 Fund. Notwithstanding s. 216.301(1), Florida Statutes, and
2 pursuant to s. 216.351, Florida Statutes, any funds remaining
3 in the trust fund which are obligated to a properly approved
4 project under this act but only partially disbursed shall
5 remain in the trust fund to be disbursed by the Office of
6 Tourism, Trade, and Economic Development pursuant to the terms
7 of the originally approved contract.

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