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LEGISLATIVE ACTION

Senate

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House

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Floor: 2/F/2R

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01/09/2009 01:30 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 the Florida Small Business Development Center Network 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 the Florida Small Business Development Center Network.

(2) The Legislature finds that it is vital to the overall



922466

13 health and growth of the state's economy to promote favorable
14 conditions for expanding Florida businesses that demonstrate the
15 ability to grow. It is therefore the intent of the Legislature
16 that resources be provided for the pilot program in order to
17 respond to the current extraordinary economic challenges
18 confronting the state.

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

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

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

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

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

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

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



922466

42 6. The total investment in the business from all sources,
43 if any, which the applicant proposes in conjunction with the
44 loan.

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

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

51 9. The date that the applicant anticipates it needs the
52 loan.

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

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

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

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

63 14. Any additional information requested by the office or
64 the loan administrator.

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



922466

71 also shall consider the following factors:
72 1. Incentives awarded to the applicant from local
73 governments;
74 2. Waivers of taxes, impact fees, or other fees or charges
75 by local governments; and
76 3. Other sources of investments or financing for the
77 project that is the subject of the loan application.
78 (d) A borrower awarded a loan under this section and the
79 loan administrator must enter into a loan agreement that
80 provides for the borrower's repayment of the loan.
81 (4) The following terms apply to a loan received under the
82 pilot program:
83 (a) The maximum amount of the loan is \$250,000.
84 (b) The proceeds of the loan may be used for working
85 capital purchases, employee training, or salaries for newly
86 created jobs in the state.
87 (c) The security interest for the loan's collateral
88 covering all of the borrower's corporate assets must be
89 perfected by recording a lien under the Uniform Commercial Code.
90 (d) The period of the loan is 4 years.
91 (e) The interest rate of the loan is 2 percent. However, if
92 the borrower does not create the projected number of jobs within
93 the terms of the contract, the interest rate shall be increased
94 for the remaining period of the loan to the prime rate published
95 in the Wall Street Journal, as of the date specified in the loan
96 agreement, plus 4 percent.
97 (f) For each month of the first 12 months of the loan,
98 payment is due for interest only. Thereafter, payment for
99 interest and principal is due each month until the loan is



922466

100 repaid in full. Interest and principal payments are based on the
101 unpaid balance of the total loan amount.

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

104 A loan administrator must:

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

108 2. Have 5 years of verifiable experience of lending to
109 businesses in this state.

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

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



922466

129 minimum performance standards set by the office. The grant
130 agreement may be amended by mutual consent of both parties.

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

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

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



922466

158 the General Revenue Fund.

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

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

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

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



922466

187 loan or enter into a loan agreement after June 30, 2011.
188 Balances of appropriations provided for the pilot program which
189 remain unexpended as of July 1, 2011, shall revert to the
190 General Revenue Fund.

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

193 Section 2. Section 288.1082, Florida Statutes, is created
194 to read:

195 288.1082 Economic Gardening Technical Assistance Pilot
196 Program.—

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

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

215 (3) A contracted entity administering the pilot program



922466

216 shall provide technical assistance for eligible businesses which
217 includes, but is not limited to:

218 (a) Access to free or affordable information services and
219 consulting services, including information on markets,
220 customers, and competitors, such as business databases,
221 geographic information systems, and search engine marketing.

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

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

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

243 (b) A contracted entity administering the pilot program, in
244 selecting the eligible businesses to receive assistance, shall



922466

245 choose businesses in more than one industry cluster and, to the
246 maximum extent practicable, shall choose businesses that are
247 geographically distributed throughout the state.

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

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

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

257 3. Provide financial data in the manner prescribed by the
258 contracted entity administering the program.

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

265 (6) A contracted entity administering the pilot program is
266 authorized to promote the general business interests or
267 industrial interests of the state.

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



922466

274 (8) On December 31 of each year, beginning in 2009, the
275 office shall submit a report to the Governor, the President of
276 the Senate, and the Speaker of the House of Representatives
277 which describes in detail the progress of the pilot program. The
278 report must include, at a minimum, the number of businesses
279 receiving assistance, the number of full-time equivalent jobs
280 created as a result of the assistance, if any, the amount of
281 wages paid to employees in the newly created jobs, and the
282 locations and types of economic activity undertaken by the
283 businesses.

284 (9) The office may adopt rules under ss. 120.536(1) and
285 120.54 to administer this section.

286 Section 3. By December 31, 2012, the Office of Program
287 Policy Analysis and Government Accountability shall submit a
288 report to the Governor, the President of the Senate, and the
289 Speaker of the House of Representatives which evaluates the
290 Economic Gardening Technical Assistance Pilot Program in s.
291 288.1082, Florida Statutes, and the pilot program's
292 effectiveness in expanding the targeted businesses.

293 Section 4. From the funds provided in a special
294 appropriations act for the 2008-2009 fiscal year to the Florida
295 Small Business Development Center Network for implementation of
296 this act, the network may expend up to \$1.5 million for
297 implementation of the Economic Gardening Technical Assistance
298 Pilot Program created in s. 288.1082, Florida Statutes.

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

301 And the title is amended as follows:

302 Delete lines 4 - 40



922466

303 and insert:

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



922466

332 report certain data; providing that the contracted entity is an
333 economic development agency; providing for review of contracts;
334 requiring the Florida Small Business Development Center Network
335 to submit a report to the Governor and Legislature; authorizing
336 the Florida Small Business Development Center Network to adopt
337 rules; directing the Office of Program Policy Analysis