

HB 1051

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1                   A bill to be entitled  
2           An act relating to economic development; creating the  
3           "Small Business Jobs Creation Act"; amending s. 288.061,  
4           F.S.; reducing the time period within which Enterprise  
5           Florida, Inc., and the Office of Tourism, Trade, and  
6           Economic Development must review and evaluate applications  
7           for state economic development incentives; amending s.  
8           288.106, F.S.; reducing the time period within which a  
9           local government must adopt a resolution to provide  
10          financial support to a business applying to participate in  
11          the tax refund program for qualified target industry  
12          businesses; reducing the time period within which a  
13          business applying to participate in the tax refund program  
14          for qualified target industry must sign an agreement with  
15          the Office of Tourism, Trade, and Economic Development;  
16          authorizing an extension of time for a business to sign an  
17          agreement under certain circumstances; requiring the  
18          Office of Tourism, Trade, and Economic Development to  
19          return the unused portion of local financial support  
20          within a specified time period if a business fails to  
21          timely sign an agreement or no longer participates in the  
22          tax refund program; waiving the requirements for certain  
23          businesses to pay a minimum average wage during the first  
24          year of an agreement under the tax refund program for  
25          qualified target industry businesses; amending s. 400.462,  
26          F.S.; redefining the term "remuneration" as used in the  
27          Home Health Services Act to exclude certain items having a  
28          value less than a specified threshold amount; providing an

29 |           effective date.

30 |  
 31 |           WHEREAS, Florida has more than 2 million small businesses  
 32 | and more than 1 million self-employed persons, according to a  
 33 | 2009 report produced by the U.S. Small Business Administration's  
 34 | Office of Advocacy, and

35 |           WHEREAS, Florida's small businesses comprise more than 90  
 36 | percent of the total number of businesses in Florida and employ  
 37 | at least 44 percent of private-sector employees, and

38 |           WHEREAS, from 2003 until 2006, the greatest number of jobs  
 39 | attributable to small businesses were created by companies  
 40 | having fewer than five employees, according to the U.S. Small  
 41 | Business Administration, and

42 |           WHEREAS, the Great Recession of 2009-2010 afflicted even  
 43 | more agile small businesses in Florida and nationwide with  
 44 | losses of jobs, contracts, and capital, and

45 |           WHEREAS, Florida's unemployment rate is at 12 percent,  
 46 | equating to 1.1 million Floridians out of work, many of whom are  
 47 | former employees of a small business, and

48 |           WHEREAS, in surveys and at public forums provided by the  
 49 | Florida Office of Small Business Advocate in 2010, small  
 50 | business owners revealed that their top three concerns were  
 51 | access to capital, the lack of small business incentives, and an  
 52 | unstable or less favorable climate for small businesses, and

53 |           WHEREAS, Florida's target industry sectors, including all  
 54 | types of manufacturing, offer the promise of jobs that pay  
 55 | higher wages and more stable employment, NOW, THEREFORE,

56 |

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

58

59 Section 1. This act may be cited as the "Small Business  
 60 Jobs Creation Act."

61 Section 2. Section 288.061, Florida Statutes, is amended  
 62 to read:

63 288.061 Economic development incentive application  
 64 process.—

65 (1) Within 4 ~~10~~ business days after receiving a submitted  
 66 economic development incentive application, Enterprise Florida,  
 67 Inc., shall review the application and inform the applicant  
 68 business whether or not its application is complete. Within 10  
 69 business days after the application is deemed complete,  
 70 Enterprise Florida, Inc., shall evaluate the application and  
 71 recommend approval or disapproval of the application to the  
 72 director of the Office of Tourism, Trade, and Economic  
 73 Development. In recommending an applicant business for approval,  
 74 Enterprise Florida, Inc., shall include in its evaluation a  
 75 recommended grant award amount and a review of the applicant's  
 76 ability to meet specific program criteria.

77 (2) Within 3 ~~10~~ calendar days after the Office of Tourism,  
 78 Trade, and Economic Development receives the evaluation and  
 79 recommendation from Enterprise Florida, Inc., the office shall  
 80 notify Enterprise Florida, Inc., whether or not the application  
 81 is reviewable. Within 14 ~~22~~ calendar days after the office  
 82 receives the recommendation from Enterprise Florida, Inc., the  
 83 director of the office shall review the application and issue a  
 84 letter of certification to the applicant that approves or

85 disapproves an applicant business and includes a justification  
 86 of that decision, unless the business requests an extension of  
 87 that time. The final order shall specify the total amount of the  
 88 award, the performance conditions that must be met to obtain the  
 89 award, and the schedule for payment.

90 Section 3. Subsection (5) of section 288.106, Florida  
 91 Statutes, is amended, present subsection (8) of that section is  
 92 renumbered as subsection (9), and a new subsection (8) is added  
 93 to that section, to read:

94 288.106 Tax refund program for qualified target industry  
 95 businesses.—

96 (5) TAX REFUND AGREEMENT.—

97 (a) Each qualified target industry business must enter  
 98 into a written agreement with the office that specifies, at a  
 99 minimum:

100 1. The total number of full-time equivalent jobs in this  
 101 state which ~~that~~ will be dedicated to the project, the average  
 102 wage of those jobs, the definitions that will apply for  
 103 measuring the achievement of these terms during the pendency of  
 104 the agreement, and a time schedule or plan for when such jobs  
 105 will be in place and active in this state.

106 2. The maximum amount of tax refunds that the qualified  
 107 target industry business is eligible to receive on the project  
 108 and the maximum amount of a tax refund that the qualified target  
 109 industry business is eligible to receive for each fiscal year,  
 110 based on the job creation and maintenance schedule specified in  
 111 subparagraph 1.

112 3. That the office may review and verify the financial and

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113 personnel records of the qualified target industry business to  
114 ascertain whether that business is in compliance with this  
115 section.

116 4. The date by which, in each fiscal year, the qualified  
117 target industry business may file a claim under subsection (6)  
118 to be considered to receive a tax refund in the following fiscal  
119 year.

120 5. That local financial support will be annually available  
121 and will be paid to the account. The office may not enter into a  
122 written agreement with a qualified target industry business if  
123 the local financial support resolution is not passed by the  
124 local governing body within 45 ~~90~~ days after the office has  
125 issued the letter of certification under subsection (4).

126 6. That the office may conduct a review of the business to  
127 evaluate whether the business is continuing to contribute to the  
128 area's or state's economy.

129 7. That in the event the business does not complete the  
130 agreement, the business will provide the office with the reasons  
131 the business was unable to complete the agreement.

132 (b) Compliance with the terms and conditions of the  
133 agreement is a condition precedent for the receipt of a tax  
134 refund each year. The failure to comply with the terms and  
135 conditions of the tax refund agreement results in the loss of  
136 eligibility for receipt of all tax refunds previously authorized  
137 under this section and the revocation by the office of the  
138 certification of the business entity as a qualified target  
139 industry business, unless the business is eligible to receive  
140 and elects to accept a prorated refund under paragraph (6) (e) or

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141 the office grants the business an economic recovery extension.

142 1. A qualified target industry business may submit a  
143 request to the office for an economic recovery extension. The  
144 request must provide quantitative evidence demonstrating how  
145 negative economic conditions in the business's industry, the  
146 effects of a named hurricane or tropical storm, or specific acts  
147 of terrorism affecting the qualified target industry business  
148 have prevented the business from complying with the terms and  
149 conditions of its tax refund agreement.

150 2. Upon receipt of a request under subparagraph 1., the  
151 office has 45 days to notify the requesting business, in  
152 writing, whether its extension has been granted or denied. In  
153 determining whether an extension should be granted, the office  
154 shall consider the extent to which negative economic conditions  
155 in the requesting business's industry have occurred in the state  
156 or the effects of a named hurricane or tropical storm or  
157 specific acts of terrorism affecting the qualified target  
158 industry business have prevented the business from complying  
159 with the terms and conditions of its tax refund agreement. The  
160 office shall consider current employment statistics for this  
161 state by industry, including whether the business's industry had  
162 substantial job loss during the prior year, when determining  
163 whether an extension shall be granted.

164 3. As a condition for receiving a prorated refund under  
165 paragraph (6) (e) or an economic recovery extension under this  
166 paragraph, a qualified target industry business must agree to  
167 renegotiate its tax refund agreement with the office to, at a  
168 minimum, ensure that the terms of the agreement comply with

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169 current law and office procedures governing application for and  
170 award of tax refunds. Upon approving the award of a prorated  
171 refund or granting an economic recovery extension, the office  
172 shall renegotiate the tax refund agreement with the business as  
173 required by this subparagraph. When amending the agreement of a  
174 business receiving an economic recovery extension, the office  
175 may extend the duration of the agreement for a period not to  
176 exceed 2 years.

177 4. A qualified target industry business may submit a  
178 request for an economic recovery extension to the office in lieu  
179 of any tax refund claim scheduled to be submitted after January  
180 1, 2009, but before July 1, 2012.

181 5. A qualified target industry business that receives an  
182 economic recovery extension may not receive a tax refund for the  
183 period covered by the extension.

184 (c) The agreement must be signed by the director and by an  
185 authorized officer of the qualified target industry business  
186 within 60 ~~120~~ days after the issuance of the letter of  
187 certification under subsection (4), but not before passage and  
188 receipt of the resolution of local financial support. The office  
189 may grant an extension of this period for up to 60 days at the  
190 written request of the qualified target industry business if the  
191 business provides the office with compelling reasons for the  
192 delay. If an agreement is not signed by the business within 120  
193 days after the letter of certification is issued, the office  
194 must withdraw the certification. The target industry business  
195 may not reapply to participate in the program until the  
196 subsequent state fiscal year.

197        (d) If an agreement is not signed by a target industry  
 198 business within the time specified in paragraph (c), or if a  
 199 business withdraws from the agreement or the office terminates  
 200 the agreement for noncompliance under paragraph (b), the office  
 201 must return the unused portion of the local financial support to  
 202 the applicable local government within 6 months after those  
 203 events.

204        (e)~~(d)~~ The agreement must contain the following legend,  
 205 clearly printed on its face in bold type of not less than 10  
 206 points in size: "This agreement is not a general obligation of  
 207 the State of Florida, nor is it backed by the full faith and  
 208 credit of the State of Florida. Payment of tax refunds is  
 209 conditioned on and subject to specific annual appropriations by  
 210 the Florida Legislature sufficient to pay amounts authorized in  
 211 section 288.106, Florida Statutes."

212        (8) WAIVER OF AVERAGE ANNUAL WAGE REQUIREMENT.—The average  
 213 annual wage requirement is waived for the first year of an  
 214 agreement for any target industry business that enters into a  
 215 tax refund agreement under subsection (5) between July 1, 2011,  
 216 and June 30, 2012, and agrees to expand its operations within  
 217 this state.

218        Section 4. Subsection (27) of section 400.462, Florida  
 219 Statutes, is amended to read:

220        400.462 Definitions.—As used in this part, the term:

221        (27) "Remuneration" means any payment or other benefit  
 222 made directly or indirectly, overtly or covertly, in cash or in  
 223 kind. The term does not include items having an individual value  
 224 of less than \$10 such as plaques, certificates, trophies, or



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225 | novelties that are intended solely for presentation or are  
226 | customarily given away solely for promotional or advertising  
227 | purposes or to recognize a person for an achievement.

228 |       Section 5. This act shall take effect July 1, 2011.