



414132

LEGISLATIVE ACTION

Senate

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House

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01/09/2009 01:24 PM

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Senator Lawson moved the following:

Senate Amendment (with title amendment)

Delete lines 51 - 344

and insert:

(1) There is created within Enterprise Florida the Economic Gardening Business Loan Pilot Program. The purpose of the pilot program is to stimulate investment in Florida's economy by providing loans to expanding businesses in the state. As used in this section, the term "office" means Enterprise Florida.

(2) The Legislature finds that it is vital to the overall health and growth of the state's economy to promote favorable conditions for expanding Florida businesses that demonstrate the



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13 ability to grow. It is therefore the intent of the Legislature
14 that resources be provided for the pilot program in order to
15 respond to the current extraordinary economic challenges
16 confronting the state.

17 (3) (a) To be eligible for a loan under the pilot program,
18 an applicant must be a business eligible for assistance under
19 the Economic Gardening Technical Assistance Pilot Program as
20 provided in s. 288.1082(4) (a).

21 (b) A loan applicant must submit a written application to
22 the loan administrator in the format prescribed by the loan
23 administrator. The application must include:

24 1. The applicant's federal employer identification number,
25 unemployment account number, and sales or other tax registration
26 number.

27 2. The street address of the applicant's principal place of
28 business in this state.

29 3. A description of the type of economic activity, product,
30 or research and development undertaken by the applicant,
31 including the six-digit North American Industry Classification
32 System code for each type of economic activity conducted by the
33 applicant.

34 4. The applicant's annual revenue, number of employees,
35 number of full-time equivalent employees, and other information
36 necessary to verify the applicant's eligibility for the pilot
37 program under s. 288.1082(4) (a).

38 5. The projected investment in the business, if any, which
39 the applicant proposes in conjunction with the loan.

40 6. The total investment in the business from all sources,
41 if any, which the applicant proposes in conjunction with the



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42 loan.

43 7. The number of net new full-time equivalent jobs that, as
44 a result of the loan, the applicant proposes to create in this
45 state as of December 31 of each year and the average annual wage
46 of the proposed jobs.

47 8. The total number of full-time equivalent employees the
48 applicant currently employs in this state.

49 9. The date that the applicant anticipates it needs the
50 loan.

51 10. A detailed explanation of why the loan is needed to
52 assist the applicant in expanding jobs in the state.

53 11. A statement that all of the applicant's corporate
54 assets are pledged as collateral for the loan.

55 12. A statement that the applicant, upon receiving the
56 loan, agrees not to seek additional long-term debt without prior
57 approval of the loan administrator.

58 13. A statement that the loan is a joint obligation of the
59 business and of each person who owns at least 20 percent of the
60 business.

61 14. Any additional information requested by the office or
62 the loan administrator.

63 (c) The loan administrator, after verifying the accuracy of
64 a submitted application, shall award the loan to the applicant
65 if the administrator determines that the applicant, as compared
66 to other applicants submitting applications, is in the best
67 position to use the loan to continue making a successful long-
68 term business commitment to the state. The loan administrator
69 also shall consider the following factors:

70 1. Incentives awarded to the applicant from local



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71 governments;

72 2. Waivers of taxes, impact fees, or other fees or charges
73 by local governments; and

74 3. Other sources of investments or financing for the
75 project that is the subject of the loan application.

76 (d) A borrower awarded a loan under this section and the
77 loan administrator must enter into a loan agreement that
78 provides for the borrower's repayment of the loan.

79 (4) The following terms apply to a loan received under the
80 pilot program:

81 (a) The maximum amount of the loan is \$250,000.

82 (b) The proceeds of the loan may be used for working
83 capital purchases, employee training, or salaries for newly
84 created jobs in the state.

85 (c) The security interest for the loan's collateral
86 covering all of the borrower's corporate assets must be
87 perfected by recording a lien under the Uniform Commercial Code.

88 (d) The period of the loan is 4 years.

89 (e) The interest rate of the loan is 2 percent. However, if
90 the borrower does not create the projected number of jobs within
91 the terms of the contract, the interest rate shall be increased
92 for the remaining period of the loan to the prime rate published
93 in the Wall Street Journal, as of the date specified in the loan
94 agreement, plus 4 percent.

95 (f) For each month of the first 12 months of the loan,
96 payment is due for interest only. Thereafter, payment for
97 interest and principal is due each month until the loan is
98 repaid in full. Interest and principal payments are based on the
99 unpaid balance of the total loan amount.



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100 (5) (a) The office may designate one or more qualified
101 entities to serve as loan administrators for the pilot program.

102 A loan administrator must:

103 1. Be a Florida corporation not for profit incorporated
104 under chapter 617 which has its principal place of business in
105 the state.

106 2. Have 5 years of verifiable experience of lending to
107 businesses in this state.

108 3. Submit an application to the office on forms prescribed
109 by the office. The application must include the loan
110 administrator's business plan for its proposed lending
111 activities under the pilot program, including, but not limited
112 to, a description of its outreach efforts, underwriting, credit
113 policies and procedures, credit decision processes, monitoring
114 policies and procedures, and collection practices; the
115 membership of its board of directors; and samples of its
116 currently used loan documentation. The application must also
117 include a detailed description and supporting documentation of
118 the nature of the loan administrator's partnerships with local
119 or regional economic and business development organizations.

120 (b) The office, upon selecting a loan administrator, shall
121 enter into a grant agreement with the administrator to issue the
122 available loans to eligible applicants. The grant agreement must
123 specify the aggregate amount of the loans authorized for award
124 by the loan administrator. The term of the grant agreement must
125 be at least 4 years, except that the office may terminate the
126 agreement earlier if the loan administrator fails to meet
127 minimum performance standards set by the office. The grant
128 agreement may be amended by mutual consent of both parties.



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129 (c) The office shall disburse from the Economic Development
130 Trust Fund to the loan administrator the appropriations provided
131 for the pilot program. Disbursements to the loan administrator
132 must not exceed the aggregate amount of the loans authorized in
133 the grant agreement. The office may not disburse more than 50
134 percent of the aggregate amount of the loans authorized in the
135 grant agreement until the office verifies the borrowers' use of
136 the loan proceeds and the loan administrator's successful credit
137 decisionmaking policies.

138 (d) A loan administrator is entitled to receive a loan
139 origination fee, payable at closing, of 1 percent of each loan
140 issued by the loan administrator and a monthly servicing fee of
141 0.625 percent of each payment made by the borrower. The loan
142 administrator shall collect the monthly servicing fee from the
143 payments made by the borrower, first charging the fee against
144 interest payments and then charging the remainder of the fee
145 against repayments of principal.

146 (e) A loan administrator, after collecting the servicing
147 fee in accordance with paragraph (d), shall remit the borrower's
148 collected interest and principal payments to the office on a
149 quarterly basis. If the borrower defaults on the loan, the loan
150 administrator shall initiate collection efforts to seek
151 repayment of the loan. The loan administrator, upon collecting
152 payments for a defaulted loan, shall remit the payments to the
153 office but, to the extent authorized in the grant agreement, may
154 deduct the costs of the administrator's collection efforts. The
155 office shall deposit all funds received under this paragraph in
156 the General Revenue Fund.

157 (f) A loan administrator shall submit quarterly reports to



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158 the office which include the information required in the grant
159 agreement. A quarterly report must include, at a minimum, the
160 number of full-time equivalent jobs created as a result of the
161 loans, the amount of wages paid to employees in the newly
162 created jobs, and the locations and types of economic activity
163 undertaken by the borrowers.

164 (6) The office shall adopt rules under ss. 120.536(1) and
165 120.54 to administer this section. To the extent necessary to
166 expedite implementation of the pilot program, the office may
167 adopt initial emergency rules for the pilot program in
168 accordance with s. 120.54(4).

169 (7) On June 30 and December 31 of each year, beginning in
170 2009, the office shall submit a report to the Governor, the
171 President of the Senate, and the Speaker of the House of
172 Representatives which describes in detail the use of the loan
173 funds. The report must include, at a minimum, the number of
174 businesses receiving loans, the number of full-time equivalent
175 jobs created as a result of the loans, the amount of wages paid
176 to employees in the newly created jobs, the locations and types
177 of economic activity undertaken by the borrowers, the amounts of
178 loan repayments made to date, and the default rate of borrowers.

179 (8) Unexpended balances of appropriations provided for the
180 pilot program shall not revert to the fund from which the
181 appropriation was made at the end of a fiscal year but shall be
182 retained in the Economic Development Trust Fund and be carried
183 forward for expenditure for the pilot program during the
184 following fiscal year. A loan administrator may not award a new
185 loan or enter into a loan agreement after June 30, 2011.

186 Balances of appropriations provided for the pilot program which



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187 remain unexpended as of July 1, 2011, shall revert to the
188 General Revenue Fund.

189 (9) This section is repealed July 1, 2016, unless reviewed
190 and reenacted by the Legislature before that date.

191 Section 2. Section 288.1082, Florida Statutes, is created
192 to read:

193 288.1082 Economic Gardening Technical Assistance Pilot
194 Program.—

195 (1) There is created within Enterprise Florida the Economic
196 Gardening Technical Assistance Pilot Program. The purpose of the
197 pilot program is to stimulate investment in Florida's economy by
198 providing technical assistance for expanding businesses in the
199 state. As used in this section, the term "office" means
200 Enterprise Florida.

201 (2) The office shall contract with one or more entities to
202 administer the pilot program under this section. The office
203 shall award each contract in accordance with the competitive
204 bidding requirements in s. 287.057 to an entity that
205 demonstrates the ability to implement the pilot program on a
206 statewide basis and the capability to provide counseling
207 services, access to technology and information, marketing
208 services and advice, business management support, and other
209 similar services. In selecting these entities, the office must
210 consider whether the entities will qualify for matching funds
211 for this purpose.

212 (3) A contracted entity administering the pilot program
213 shall provide technical assistance for eligible businesses which
214 includes, but is not limited to:

215 (a) Access to free or affordable information services and



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216 consulting services, including information on markets,
217 customers, and competitors, such as business databases,
218 geographic information systems, and search engine marketing.

219 (b) Information on how to obtain infrastructure, including
220 basic physical infrastructure; quality-of-life infrastructure,
221 such as parks and open spaces; and intellectual infrastructure
222 that provides educational opportunities to help a business
223 maintain its competitiveness.

224 (c) Business connections, including interaction and
225 exchange among business owners and resource providers, such as
226 trade associations, think tanks, academic institutions, business
227 roundtables, peer-to-peer learning sessions, and mentoring
228 programs.

229 (4) (a) To be eligible for assistance under the pilot
230 program, a business must be a for-profit, privately held,
231 investment-grade business that employs at least 10 persons but
232 not more than 50 persons, has maintained its principal place of
233 business in the state for at least the previous 2 years,
234 generates at least \$1 million but not more than \$25 million in
235 annual revenue, qualifies for the tax refund program for
236 qualified target industry businesses under s. 288.106, and
237 during 3 of the previous 5 years, has steadily increased its
238 number of full-time equivalent employees in this state and
239 steadily increased its gross revenues.

240 (b) A contracted entity administering the pilot program, in
241 selecting the eligible businesses to receive assistance, shall
242 choose businesses in more than one industry cluster and, to the
243 maximum extent practicable, shall choose businesses that are
244 geographically distributed throughout the state.



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245 (5) (a) A business receiving assistance under the pilot
246 program must enter into an agreement with the contracted entity
247 administering the program to establish the business's commitment
248 to participation in the pilot program. The agreement must
249 require, at a minimum, that the business:

250 1. Attend a minimum number of meetings between the business
251 and the contracted entity administering the pilot program.

252 2. Report job-creation data in the manner prescribed by the
253 contracted entity administering the pilot program.

254 3. Provide financial data in the manner prescribed by the
255 contracted entity administering the program.

256 (b) The office or the contracted entity administering the
257 pilot program may prescribe additional reporting requirements in
258 the agreement which are necessary to track the progress of the
259 business and monitor the business's implementation of the
260 assistance. The contracted entity shall report the information
261 to the office on a quarterly basis.

262 (6) A contracted entity administering the pilot program is
263 authorized to promote the general business interests or
264 industrial interests of the state.

265 (7) The office shall review the progress of a contracted
266 entity administering the pilot program at least once each 6
267 months and shall determine whether the contracted entity is
268 meeting its contractual obligations for administering the pilot
269 program. The office may terminate and rebid a contract if the
270 contracted entity does not meet its contractual obligations.

271 (8) On December 31 of each year, beginning in 2009, the
272 office shall submit a report to the Governor, the President of
273 the Senate, and the Speaker of the House of Representatives



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274 which describes in detail the progress of the pilot program. The
275 report must include, at a minimum, the number of businesses
276 receiving assistance, the number of full-time equivalent jobs
277 created as a result of the assistance, if any, the amount of
278 wages paid to employees in the newly created jobs, and the
279 locations and types of economic activity undertaken by the
280 businesses.

281 (9) The office may adopt rules under ss. 120.536(1) and
282 120.54 to administer this section.

283 Section 3. By December 31, 2012, the Office of Program
284 Policy Analysis and Government Accountability shall submit a
285 report to the Governor, the President of the Senate, and the
286 Speaker of the House of Representatives which evaluates the
287 Economic Gardening Technical Assistance Pilot Program in s.
288 288.1082, Florida Statutes, and the pilot program's
289 effectiveness in expanding the targeted businesses.

290 Section 4. From the funds provided in a special
291 appropriations act for the 2008-2009 fiscal year to Enterprise
292 Florida for implementation of this act, Enterprise Florida may
293 expend up to \$1.5 million for implementation of the Economic
294 Gardening Technical Assistance Pilot Program created in s.
295 288.1082, Florida Statutes.

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

298 And the title is amended as follows:

299 Delete lines 4 - 40

300 and insert:

301 Business Loan Pilot Program within Enterprise Florida; providing
302 legislative findings and intent; providing eligibility criteria



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303 for the award of loans to certain businesses; providing
304 application procedures; requiring loan agreements; providing
305 terms of loans; providing for use of loan proceeds; providing
306 criteria and application procedures for the selection of loan
307 administrators; requiring a loan administrator to enter into a
308 grant agreement; providing for the disbursement of certain funds
309 from the Economic Development Trust Fund; requiring fees for the
310 loan administrator; providing for the collection and deposit of
311 loan payments; requiring the loan administrator to submit a
312 report to Enterprise Florida; requiring Enterprise Florida to
313 adopt rules; authorizing the use of emergency rulemaking
314 procedures; requiring Enterprise Florida to submit a report to
315 the Governor and Legislature; providing for reversion and
316 carryforward of certain unexpended appropriations; prohibiting
317 new loans after a specified date; providing for future repeal;
318 creating s. 288.1082, F.S.; creating the Economic Gardening
319 Technical Assistance Pilot Program within Enterprise Florida;
320 requiring Enterprise Florida to contract for administration of
321 the pilot program; requiring competitive procurement; requiring
322 the provision of technical assistance to certain businesses;
323 providing eligibility criteria for businesses to receive
324 technical assistance; requiring the businesses to enter into
325 agreements with the contracted entity administering the pilot
326 program; requiring the businesses to report certain data;
327 providing that the contracted entity is an economic development
328 agency; providing for review of contracts; requiring Enterprise
329 Florida to submit a report to the Governor and Legislature;
330 authorizing Enterprise Florida to adopt rules; directing the
331 Office of Program Policy Analysis