

By Senator Siplin

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1 A bill to be entitled

2 An act relating to economic development; amending ss.  
3 288.1081 and 288.1082, F.S.; establishing the Economic  
4 Gardening Business Loan Program and the Economic  
5 Gardening Technical Assistance Program as permanent  
6 programs; revising conditions under which loan  
7 agreements may provide borrowers with flexibility in  
8 meeting the projected number of jobs; revising the  
9 method for calculating the servicing fee payable to a  
10 loan administrator; deleting a requirement that  
11 certain funds be deposited in the General Revenue  
12 Fund; providing for use of the funds; deleting an  
13 obsolete provision authorizing the adoption of initial  
14 emergency rules; deleting provision prohibiting the  
15 award of new loans after a specified date; deleting  
16 provision for the reversion of certain unexpended  
17 appropriations; deleting provisions for future repeal  
18 of the loan program; revising the date upon which the  
19 Office of Tourism, Trade, and Economic Development  
20 must begin to submit annual reports to the Governor  
21 and Legislature on the loan program and technical  
22 assistance program; providing for retroactive  
23 application of provisions revising the loan program;  
24 providing an effective date.

25  
26 Be It Enacted by the Legislature of the State of Florida:

27  
28 Section 1. Section 288.1081, Florida Statutes, is amended  
29 to read:

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30 288.1081 Economic Gardening Business Loan ~~Pilot~~ Program.—

31 (1) There is created within the Office of Tourism, Trade,  
32 and Economic Development the Economic Gardening Business Loan  
33 ~~Pilot~~ Program. The purpose of the ~~pilot~~ program is to stimulate  
34 investment in Florida's economy by providing loans to expanding  
35 businesses in the state. As used in this section, the term  
36 "office" means the Office of Tourism, Trade, and Economic  
37 Development.

38 (2) The Legislature finds that it is vital to the overall  
39 health and growth of the state's economy to promote favorable  
40 conditions for expanding Florida businesses that demonstrate the  
41 ability to grow. The Legislature further finds that, due to the  
42 current extraordinary economic challenges confronting the state,  
43 there exists a public purpose in expending state resources to  
44 stimulate investment in Florida's economy. It is therefore the  
45 intent of the Legislature that resources be provided for the  
46 loan pilot program.

47 (3) (a) To be eligible for a loan under the ~~pilot~~ program,  
48 an applicant must be a business eligible for assistance under  
49 the Economic Gardening Technical Assistance ~~Pilot~~ Program as  
50 provided in s. 288.1082(4) (a).

51 (b) A loan applicant must submit a written application to  
52 the loan administrator in the format prescribed by the loan  
53 administrator. The application must include:

54 1. The applicant's federal employer identification number,  
55 unemployment account number, and sales or other tax registration  
56 number.

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

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59           3. A description of the type of economic activity, product,  
60 or research and development undertaken by the applicant,  
61 including the six-digit North American Industry Classification  
62 System code for each type of economic activity conducted by the  
63 applicant.

64           4. The applicant's annual revenue, number of employees,  
65 number of full-time equivalent employees, and other information  
66 necessary to verify the applicant's eligibility for the  
67 technical assistance ~~pilot~~ program under s. 288.1082(4)(a).

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

70           6. The total investment in the business from all sources,  
71 if any, which the applicant proposes in conjunction with the  
72 loan.

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

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

79           9. The date that the applicant anticipates it needs the  
80 loan.

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

83           11. A statement that all of the applicant's available  
84 corporate assets are pledged as collateral for the amount of the  
85 loan.

86           12. A statement that the applicant, upon receiving the  
87 loan, agrees not to seek additional long-term debt without prior

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88 approval of the loan administrator.

89 13. A statement that the loan is a joint obligation of the  
90 business and of each person who owns at least 20 percent of the  
91 business.

92 14. Any additional information requested by the office or  
93 the loan administrator.

94 (c) The loan administrator, after verifying the accuracy of  
95 a submitted application, shall award the loan to the applicant  
96 if the administrator determines that the applicant, as compared  
97 to other applicants submitting applications, is in the best  
98 position to use the loan to continue making a successful long-  
99 term business commitment to the state. The loan administrator  
100 also shall consider the following factors:

101 1. Whether the applicant has applied for or received  
102 incentives from local governments;

103 2. Whether the applicant has applied for or received  
104 waivers of taxes, impact fees, or other fees or charges by local  
105 governments; and

106 3. What other sources of investments or financing for the  
107 project that is the subject of the loan application will be  
108 available to the applicant.

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

112 (4) The following terms apply to a loan received under the  
113 ~~pilot~~ program:

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

115 (b) The proceeds of the loan may be used for working  
116 capital purchases, employee training, or salaries for newly

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117 created jobs in the state.

118 (c) The security interest for the loan's collateral  
119 covering all of the borrower's available corporate assets to  
120 cover the amount of the loan must be perfected by recording a  
121 lien under the Uniform Commercial Code.

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

123 (e) The interest rate of the loan is 2 percent. However, if  
124 the borrower does not create the projected number of jobs within  
125 the terms of the loan agreement, the interest rate shall be  
126 increased for the remaining period of the loan to the prime rate  
127 published in the Wall Street Journal, as of the date specified  
128 in the loan agreement, plus 4 percentage points. The loan  
129 agreement may provide flexibility in meeting the projected  
130 number of jobs for delays due to governmental regulatory issues,  
131 such as including, but not limited to, permitting and other  
132 documented justifiable causes.

133 (f) For the first 12 months of the loan, payment is due for  
134 interest only, payable during the twelfth month. Thereafter,  
135 payment for interest and principal is due each month until the  
136 loan is paid in full. Interest and principal payments are based  
137 on the unpaid balance of the total loan amount.

138 (5) (a) The office may designate one or more qualified  
139 entities to serve as loan administrators for the ~~pilot~~ program.  
140 A loan administrator must:

141 1. Be a Florida corporation not for profit incorporated  
142 under chapter 617 which has its principal place of business in  
143 the state.

144 2. Have 5 years of verifiable experience of lending to  
145 businesses in this state.

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146           3. Submit an application to the office on forms prescribed  
147 by the office. The application must include the loan  
148 administrator's business plan for its proposed lending  
149 activities under the ~~pilot~~ program, including, but not limited  
150 to, a description of its outreach efforts, underwriting, credit  
151 policies and procedures, credit decision processes, monitoring  
152 policies and procedures, and collection practices; the  
153 membership of its board of directors; and samples of its  
154 currently used loan documentation. The application must also  
155 include a detailed description and supporting documentation of  
156 the nature of the loan administrator's partnerships with local  
157 or regional economic and business development organizations.

158           (b) The office, upon selecting a loan administrator, shall  
159 enter into a grant agreement with the administrator to issue the  
160 available loans to eligible applicants. The grant agreement must  
161 specify the aggregate amount of the loans authorized for award  
162 by the loan administrator. The term of the grant agreement must  
163 be at least 4 years, except that the office may terminate the  
164 agreement earlier if the loan administrator fails to meet  
165 minimum performance standards set by the office. The grant  
166 agreement may be amended by mutual consent of both parties.

167           (c) The office shall disburse from the Economic Development  
168 Trust Fund to the loan administrator the appropriations provided  
169 for the loan ~~pilot~~ program. Disbursements to the loan  
170 administrator must not exceed the aggregate amount of the loans  
171 authorized in the grant agreement. The office may not disburse  
172 more than 50 percent of the aggregate amount of the loans  
173 authorized in the grant agreement until the office verifies the  
174 borrowers' use of the loan proceeds and the loan administrator's

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175 successful credit decisionmaking policies.

176 (d) A loan administrator is entitled to receive a loan  
177 origination fee, payable at closing, of 1 percent of each loan  
178 issued by the loan administrator and a servicing fee of 0.625  
179 percent ~~per annum~~ of the loan's outstanding principal balance,  
180 payable monthly. During the first 12 months of the loan, the  
181 servicing fee shall be paid from the disbursement from the  
182 Economic Development Trust Fund, and thereafter the loan  
183 administrator shall collect the servicing fee from the payments  
184 made by the borrower, charging the fee against repayments of  
185 principal.

186 (e) A loan administrator, after collecting the servicing  
187 fee in accordance with paragraph (d), shall use ~~remit~~ the  
188 borrower's collected interest, principal payments, and charges  
189 for late payments to provide additional loans to eligible  
190 borrowers under this section ~~to the office on a quarterly basis~~.  
191 If the borrower defaults on the loan, the loan administrator  
192 shall initiate collection efforts to seek repayment of the loan.  
193 The loan administrator, upon collecting payments for a defaulted  
194 loan, may ~~shall remit the payments to the office but,~~ to the  
195 extent authorized in the grant agreement, ~~may~~ deduct the costs  
196 of the administrator's collection efforts, and shall use the  
197 remaining payments to provide additional loans to eligible  
198 borrowers under this section. ~~The office shall deposit all funds~~  
199 ~~received under this paragraph in the General Revenue Fund.~~

200 (f) A loan administrator shall submit quarterly reports to  
201 the office which include the information required in the grant  
202 agreement. A quarterly report must include, at a minimum, the  
203 number of full-time equivalent jobs created as a result of the

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204 loans, the amount of wages paid to employees in the newly  
205 created jobs, and the locations and types of economic activity  
206 undertaken by the borrowers.

207 (6) All notes, mortgages, security agreements, letters of  
208 credit, or other instruments that are given to secure the  
209 repayment of loans issued in connection with the financing of  
210 any loan under the program, without regard to the status of any  
211 party thereto as a private party, are exempt from taxation by  
212 the state and its political subdivisions. The exemption granted  
213 in this subsection does not apply to any tax imposed by chapter  
214 220 on interest, income, or profits on debt obligations owned by  
215 corporations.

216 (7) The office shall adopt rules under ss. 120.536(1) and  
217 120.54 to administer this section. ~~To the extent necessary to~~  
218 ~~expedite implementation of the pilot program, the office may~~  
219 ~~adopt initial emergency rules for the pilot program in~~  
220 ~~accordance with s. 120.54(4).~~

221 (8) On June 30 and December 31 of each year, beginning in  
222 2012 ~~2009~~, the office shall submit a report to the Governor, the  
223 President of the Senate, and the Speaker of the House of  
224 Representatives which describes in detail the use of the loan  
225 funds. The report must include, at a minimum, the number of  
226 businesses receiving loans, the number of full-time equivalent  
227 jobs created as a result of the loans, the amount of wages paid  
228 to employees in the newly created jobs, the locations and types  
229 of economic activity undertaken by the borrowers, the amounts of  
230 loan repayments made to date, and the default rate of borrowers.

231 (9) Unexpended balances of appropriations provided for the  
232 loan ~~pilot~~ program shall not revert to the fund from which the



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233 appropriation was made at the end of a fiscal year but shall be  
234 retained in the Economic Development Trust Fund and be carried  
235 forward for expenditure for the loan ~~pilot~~ program during the  
236 following fiscal year. ~~A loan administrator may not award a new  
237 loan or enter into a loan agreement after June 30, 2011.  
238 Balances of appropriations provided for the pilot program which  
239 remain unexpended as of July 1, 2011, shall revert to the  
240 General Revenue Fund.~~

241 ~~(10) This section is repealed July 1, 2016, unless reviewed  
242 and reenacted by the Legislature before that date.~~

243 Section 2. Section 288.1082, Florida Statutes, is amended  
244 to read:

245 288.1082 Economic Gardening Technical Assistance ~~Pilot~~  
246 Program.—

247 (1) There is created within the Office of Tourism, Trade,  
248 and Economic Development the Economic Gardening Technical  
249 Assistance ~~Pilot~~ Program. The purpose of the ~~pilot~~ program is to  
250 stimulate investment in Florida's economy by providing technical  
251 assistance for expanding businesses in the state. As used in  
252 this section, the term "office" means the Office of Tourism,  
253 Trade, and Economic Development.

254 (2) The office shall contract with one or more entities to  
255 administer the technical assistance ~~pilot~~ program under this  
256 section. The office shall award each contract in accordance with  
257 the competitive bidding requirements in s. 287.057 to an entity  
258 that demonstrates the ability to implement the ~~pilot~~ program on  
259 a statewide basis, has an outreach plan, and has the ability to  
260 provide counseling services, access to technology and  
261 information, marketing services and advice, business management

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262 support, and other similar services. In selecting these  
263 entities, the office also must consider whether the entities  
264 will qualify for matching funds to provide the technical  
265 assistance.

266 (3) A contracted entity administering the ~~pilot~~ program  
267 shall provide technical assistance for eligible businesses which  
268 includes, but is not limited to:

269 (a) Access to free or affordable information services and  
270 consulting services, including information on markets,  
271 customers, and competitors, such as business databases,  
272 geographic information systems, and search engine marketing.

273 (b) Development of business connections, including  
274 interaction and exchange among business owners and resource  
275 providers, such as trade associations, think tanks, academic  
276 institutions, business roundtables, peer-to-peer learning  
277 sessions, and mentoring programs.

278 (4) (a) To be eligible for assistance under the ~~pilot~~  
279 program, a business must be a for-profit, privately held,  
280 investment-grade business that employs at least 10 persons but  
281 not more than 50 persons, has maintained its principal place of  
282 business in the state for at least the previous 2 years,  
283 generates at least \$1 million but not more than \$25 million in  
284 annual revenue, qualifies for the tax refund program for  
285 qualified target industry businesses under s. 288.106, and,  
286 during 3 of the previous 5 years, has increased both its number  
287 of full-time equivalent employees in this state and its gross  
288 revenues.

289 (b) A contracted entity administering the ~~pilot~~ program, in  
290 selecting the eligible businesses to receive assistance, shall

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291 choose businesses in more than one industry cluster and, to the  
292 maximum extent practicable, shall choose businesses that are  
293 geographically distributed throughout Florida or are in  
294 partnership with businesses that are geographically distributed  
295 throughout Florida.

296 (5) (a) A business receiving assistance under the ~~pilot~~  
297 program must enter into an agreement with the contracted entity  
298 administering the program to establish the business's commitment  
299 to participation in the ~~pilot~~ program. The agreement must  
300 require, at a minimum, that the business:

301 1. Attend a minimum number of meetings between the business  
302 and the contracted entity administering the ~~pilot~~ program.

303 2. Report job creation data in the manner prescribed by the  
304 contracted entity administering the ~~pilot~~ program.

305 3. Provide financial data in the manner prescribed by the  
306 contracted entity administering the program.

307 (b) The office or the contracted entity administering the  
308 ~~pilot~~ program may prescribe in the agreement additional  
309 reporting requirements that are necessary to track the progress  
310 of the business and monitor the business's implementation of the  
311 assistance. The contracted entity shall report the information  
312 to the office on a quarterly basis.

313 (6) A contracted entity administering the ~~pilot~~ program is  
314 authorized to promote the general business interests or  
315 industrial interests of the state.

316 (7) The office shall review the progress of a contracted  
317 entity administering the ~~pilot~~ program at least once each 6  
318 months and shall determine whether the contracted entity is  
319 meeting its contractual obligations for administering the ~~pilot~~

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320 program. The office may terminate and rebid a contract if the  
321 contracted entity does not meet its contractual obligations.

322 (8) On December 31 of each year, beginning in 2012 ~~2009~~,  
323 the office shall submit a report to the Governor, the President  
324 of the Senate, and the Speaker of the House of Representatives  
325 which describes in detail the progress of the ~~pilot~~ program. The  
326 report must include, at a minimum, the number of businesses  
327 receiving assistance, the number of full-time equivalent jobs  
328 created as a result of the assistance, if any, the amount of  
329 wages paid to employees in the newly created jobs, and the  
330 locations and types of economic activity undertaken by the  
331 businesses.

332 (9) The office may adopt rules under ss. 120.536(1) and  
333 120.54 to administer this section.

334 Section 3. The amendments made by this act to s. 288.1081,  
335 Florida Statutes, shall apply retroactively to loans awarded  
336 before the effective date of this act.

337 Section 4. This act shall take effect July 1, 2011.