

**PreThe Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 1024

INTRODUCER: Community Affairs Committee and Commerce and Tourism Committee

SUBJECT: Department of Economic Opportunity

DATE: April 21, 2013                      REVISED: \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Siples	Hrdlicka		<b>CM SPB 7016 as introduced</b>
2. Anderson	Yeatman	CA	<b>Fav/CS</b>
3. Pingree	Martin	ATD	<b>Fav/CS</b>
4. Pingree	Hansen	AP	<b>Pre-meeting</b>
5. _____	_____	_____	_____
6. _____	_____	_____	_____

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

CS/SB 1024 revises various statutory provisions relating to the Department of Economic Opportunity (DEO or department).

The bill has an indeterminate fiscal impact on both state revenues and expenditures. In Fiscal Year 2013-14, the expenditures required by the bill can be absorbed within the DEO's existing resources. See Section V.

The bill:

- Assesses a 15 percent penalty on individuals who fraudulently collect unemployment compensation benefits, in order to comply with the requirements of federal law;
- Provides that any excess assessments previously collected to pay interest on federal advances taken to cover unemployment compensation benefit claims must be applied to federal interest payments due before additional assessments are made.
- Significantly revises the Florida Small Cities Community Development Block Grant (CDBG) Act to remove requirements that are more restrictive than required by federal regulations; grants rulemaking authority to the DEO; and streamlines public hearing requirements.

- Modifies reporting dates and consolidates numerous economic development annual reports.
- Provides that the Governor will serve as an ex officio, nonvoting member of the board of directors of the Florida Tourism Industry Marketing Corporation (Visit Florida), which enables the Governor to act as a spokesperson for Florida tourism.

This bill substantially amends the following sections of the Florida Statutes: 20.60, 220.194, 288.012, 288.061, 288.0656, 288.106, 288.1081, 288.1082, 288.1088, 288.1089, 288.1226, 288.1253, 288.1254, 288.1258, 288.714, 288.7771, 288.903, 288.906, 288.907, 288.92, 288.95155, 290.0056, 290.014, 290.0411, 290.042, 290.044, 290.0455, 290.046, 290.047, 290.0475, 290.048, 331.3051, 331.310, 443.091, 443.131, 443.151, 443.191, 443.1113, 443.1715, and 446.50.

This bill repeals section 288.095(3)(c), Florida Statutes.

## II. Present Situation:

### Department of Economic Opportunity (DEO) Reports

Presently, there are multiple reporting requirements for the state's various economic development programs and activities. Some entities are required to submit reports to the Governor, Legislature, and/or the DEO and the report due dates lack uniformity.

The DEO is required to produce an annual report by January 1 of each year to the Governor, the President of the Senate, and the Speaker of the House of Representatives that includes information on the state's business climate and economic development, as well as an identification of problems and recommendations.<sup>1</sup>

Section 288.906, F.S., requires Enterprise Florida, Inc. (EFI) to produce an annual report, as well as a separate Annual Incentives Report. The annual report includes broad organizational information including:

- A description of the EFI's operations and accomplishments, including its divisions and the interactions with local and private economic development organizations.
- An evaluation of progress toward achieving organizational goals and specific performance outcomes.
- Methods for implementing and funding the EFI's operations.
- An assessment of direct job creation benefits for welfare transition program participants or other programs designed to assist the long-term unemployed in finding work.
- The results of a customer satisfaction survey of businesses served.
- Annual compliance and financial audit information.

The EFI is also required to produce an Annual Incentives Report<sup>2</sup> that requires, among other things, an analysis of the economic benefits that actually occurred based on actual private investment, jobs created, and wages paid over the previous 3 years. The Annual Incentives

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<sup>1</sup> Section 20.60(10), F.S.

<sup>2</sup> Section 288.907, F.S.

Report compares the projected impacts of each incentive program over the previous 3 years to the confirmed, realized results. The Division of Strategic Business Development within the DEO is required to assist the EFI in the preparation of the Annual Incentives Report.<sup>3</sup>

Florida has multiple reporting requirements for its economic development programs. These reports are required to be submitted separately from the EFI annual report, the Annual Incentives report, and the DEO annual report. The list of statutorily required reports and their due dates are as follows:

Date	Report
January 1	<ul style="list-style-type: none"> <li>• The DEO’s Annual Report (s. 20.60, F.S.)</li> <li>• Displaced Homemaker plan and report (s. 446.50, F.S.)</li> </ul>
February 1	<ul style="list-style-type: none"> <li>• Annual reports on enterprise zones (s. 290.014(1),F.S.)</li> </ul>
March 1	<ul style="list-style-type: none"> <li>• Report encompassing annual reports on enterprise zones, as well as an analysis of activities and accomplishments of each enterprise zone (s. 290.014(2), F.S.)</li> </ul>
August 31	<ul style="list-style-type: none"> <li>• Black Business Loan Program Annual Report (s. 288.714, F.S.)</li> </ul>
September 1	<ul style="list-style-type: none"> <li>• Rural Economic Development Initiative (s. 288.0656, F.S.)</li> <li>• Space Florida annual performance report (s. 331.3051, F.S.)</li> </ul>
October 1	<ul style="list-style-type: none"> <li>• State of Florida International Offices (s. 288.012, F.S.)</li> <li>• Entertainment Financial Incentive Annual Report (s. 288.1254, F.S.)</li> </ul>
October 15	<ul style="list-style-type: none"> <li>• Reports on each division of the EFI (s. 288.92, F.S.)</li> </ul>
November 30	<ul style="list-style-type: none"> <li>• Florida Space Business Incentive Act annual report beginning in 2014 (s. 220.194, F.S.)</li> <li>• Space Florida annual operations report (s. 331.310, F.S.)</li> </ul>

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<sup>3</sup> Section 288.907(2), F.S.

<p>December 1</p>	<ul style="list-style-type: none"> <li>• Report on information on the causes of a business’s failure to complete its qualified target industry tax refund program agreement (s. 288.106, F.S.)</li> <li>• Report detailing the relationship between tax exemptions and film industry growth (s. 288.1258, F.S.)</li> <li>• Enterprise Zone Development Agency report (s. 290.0056, F.S.)</li> <li>• EFI Annual Report, due <i>before</i> this date (s. 288.906, F.S.)</li> </ul>
<p>December 30</p>	<ul style="list-style-type: none"> <li>• The EFI’s Annual Incentives Report (s. 288.907, F.S.)</li> <li>• Annual report on the Economic Development Trust Fund (s. 288.095, F.S.)</li> <li>• Office of Film and Entertainment annual travel and expenses report (s. 288.1253, F.S.)</li> </ul>
<p>December 31</p>	<ul style="list-style-type: none"> <li>• Economic Gardening Technical Assistance Pilot Program (s. 288.1082, F.S.)</li> </ul>
<p>Miscellaneous or multiple dates</p>	<ul style="list-style-type: none"> <li>• Quick Action Closing Fund, reported within 6 months of validation of contract performance (s. 288.1088, F.S.)</li> <li>• Innovation Incentive Fund, reported within 90 days of the conclusion or termination of an award (s. 288.1089, F.S.)</li> <li>• Economic Gardening Business Loan Pilot Program, reports are due June 30 and December 31 (s. 288.1081, F.S.)</li> <li>• Florida Export Finance Corporation, report due as part of the DEO’s report on the Economic Development Trust Fund (s. 288.7771, F.S.)</li> <li>• Florida Small Business Technology Growth Program report on the financial status of the program due as part of the DEO’s annual report (s. 288.95155, F.S.)</li> </ul>

## **Florida Small Cities Community Development Block Grant Program**

The Community Development Block Grant (CDBG) Program is a federally funded housing and community development program that targets assistance to low and moderate income populations. Administered by the U.S. Department of Housing and Urban Development (HUD), the program provides annual grants on a formula basis to units of local government and states. Eligible program activities include housing rehabilitation and preservation, economic development, and water and sewer facilities construction. Local governments in urban areas apply and receive funds directly from HUD. Rural or smaller area governments also receive grants but these funds are distributed by the DEO through a competitive rural distribution mechanism known as the Florida Small Cities Community Block Grant (Small Cities CDBG) Program.

### *Background*

The CDBG program is authorized under Title I of the Housing and Community Development Act of 1974, as amended (Title I). The program was enacted in 1974 under the Housing and Community Development Act (HCDA). Prior to this point in time, numerous federal programs addressed community development issues.<sup>4</sup>

The primary objective of HCDA is the development of viable urban communities.<sup>5</sup> These viable communities are achieved by providing persons of low and moderate income with decent housing, a suitable living environment, and expanded economic opportunities.

To achieve these goals, federal CDBG regulations set forth eligible activities and the national objectives that each activity must meet.<sup>6</sup> As recipients of CDBG funds, grantees are charged with ensuring that these requirements are met. According to HUD, recent regulation changes represent a trend toward greater flexibility in the CDBG program. These changes include providing:

- Greater flexibility regarding new construction;
- Enhanced flexibility in the area of economic development; and
- Increasingly manageable administrative requirements.<sup>7</sup>

### *Federal CDBG Program Areas*

While there is a range of eligible CDBG funding programs,<sup>8</sup> three of the principal ones are the Entitlement Program, the State Administered Small Cities Program, and the Section 108 Loan Guarantee Program.

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<sup>4</sup> U.S. Department of Housing and Urban Development, “*Basically CDBG*” *Course Training Manual: Overview of the Program* (November 2007), available at [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/comm\\_planning/communitydevelopment/training/basicallycdbg](http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/training/basicallycdbg) (last visited February 5, 2013).

<sup>5</sup> *Ibid.*

<sup>6</sup> The regulations implementing the CDBG Program are found at 24 C.F.R. Part 570.

<sup>7</sup> HUD, “*Basically CDBG*.”

- **Entitlement Program**  
The Entitlement Program provides formula grants to metropolitan cities and urban counties and is the largest component of the CDBG Program receiving 70 percent of CDBG appropriations.<sup>9</sup> HUD administers the Entitlement Program, without any state involvement. An entitlement entity is defined as a city in a metropolitan area with a population of 50,000 or more, a principal city of a metropolitan area, or an urban county with a population of at least 200,000 (excluding the population of metropolitan cities located in the county). Participating entitlement governments automatically receive an annual allocation of CDBG funds directly from HUD. The grant amounts are determined by the higher of two formulas: 1) data based on overcrowded housing, population, and poverty; or 2) data based on age of housing, population growth lag, and poverty.<sup>10</sup>
- **State Administered Small Cities Program**  
The State Administered Small Cities Program provides CDBG grants to state governments who then provide CDBG assistance to non-entitlement communities within their jurisdiction (i.e., cities with fewer than 50,000 residents and counties with fewer than 200,000 residents). Each state annually develops funding priorities and criteria for selecting projects. The DEO administers Florida's Small Cities CDBG.
- **Section 108 Loan Guarantee Program**  
Section 108 is the loan guarantee provision of the CDBG program. CDBG entitlement communities are eligible to apply directly for assistance through the program while CDBG non-entitlement communities apply through their state administered small cities program. Section 108 loans are not risk-free. The principal security for the loan guarantee is a pledge by the entitlement community or a pledge by the state in the case of a non-entitlement community of its current and future CDBG funds.<sup>11</sup>

#### *Florida Small Cities Community Development Block Grant Program*

Communities in the state with populations below the entitlement thresholds must compete for funding by submitting applications through the Small Cities CDBG Program. For federal fiscal year 2012, there were more than 240 communities eligible to participate in the program for the federal fiscal year 2012 funding cycle.<sup>12</sup> DEO annually develops funding priorities and criteria for selecting Small Cities CDBG projects subject to statutory provisions and applicable rules.<sup>13</sup>

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<sup>8</sup> These include Disaster Recovery Assistance from Presidentially-declared disasters, Neighborhood Stabilization aimed at home foreclosures, and a Brownfields Economic Development Initiative used to spur the return of brownfields to productive economic reuse.

<sup>9</sup> HUD, "Basically CDBG."

<sup>10</sup> *Ibid.*

<sup>11</sup> U.S. Department of Housing and Urban Development, *Section 108 Loan Guarantee Program*, available at [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/comm\\_planning/communitydevelopment/programs/108](http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/programs/108) (last visited February 5, 2013). In federal fiscal year 2010, nationwide, HUD approved thirty-five Section 108 guaranteed loan commitments, in the aggregate amount of \$165,880,000.

<sup>12</sup> For a list of eligible communities, see <http://www.floridajobs.org/fhcd/cdbg/Files/Misc/EligibleCommunities.pdf> (last visited February 5, 2013).

<sup>13</sup> Small Cities CDBG is administered in accordance with ss. 290.0401-290.049, F.S., ch. 73C-23, F.A.C., (formerly 9B-43), and 24 C.F.R. 570, Subpart I.

Established in 1983, the intent of Florida's Small Cities CDBG Program mirrored federal CDBG legislation. The primary purposes of the program outlined in s. 290.0411, F.S., include community development and project planning activities to maintain viable communities, revitalize existing communities, expand economic development and employment opportunities, and improve housing conditions and expand housing opportunities, providing direct benefit to persons of low or moderate income.

While federal regulations "give maximum feasible deference to the state's interpretation of the statutory requirements" of CDBG, Florida's Small Cities CDBG Program is bound by the national objectives and eligible activities of the federal act.<sup>14</sup>

#### *Small Cities CDBG HUD Allocation*

HUD determines the amount of the Small Cities CDBG funding allocation using a formula comprised of several measures of community need, including the extent of poverty, population, housing overcrowding, age of housing, and population growth lag in relationship to other states.<sup>15</sup> Each year since 1983, Florida has received between \$18 and \$35 million from HUD for the program.<sup>16</sup> Florida's federal fiscal year 2012 allocation is \$22,887,374.

#### *Categories of Funding*

Section 290.044, F.S., specifies certain grant program categories for the Small Cities CDBG and allows the DEO to define the broad community objectives served by each category. Major grant categories and the DEO's defined objectives are:<sup>17</sup>

- Commercial Revitalization – this category is used to revitalize commercial areas that are showing signs of decline by addressing problems causing deterioration or decline. Activities that achieve this objective include installing or reconstructing streets, utilities, parks, and other necessary public improvements; selling or leasing land in commercial areas for public use; correcting architectural barriers to handicap access; and repairing and rehabilitating building facades. Commercialization Revitalization grants are submitted annually.
- Economic Development – This category is used to promote investment of private capital, retain local economic enterprises, and provide long-term jobs with growth potential primarily for very low, low, and moderate income persons. This category is used to acquire real property; construct or rehabilitate commercial and industrial buildings; purchase capitalized

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<sup>14</sup> 24 C.F.R. s. 570.480(c).

<sup>15</sup> U.S. Department of Housing and Urban Development, *Community Development Block Grant – CDBG*, available at [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/comm\\_planning/communitydevelopment/programs](http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/programs) (last visited February 5, 2013).

<sup>16</sup> Florida Department of Economic Opportunity, *Florida Small Cities Community Development Block Grant Program*, available at <http://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/florida-small-cities-community-development-block-grant-program> (last visited February 5, 2013).

<sup>17</sup> Florida Department of Economic Opportunity, *State of Florida Annual Action Plan for Programs Funded by the U.S. Department of Housing and Urban Development, Federal Fiscal Year 2012 (Draft)*, available at (<http://www.floridajobs.org/fhcd/cdbg/Files/ConsolidatedPlan/DRAFT2012AnnualActionPlan.pdf>) (last visited February 5, 2013). Local governments may also apply for a Planning and Design Specifications grant for architectural and engineering plans and specifications associated with Commercial or Neighborhood Revitalization projects. The maximum award is \$70,000.

machinery and equipment; provide job training and job placement services. Economic Development grants may be submitted at any time and applicants may have up to two open grants.<sup>18</sup>

- Housing - This category is used to improve housing conditions and expand housing opportunities for very low, low and moderate income persons. Activities that achieve this objective include rehabilitating housing or publicly owned or acquired properties; demolishing dilapidated housing, code enforcement, and weatherization and energy-efficiency improvements. Sewer and water hookups are complimentary housing category activities. Housing grants are submitted annually.
- Neighborhood Revitalization – This category is used to revitalize declining neighborhoods. Projects may involve street paving; making improvements to deteriorating infrastructure; or constructing or rehabilitating neighborhood facilities that provide health, social, or recreational services. Neighborhood Revitalization grants are submitted annually.<sup>19</sup>

Beyond the major funding categories, s. 290.044, F.S., also permits the DEO to annually set aside a portion of Small Cities CDBG funding for use in executive order declared emergencies or natural disasters. Funds not allocated under the emergency-related set aside by the last quarter of the state fiscal year are distributed to unfunded applications from the other categories.

Local governments applying for Small Cities CDBG funds must consider national and state goals and objectives when developing applications for funding. Applications may reflect more than one activity, but each eligible activity must meet at least one of the three national objectives (i.e., benefit low and moderate income persons, eliminate slum or blight, or meet an urgent need). Examples of *ineligible* Small Cities CDBG activities include buildings for the general conduct of government, general government expenses, purchase of equipment with a useful life of less than five years, and operating and maintenance expenses.<sup>20</sup>

#### *Funding Allocation Priorities*

The State of Florida Annual Action Plan for programs funded by HUD delineates the distribution, allocation, priorities, and specific objectives for the Small Cities CDBG Program. The following chart reflects the planned distribution of federal fiscal year 2012 Small Cities CDBG funds.<sup>21</sup>

<sup>18</sup> Rule 73C-23.0041(6)(f). F.A.C., stipulates that an economic development project must meet a national objective through the creation or retention of jobs, of which 51 percent must be jobs for persons from low to moderate-income households and must provide a public benefit by creating or retaining a number of full time equivalent jobs that divided into the subgrant amount results in a cost per job of under \$35,000.

<sup>19</sup> While grant requests for Housing, Neighborhood Revitalization, and Commercial Revitalization, are submitted annually, communities may only apply if they have no open grants in one of these three categories.

<sup>20</sup> Florida Department of Economic Opportunity, *Small Cities CDBG Application Process, FFY 2012*, available at <http://www.floridajobs.org/fhcd/cdbg/Files/Application/SmallCitiesCDBGApplicationProcess.pdf> (last visited February 5, 2013).

<sup>21</sup> DEO, *State of Florida Annual Action Plan for Programs Funded by HUD*. Amounts in the table are rounded to the nearest dollar.



<b>2012 Allocation</b>	<b>\$22,887,374</b>
State Administration (unmatched)	\$100,000
2% State Administration (matched with GR)	\$457,747
2.5% Emergency Set-Aside	\$572,184
1% Training/Technical Assistance	\$228,874
<b>Total Pass Through</b>	<b>\$21,528,569</b>
Neighborhood Revitalization (41%)	\$8,826,713
Housing Rehabilitation (16%)	\$3,444,571
Economic Development (40%)	\$8,611,428
Commercial Revitalization (3%)	\$645,857

If eligible requests for funds are insufficient to fully utilize all funds allocated to a category, the balance of the funds in that category may be reallocated to the category receiving the greatest number of applications or to economic development activities.<sup>22</sup>

*Grant Ceilings*

Section 290.047(2), F.S., directs DEO to establish Small Cities CDBG ceilings by rule.<sup>23</sup> The local government’s low and moderate income (LMI) population determines the maximum amount of funds for which they can apply. Population groupings are based on HUD modified census figures summarizing low and moderate income. The population groupings and grant ceilings are shown below.

<b>LMI Population</b>	<b>Grant Ceiling</b>
1-499	\$600,000
500-1,249	\$650,000
1,250-3,999	\$700,000
4,000-10,549	\$750,000
10,550 and above	\$750,000

Small Cities CDBG Program administration costs are statutorily capped at 15 percent for housing grants and 8 percent for all other program category grants.<sup>24</sup> A schedule of maximum engineering costs is adopted by the DEO consistent with the schedule used by the U.S. Farmers Home Administration or another comparable schedule.<sup>25</sup>

*Grant Selection Criteria and Process*

Upon receipt of an application, an initial review is conducted by the department to determine if threshold criteria have been met.<sup>26</sup> This review is used as a screening method to ensure

<sup>22</sup> *Ibid.*

<sup>23</sup> See Rule 73C-23.0041, F.A.C.

<sup>24</sup> Section 290.047 (3), F.S. These requirements do not preclude a local government from contributing their own funds to cover administrative costs.

<sup>25</sup> Section 290.047(6), F.S.

<sup>26</sup> *Ibid.*

compliance with minimum application requirements. Specific criteria established by s. 290.0475, F.S., governs the basis upon which the DEO may reject an application without regard to scoring. These criteria are:

- The application is not received by the specified deadline date;
- The proposed project activities fail to meet one of the three national objectives;
- The proposed activities are not eligible;
- The proposed activities are not in compliance with the adopted local comprehensive plan;
- The applicant has an open Housing, Neighborhood or Commercial Revitalization grant funded by the CDBG;
- The local government is not in compliance with citizen participation requirements; or
- Information provided in the application that affects eligibility or scoring is misrepresented.

Section 290.046(3), F.S., establishes grant application ranking components and their respective score weighting:

- Community need (25 percent) measures the extent of poverty in the community and the condition of physical structures. Each application, regardless of program category is scored on the same community need criteria.<sup>27</sup>
- Project impact (65 percent) measures the direct benefit received by persons of low income and persons of moderate income, the extent to which the problem identified is addressed by the proposed activities, and the extent to which resources other than the funds being applied for are being used to carry out the proposed activities. Project impact criteria are unique to each program category.<sup>28</sup>
- Equal opportunity employment and housing performance (10 percent) measures outstanding efforts in this area.

While the Small Cities CDBG Program does not require local governments to provide matching funds, the competitive scoring criteria do favor applications that leverage other funds. Local government general revenue, as well as other loan and grant funds, may be counted as leveraged funds.

The DEO does not award a grant until it has determined, based upon a site visit, that a project or activities are eligible, in accordance with the description contained in the application, and that any open Economic Development grant is on schedule.<sup>29</sup>

#### *Local Government Citizen Participation Requirements*

Section 290.046, F.S., and federal regulations, set out the requirements local governments must follow to obtain citizen input for Small Cities CDBG projects. Local governments submitting a

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<sup>27</sup> Rule 73C-23.0041(10)(b)4., F.A.C., specifies three factors to determine community need: 1) the number of low and moderate income persons, 2) the number of persons below poverty level, and 3) the number of year-round housing units with 1.01 or more persons per room.

<sup>28</sup> Section 290.046(3)(d), F.S., further provides that the criteria used to measure the direct benefit to persons of low income and persons of moderate income shall represent no less than 42 percent of the points assigned to the program impact factor.

<sup>29</sup> Section 290.046(2)(d), F.S. For final rankings for federal fiscal year 2012 applications, see <http://floridajobs.org/fhcd/cdbg/Files/Misc/FinalScoresFFY2012Applications.pdf> (last visited February 6, 2013).

CDBG application must comply with citizen participation requirements as provided in the HCDA of 1974, as amended. To ensure compliance, these provisions are incorporated in grant applications, the scoring system and award agreements.<sup>30</sup> Prior to the submission of an application for funding, local governments must:

- publicize information concerning the amount of funds available to the local government and the range of activities that may be undertaken,
- hold at least one public hearing to obtain citizens' views on community development needs,
- publish a notice concerning the proposed application advising citizens of its location and notifying them that it is available for inspection and comment,
- consider any comments and views expressed by citizens on the proposed application and, if appropriate, modify the proposed application, and
- hold at least one public hearing on the proposed application prior to its submission to the state.<sup>31</sup>

In addition, a Citizen's Advisory Task Force must be established to provide input throughout the project process.<sup>32</sup> At least three of the task force members are required to be residents of the jurisdiction where the proposed project or activities are to be implemented. No task force members may be elected officials and only one may be an employee of the local government.<sup>33</sup> Failure to meet these or any other citizen participation requirements will result in the rejection of an application pursuant to s. 290.0475(6), F.S.

#### *Section 108 Loan Guarantee Program*

The Section 108 Loan Guarantee Program is authorized under Section 108 of the HCDA of 1974, as part of the CDBG Program.<sup>34</sup> In 1997, the Florida Legislature passed changes to the Small Cities CDBG Program which currently allows statewide Section 108 Loans of up to five times Florida's most recent HUD allocation.<sup>35</sup>

HUD sells bonds on the private market and uses the proceeds to fund Section 108 loans through the state to local governments. The local government may loan the funds to third parties to undertake eligible CDBG activities, typically economic development, or use the funds for other eligible CDBG activities. As part of the process, the state pledges future CDBG allocations as secondary collateral to secure the loan.<sup>36</sup> Section 290.0455, F.S., provides that the maximum amount of loan guarantee commitment that any eligible local government may receive may be limited to \$7,000,000.<sup>37</sup>

<sup>30</sup> DEO, *State of Florida Annual Action Plan for Programs Funded by HUD*.

<sup>31</sup> Section 290.046(5), F.S.

<sup>32</sup> Section 290.046(6), F.S.

<sup>33</sup> See Rule 73C-23.0041(3)(b), F.A.C.

<sup>34</sup> 42 U.S.C. s. 5308.

<sup>35</sup> Chapter 97-278, s. 45, Laws of Fla. (creating s. 290.0455, F.S., effective July 1, 1997). The current maximum loan amount is approximately \$115 million.

<sup>36</sup> DEO, *State of Florida Annual Action Plan for Programs Funded by HUD*.

<sup>37</sup> 24 C.F.R. s. 570.705.

HUD has approved three section 108 loans since the inception of Florida's Small Cities CDBG Program.<sup>38</sup> In 2001, HUD approved the first Section 108 Loan for a major economic development project in the City of Alachua (Alachua County). This loan of \$2,250,000 provided infrastructure for the development of a Dollar General Distribution Center that created 448 new jobs for low and moderate income citizens. The City of Key West addressed critical housing needs with a \$16 million loan that was approved in 2003. The project funded the rehabilitation of 144 housing units at Poinciana Plaza, a former military base housing area.

In 2004, the City of Sebring received a loan for \$5,250,000 to restore a hotel, the historic Harder Hall. In late 2006, the developer for the project, Joran Realty, filed for bankruptcy and ceased work on the project. The city, which now holds possession of the property, foreclosed on the loan. The value of the property is reported to exceed the loan amount owed. The hotel and accompanying property are currently being marketed for sale and proceeds will be used to pay back the loan. The city reports that it is current with interest payments to HUD.

*DEO Recommendation on Small Cities CDBG: January 2012*

Chapter 2011-142, L.O.F., directed the department to provide recommendations to further reorganize and streamline economic development and workforce functions to improve the effectiveness and operation of economic development and workforce programs. In January of 2012, the DEO released a Report on Further Streamlining & Reorganization of Florida's Economic Development & Workforce Functions. As one of its recommendations, the DEO suggested revisions to the Florida Small Cities Community Development Block Grant Act (Chapter 290, Florida Statutes).

The department's explanation for this recommendation included the following:

The Florida Small Cities Community Development Block Grant Act currently contains a number of provisions that restrict the program's ability to be flexible, agile or foster DEO's economic development emphasis. Revisions to the Act would allow DEO greater latitude to craft the program toward a more effective economic development outcome and would remove burdensome and unnecessary requirements beyond those required in the Code of Federal Regulations.

The desired outcome is to remove unnecessary regulation and competitive CDBG grant scoring criteria from statute and to put more of the framework of the CDBG grant scoring criteria in rule so that DEO has more agility and flexibility to work with our stakeholders to put more of an economic development focus on the Small Cities CDBG program and streamline the process for the other grant categories as well.<sup>39</sup>

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<sup>38</sup> Florida Department of Economic Opportunity, *Florida Small Cities Community Development Block Grant (CDBG) Program, Performance and Evaluation Report for FFY 2000-2010* (June 30, 2011) (on file with the Senate Commerce and Tourism Committee). Information from this and the next paragraph are drawn from the report.

<sup>39</sup> Florida Department of Economic Opportunity, *Report on Further Streamlining & Reorganization of Florida's Economic Development & Workforce Functions* (January 1, 2012) available at

## Reemployment Assistance

### *Background*

According to the U.S. Department of Labor (USDOL), the Federal-State Unemployment Insurance Program provides unemployment benefits to eligible workers who are unemployed through no fault of their own (as determined under state law) and who meet the requirements of state law.<sup>40</sup> Individual states collect payroll taxes on a quarterly basis, which are used to pay benefits, while the Internal Revenue Service collects an annual federal payroll tax under the Federal Unemployment Tax Act (FUTA).<sup>41</sup> FUTA collections go to the states for costs related to the administration of state unemployment insurance and job service programs. In addition, the FUTA pays one-half the cost of extended unemployment benefits (during periods of high unemployment) and provides for a fund from which states may borrow, if necessary, to pay benefits.<sup>42</sup>

States are permitted to set benefit eligibility requirements, the amount and duration of benefits and the state tax structure, as long as state law does not conflict with the FUTA or the Social Security Act requirements. Florida's unemployment insurance program was created by the Legislature in 1937.<sup>43</sup> The program was rebranded as the "reemployment assistance program" in 2012.<sup>44</sup> The Department of Economic Opportunity (DEO) is responsible for administering Florida's reemployment assistance (RA) laws, primarily through its Division for Workforce Services. The DEO contracts with the Florida Department of Revenue (DOR) to provide unemployment tax collection services.<sup>45</sup>

In Florida, Reemployment Assistance (RA) benefits are financed solely through contributions by employers – employers pay taxes on the first \$8,000 of each employee's wages.<sup>46</sup> The calculation for determining each employer's tax rate is statutorily set, and takes into consideration an employer's "experience" (as former employees collect RA benefits, these benefits are charged to the employer), the balance of the Unemployment Compensation Trust Fund, and other factors.

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<http://www.floridajobs.org/about%20awi/12.31.2011%20-%20DEO%20Streamlining%20Report%20Jan%202012.pdf> (last visited February 6, 2013).

<sup>40</sup> USDOL, Employment and Training Administration, [State Unemployment Insurance Benefits](http://workforcesecurity.doleta.gov/unemploy/uifactsheet.asp), available at <http://workforcesecurity.doleta.gov/unemploy/uifactsheet.asp> (last visited February 6, 2013).

<sup>41</sup> FUTA is codified at 26 U.S.C.

<sup>42</sup> USDOL, Employment and Training Administration, [Unemployment Insurance Tax Topic](http://workforcesecurity.doleta.gov/unemploy/uitaxtopic.asp), available at <http://workforcesecurity.doleta.gov/unemploy/uitaxtopic.asp> (last visited February 6, 2013).

<sup>43</sup> Chapter 18402, L.O.F.

<sup>44</sup> Chapter 2012-30, L.O.F.

<sup>45</sup> Section 443.1316, F.S.

<sup>46</sup> Nonprofit employers may choose to finance compensation through either the contributory method or the reimbursement method. A reimbursing employer is one who must pay the Unemployment Compensation Trust Fund on a dollar-for-dollar basis for the benefits paid to its former employees. The employer is otherwise not required to make payments to the trust fund. See s. 443.1312, F.S. State and local governments are reimbursing employers. Most employers are contributory employers. In January 2015, the "wage base" will be reduced to \$7,000. See s. 443.1217(2)(a), F.S.

The Internal Revenue Service charges each liable employer a federal unemployment tax of 6.0 percent of employees' annual wages.<sup>47</sup> If, however, a state program meets the federal requirements and has no delinquent federal loans, employers are eligible for up to a 5.4 percent tax credit, making the net tax rate 0.6 percent. Employers file an annual return with the Internal Revenue Service each January for taxes on the first \$7,000 of employee's annual wages during the previous year.

The USDOL provides the DEO with administrative resource grants from the taxes collected from employers pursuant to the FUTA. These grants are used to fund the operations of the state's program, including the processing of claims for benefits by DEO, state unemployment tax collections performed by the DOR, appeals conducted by the DEO and the Reemployment Assistance Appeals Commission, and related administrative functions.

Unfortunately, due to the past few years of high unemployment in Florida, more funds have been paid out of the Unemployment Compensation Trust Fund than have been collected. The trust fund fell into deficit in August 2009, and since that time, the state has requested over \$2 billion in federal advances in order to continue to fund unemployment compensation claims. Through voluntary repayment and partial loss of the federal tax credit, Florida has substantially paid down its debt.<sup>48</sup> It is estimated that all federal advances should be repaid by mid-2013.<sup>49</sup>

Federal advances accrue interest on a federal fiscal year basis (October to September), and such interest is due no later than September 30 each year. The interest rate for 2013 is 2.5765 percent.<sup>50</sup> The Revenue Estimating Conference estimated on January 15, 2013, that the interest due for 2013 would be \$9.6 million.<sup>51</sup>

The interest due on advances cannot be paid from funds from the Unemployment Compensation Trust Fund. In order to repay the interest, a state may make an appropriation from general revenue, issue bonds, or impose an assessment on employers.<sup>52</sup> In 2010, the Legislature imposed an additional assessment on employers to pay interest on federal advances.<sup>53</sup>

Section 443.131(5)(b), F.S., sets forth the calculations for the assessment. To determine the additional rate for the assessment, the formula divides the estimated amount of interest owed by 95 percent of total wages paid by employers for the previous year ending June 30. To determine an employer's payment amount, the formula multiplies an employer's taxable wages by the

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<sup>47</sup> 26 U.S.C. s. 3301.

<sup>48</sup> As of February 4, 2013, Florida had an outstanding advance balance of slightly less than \$685 million. See U.S. Department of Treasury, Bureau of Public Debt, Treasury Direct's [Title XII Advance Activities Schedule](http://treasurydirect.gov/govt/reports/tfmp/tfmp_advactivitiesched.htm) at [http://treasurydirect.gov/govt/reports/tfmp/tfmp\\_advactivitiesched.htm](http://treasurydirect.gov/govt/reports/tfmp/tfmp_advactivitiesched.htm) (last visited February 6, 2013).

<sup>49</sup> The most recent forecast by the Revenue Estimating Conference shows repayment of all federal advances by June 2013. On file with the Senate Commerce and Tourism Committee.

<sup>50</sup> The interest rate charged is equal to the fourth calendar quarter yield on the Unemployment Trust Fund for the previous year, capped at 10 percent. See U.S. Department of Treasury, Bureau of Public Debt, Treasury Direct's [Unemployment Trust Fund Quarterly Yields](http://treasurydirect.gov/govt/rates/rates_tfr.htm) at [http://treasurydirect.gov/govt/rates/rates\\_tfr.htm](http://treasurydirect.gov/govt/rates/rates_tfr.htm) (last visited on February 6, 2013).

<sup>51</sup> Revenue Estimating Conference forecast, available at <http://edr.state.fl.us/content/revenues/reports/unemployment-compensation-trust-fund/UnemploymentCompensationTax2013InterestDueonFederalAdvancesRevised.pdf> (last visited February 6, 2013).

<sup>52</sup> The option of issuing bonds to repay the interest may be unavailable to Florida, See Art. VII, s. 11, Fla. Const.

<sup>53</sup> Section 443.131(5), F.S. Section 4, ch. 2010-1, L.O.F.

additional rate. DOR is required to calculate and bill the assessment prior to February 1 of the year, based upon the interest estimated by the Revenue Estimating Conference. An employer has 5 months, until June 30<sup>th</sup>, to pay the assessment. The assessments are paid into the DOR's Audit and Warrant Clearing Trust Fund and may earn interest. Any interest earned is part of the balance available to pay the interest due to the federal government.

### *Reemployment Assistance Claims and Benefits Information System*

In 2009, the Legislature authorized the Department of Economic Opportunity to upgrade and enhance its Unemployment Compensation Claims and Benefits Information System.<sup>54</sup> The statute provides a project completion date of no later than June 30, 2013.

In early 2012, the vendor indicated that an extension of the timeline would be required. The vendor paid \$1,965,000 in liquidated damages and provided a credit of \$2,500,000 to cover the costs incurred by DEO caused by the delay. After negotiations and a corrective action plan, the revised project schedule calls for an October 28, 2013, implementation date.<sup>55</sup>

### *Fraudulent Claims*

A fraudulent claim is one that knowingly contains a false or fraudulent statement or fails to disclose a material fact for the purpose of obtaining or increasing reemployment benefits.<sup>56</sup> A claimant found to be collecting benefits fraudulently is disqualified from received benefits beginning the week that the fraudulent claim was made. The disqualification will continue for a period not to exceed 1 year after the DEO discovered the fraud and until any resulting overpayment of benefits has been repaid. Reemployment Assistance fraud can also be prosecuted as a third degree felony.

Federal law requires states to assess a penalty, of at least 15 percent of the amount of the erroneous payment, on any claimant who fraudulently obtained benefits.<sup>57</sup> Florida does not currently assess a penalty for fraudulent overpayments.

### *Confidentiality*

Information received from an employing unit or individual that reveals an employing unit's or individual's identity under the administration of the RA program is confidential and exempt from disclosure.<sup>58</sup>

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<sup>54</sup> Chapter 2009-73, L.O.F. At the time, the Unemployment Compensation program was housed in the Agency for Workforce Innovation, whose functions were transferred to the Department of Economic Opportunity in 2011.

<sup>55</sup> See Project Connect, Executive Steering Committee Meeting Minutes for August 8, 2012, [http://sitefinity.floridajobs.org/Unemployment/UC\\_ModernizationProject/documents/MinutesAgendas/20120808%20RA%20ESC%20Meeting%20Minutes%20FINAL.pdf](http://sitefinity.floridajobs.org/Unemployment/UC_ModernizationProject/documents/MinutesAgendas/20120808%20RA%20ESC%20Meeting%20Minutes%20FINAL.pdf) (last visited February 7, 2013).

<sup>56</sup> Sections 443.071 and 443.101(6), F.S., discuss fraud and associated penalties.

<sup>57</sup> 42 U.S.C. s. 503(a)(11).

<sup>58</sup> Section 443.1715, F.S. This subsection authorizes a number of exceptions for disclosure. Information may be released to the extent necessary for presentation of a claim or upon written authorization of a claimant who has a workers' compensation claim pending or is receiving compensation benefits. Public employees may receive this information in the performance of their public duties but must maintain the confidentiality of the information. A claimant or his or her legal representative is entitled to this information, to the extent necessary, to present a claim at a hearing before an appeals referee or the

In 2012, the statute was amended and the language that made disclosure of such confidential information a second-degree misdemeanor was inadvertently repealed.<sup>59</sup> Federal regulations require Florida to provide penalties for the unlawful disclosure of confidential information related to reemployment assistance.<sup>60</sup>

### **Florida Tourism Industry Marketing Corporation**

The Florida Tourism Industry Marketing Corporation, also known as Visit Florida, is the not for profit corporation that acts as the direct support organization for the EFI.<sup>61</sup> Visit Florida is responsible for providing tourism promotion and marketing services, functions, and programs for the state.

The Visit Florida board of directors consists of 31 tourist industry-related members, appointed by the EFI, in conjunction with the DEO. Sixteen of its members are appointed to represent all geographic areas of the state in an equitable manner, with at least two members from each region.<sup>62</sup> An additional 15 members are prescribed as follows: one from the statewide rental car industry, seven from tourist-related statewide associations, three from county destination marketing organizations, one from the cruise industry, one from an automobile and travel services membership organization that has at least 2.8 million members in Florida, one representative from the airline industry, and one representative from the space tourism industry, who will each serve for a term of 2 years.

## **III. Effect of Proposed Changes:**

### **Agency Reporting Consolidation**

The bill consolidates several independent program reports and reporting dates.

#### *DEO Annual Report*

The bill makes several changes to the DEO annual report. (**Section 1, amends s. 20.60, F.S.**) The report's due date is changed from January 1 to November 1. The department is directed to include supplements to its annual report on several programs. As a result, the independent due dates for each of the reports are removed. The programs to be included in the DEO's annual report are:

- Displaced Homemaker Program. (**Section 41, amends s. 446.50, F.S.**)
- Enterprise Zone Program. (**Sections 23 and 24**).
  - Changes the due date of each enterprise zone development agency's report to DEO from December 1 to October 1. (**Section 23, amends s. 290.0056, F.S.**)

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commission. DEO or DOR may provide a copy of any report submitted by an employer to the employer or a copy of any report submitted by the claimant to the claimant, upon request. Confidential information may also be released pursuant to 20 C.F.R. part 603.

<sup>59</sup> Chapter 2012-30, L.O.F.

<sup>60</sup> 20 C.F.R. part 603.

<sup>61</sup> Section 288.1216, F.S. Chapter 2011-142, L.O.F.

<sup>62</sup> Section 288.1216(4)(a), F.S., prescribes six regions of the state and the counties encompassed in those regions.



- Changes the due date of the Department of Revenue's report on the usage and revenue impacts, by county, of state incentives relating to enterprise zones from February 1 to October 1. (**Section 24, amends s. 290.014, F.S.**)
- Economic Gardening Business Loan Pilot Program. (**Section 10, amends s. 288.1081, F.S.**)
- Economic Gardening Technical Assistance Pilot Program. (**Section 11, amends s. 288.1082, F.S.**)
- Black Business Loan Program. (**Section 18, amends s. 288.714, F.S.**)
- Rural Economic Development Initiative. (**Section 7, amends s. 288.0656, F.S.**)

#### *EFI Annual Report*

The bill requires the EFI to include, as supplements to its annual report, information on: (**Section 2, amends s. 288.906, F.S.**)

- State of Florida International Offices. (**Section 5, amends s. 288.012, F.S.**)
- Florida Export Finance Corporation's annual report. (**Section 19, amends s. 288.7771, F.S.**)

Additionally, under current law, the EFI's division reports are due independently on October 1, for inclusion in the EFI annual report. The bill repeals this independent due date. (**Section 21, amends s. 288.92, F.S.**)

#### *Annual Incentives Report*

The bill revises the duties of the EFI to require the Annual Incentives Report to be a joint report by the EFI and the DEO. (**Section 20, amends s. 288.903, F.S.**) The report is currently produced by the EFI alone using data supplied by the DEO.

Information on the Economic Development Trust Fund is required to be included in the Annual Incentives Report. The information is currently required under s. 288.095(3)(c), F.S. The bill repeals this paragraph (**Section 8**) and incorporates the information into the Annual Incentives Report. (**Section 3, amends s. 288.907, F.S.**) The information includes:

- The types of projects supported;
- Tax refunds or other payments made out of the Economic Development Incentives Account for each project supported;
- A separate analysis of the impact of tax refunds on Enterprise Zones, rural communities, brownfield areas, and distressed urban communities; and
- The name and tax refund amounts for each business receiving a qualified target industry or qualified defense space contractor and space flight business tax refund.

Several other stand-alone program reports are incorporated as supplements to the Annual Incentives Report. As a result, the independent due dates for the reports are removed. The reports required to be included as supplements to the Annual Incentives Report include:

- Florida Space Business Incentives Act annual report (**Section 4, amends s. 220.194, F.S.**), beginning in 2014.

- Information on the causes of a business's failure to complete its qualified target industry incentive agreement. (**Section 9, amends s. 288.106, F.S.**)
- Information relating to Innovation Incentive Program recipients, including the evaluation as to whether the recipients were catalysts for additional economic development. (**Section 13, amends s. 288.1089, F.S.**)
- Florida Small Business Technology Growth Program annual report. (**Section 22, amends s. 288.95155, F.S.**)

Validation of contractor performance for all incentive programs is currently required as part of the Annual Incentives Report. The bill adds a cross-reference to s. 288.061, F.S., clarifying that validation of contractor performance is to be included in the Annual Incentives Report. (**Section 3, amends s. 288.907, F.S.**)

The bill clarifies that the DEO, rather than the EFI, is responsible for validating contractor performance for the Quick Action Closing Fund incentives and that such information must be included in the Annual Incentives Report. Current law requires the contractor performance validation to be reported within 6 months of completion. This requirement is deleted by the bill. (**Section 12, amends s. 288.1088, F.S.**)

Validation of contractor performance for the Innovation Incentive Program recipients is required to be included in the Annual Incentives Report. The current law requirement that a report on contractor performance be submitted within 90 days of an agreement's conclusion is repealed. (**Section 13, amends s. 288.1089, F.S.**)

#### *Office of Film and Entertainment Annual Report*

The bill changes the due date of the Office of Film and Entertainment's (OFE) Annual Report on the entertainment industry financial incentive program from October 1 to November 1. (**Section 16, amends s. 288.1254, F.S.**) The OFE Annual Report is also required to include the OFE expenditures report (**Section 15, amends s. 288.1253, F.S.**) and the report detailing the relationship between tax exemptions and incentives to industry. (**Section 17, amends s. 288.1258, F.S.**)

#### *Space Florida Annual Report*

The bill changes the due date for the Space Florida annual performance report from September 1 to November 30 (**Section 33, amends s. 331.3051, F.S.**), and requires the Space Florida annual operations report to be included in the performance report. (**Section 34, amends s. 331.310, F.S.**)

#### **Florida Small Cities Community Development Block Grant (CDBG) Programs**

**Section 25** amends the legislative intent and purpose of the Small Cities Community Development Block Grant Program Act to include economic need as one of the factors to make a

Florida community eligible to participate in the program and includes economic development programs as an activity for such communities to undertake. (**amends s. 290.0411, F.S.**)

**Section 26** amends s. 290.042, F.S., to clarify the definitions of “administrative closeout” and “person of low or moderate income” by including a reference to the definition used in the Code of Federal Regulations.

*Program Funding and Distribution of Funds (Section 27)*

The bill amends s. 290.044, F.S., to provide the DEO rule-making authority to establish guidelines to distribute the Small Cities CDBG program funds through a competitive selection process. The DEO is directed to define broad community development objectives for the distribution of CDBG funds that are consistent with the national objectives, as established by federal law. Current provisions requiring applicants to compete against each other in grant program categories and the categories themselves are repealed. CS/SB 1024 provides that emergency set-aside funds are to only be used when no other federal, state, or local disaster funds are available.

*Section 108 Loan Guarantee Program (Section 28)*

The bill focuses on reducing risks associated with the Section 108 loan guarantee program by amending s. 290.0455, F.S., to require an applicant approved by HUD to receive a Section 108 loan to enter into an agreement with the DEO which requires the applicant to pledge half the amount necessary to guarantee the loan in the event of default. The DEO must review all Section 108 loan applications in the order received, provided the applications meet all eligibility requirements and have been deemed financially feasible by a loan underwriter approved by the DEO. If the statewide maximum available for loan guarantees has not been met, the DEO may submit the application to HUD with a recommendation that the loan be approved, with or without conditions, or denied.

The bill reduces the maximum amount of an individual loan guarantee commitment from \$7 to \$5 million and decreases the maximum statewide amount of loan guarantees from five times to two times the amount the most recent grant received by the DEO under the Florida Small Cities CDBG Program. The \$5 million loan guarantee limit does not apply to loans guaranteed prior to July 1, 2013, that may be refinanced.

If a local government defaults on a Section 108 loan requiring the DEO to reduce its annual grant award to pay the annual debt service on the loan, any future CDBG program funds that the local government receives must be reduced in the amount equal to the amount of the state’s grant award used in payment of debt service on the loan.

If a local government, who has received a Section 108 loan through the Florida Small Cities CDBG Program, is granted entitlement community status by HUD, then the local government must pledge its entitlement allocation as a guarantee of its previous loan and request HUD to release the DEO as guarantor of the loan.

*Grant Application Procedures and Requirements (Section 29)*

Section 290.046, F.S., is amended to grant the DEO rule-making authority to establish application procedures for the Florida Small Cities CDBG Program. Eligible local governments may only submit one application for a noneconomic development project during an application cycle. An eligible local government may apply for an economic development grant up to three times each funding cycle and is permitted to have more than one open economic development grant.

The DEO is directed to establish minimum criteria pertaining to the number of jobs created for low or moderate income persons, the degree of private sector financial commitment, the economic feasibility of the proposed project, and any other criteria it deems appropriate. A grant may not be awarded until the DEO has completed a site visit to verify the information contained in the award application.

The DEO must rank each application received based on criteria established by rule. The rule must allow the DEO to consider factors such as community need, unemployment, poverty levels, low and moderate income populations, health and safety, and the condition of physical structures. The rankings must incorporate a procedure intended to reduce or eliminate any existing population-related bias that places exceptionally small communities at a competitive disadvantage.

Project funding must be determined by the rankings established in each application cycle. If, at the conclusion of a funding cycle, economic development funding remains, those funds will be awarded to eligible projects on a first-come, first-served basis until funding for this category is fully obligated.

The bill repeals the requirement that a local government establish a citizen advisory board to provide input relative to all phases of the project process. However, citizen participation provisions required by HUD are retained. Those provisions include conducting an initial public hearing to inform the public of the available funding opportunities and eliciting input on community needs; publishing a summary of the proposed application so that the public can examine the contents of the application and submit comments; and conducting a second public hearing to obtain public comment about the proposed application and make appropriate modifications.

*Establishment of Grant Ceilings (Section 30)*

The bill amends s. 290.047, F.S., to provide that the DEO must promulgate rules to establish grant ceilings, the maximum percentage of block grants funds that may be spent on administrative costs, and the grant administration procurement procedures for eligible local governments.

An eligible local government is prohibited from contracting with the same individual or business entity for more than one service to be performed in connection with a Small Cities CDBG, unless it can demonstrate that the individual or business entity is the sole source of the service or is the responsive proposer whose proposal is determined, in writing from a competitive process, to be

the most advantageous to the local government. The DEO must adopt a rule that provides a methodology to determine the maximum amount of block grant funds that an eligible local government may spend on architectural and engineering costs.

*Rejection of Applications (Section 31)*

The bill amends s. 290.0475, F.S., to update references to statutes and department rule. It repeals a provision that an application is deemed ineligible if it is found to contain a misrepresentation of information that is not attributable to a mathematical error that may be readily corrected by computation of numbers or formulas provided in the application.

*General Powers of the Department (Section 32)*

Section 290.048(5), F.S., which grants the DEO the power to adopt and enforce requirements concerning an applicant's written description of a service area, is repealed. Also repealed is s. 290.048(7), F.S., which grants the DEO the power to establish an advisory committee to solicit participation in the design, administration, and evaluation of the program.

**Reemployment Assistance**

The bill amends s. 443.091, F.S., to provide an exemption for those people unable to complete the online work registration due to illiteracy, physical or mental impairment, a legal prohibition from using a computer, or a language impediment from the online work registration.

**(Section 35)**

The bill amends s. 443.1113, F.S., to extend the operational deadline for the Reemployment Assistance Claims and Benefits Information System to June 30, 2014. **(Section 36)**

The bill amends s. 443.131, F.S., to provide that no assessment will be levied against contributing employers if the amount of assessments on deposit, plus any earned interest, is at least 80 percent of the estimated amount of interest. The bill further provides that any assessments that remain on deposit, including associated interest, four months after all federal advances and associated interest have been repaid are to be transferred to the Unemployment Compensation Trust Fund. The provisions relating to interest assessments on federal advances will expire on July 1, 2014. **(Section 37)**

The bill amends s. 443.151, F.S., to impose a penalty equal to 15 percent of the amount overpaid, on any claimant who fraudulently receives reemployment benefits. **(Section 38)** This provision will bring Florida into compliance with federal law. Any amounts collected for penalties are to be deposited into the Unemployment Compensation Trust Fund. **(Section 39, amends s. 443.191, F.S.)**

Section 443.1715, F.S., is amended to restore penalties for the disclosure of confidential information that were inadvertently repealed in 2012. This provision will bring Florida into compliance with federal law. **(Section 40)**

## **Florida Tourism and Industry Marketing Corporation**

**Section 14** amends s. 288.1226, F.S., to provide that the Governor will serve as an ex-officio, non-voting member of the Board of Directors of the Florida Tourism and Industry Marketing Corporation (Visit Florida). According to information provided by the DEO to staff of the Senate Commerce and Tourism Committee on February 17, 2013: “This board designation removes any barriers to the Governor acting as a spokesperson for Florida tourism”.

**Section 42** provides an effective date of July 1, 2013.

### **Other Potential Implications:**

The U.S. Department of Labor (USDOL) has broad oversight for the reemployment assistance program, including determining whether a state law conforms to federal unemployment insurance law and whether a state’s administration of the program substantially complies with processes and procedures approved by the USDOL. States are permitted to set benefit eligibility requirements, the amount and duration of benefits, and the state tax structure, as long as state law does not conflict with the FUTA or the Social Security Act requirements. When a state’s law conforms to the requirements of the Social Security Act, the state is eligible to receive federal administrative grants to operate the state’s program. When a state’s law conforms to the requirements of the FUTA, employers in the state may receive a credit of up to 5.4 percent against the federal unemployment insurance tax rate of 6.0 percent.

The Secretary of USDOL is responsible for determining if a state’s unemployment insurance law meets the requirements of federal law. Under the FUTA, the secretary annually certifies the state’s compliance with federal requirements and this certification ensures that employers in the state are eligible for the full credit against the federal unemployment insurance tax.

Currently, Florida does not have a penalty for individuals who fraudulently collect unemployment benefits or a penalty for disclosing confidential information. Florida is at risk of being deemed out of conformity with federal law. If USDOL made such a finding, it would not certify the state’s reemployment assistance program and could withhold all administrative funding or cause the employer federal tax rates to increase to the total 6.0 percent because of loss of the entire FUTA tax credit.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

None.

### **B. Public Records/Open Meetings Issues:**

None.

### **C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

The transfer of any remaining funds to the Unemployment Compensation Trust Fund after the final federal interest payment is made may have a positive impact on employer contribution rates.

Revenues generated by the imposition and collection of the penalty created in the bill for fraudulently obtaining unemployment compensation benefits could have a positive impact on employer contribution rates.

**B. Private Sector Impact:**

If the amount of assessments collected in previous years to pay the interest due on federal advances is at least 80 percent of the estimated interest payment, the Department of Revenue may not make an assessment against employers, which would have a positive fiscal impact to the private sector.

To the extent that more eligible local governments apply for and receive funding for eligible activities under the Florida Small Cities CDBG Program, the private sector will benefit.

Also, see Tax/Fee Issues.

**C. Government Sector Impact:**

Failure to provide a penalty for individuals who fraudulently collect unemployment benefits or restore the penalty for disclosing confidential information puts Florida at risk of being deemed out of conformity with federal law. If USDOL made such a finding, it would not certify the state's reemployment assistance program and could withhold all administrative funding (approximately \$77 million for Federal Fiscal Year 2013) or cause the employer federal tax rates to increase to the total 6.0 percent because of loss of the entire FUTA tax credit.

Imposing the 15 percent penalty upon individuals who fraudulently receive unemployment compensation benefits could have a positive impact to the Unemployment Compensation Trust Fund. According to the DEO, during Fiscal Year 2011-12, the DEO made 25,294 fraud determinations totaling \$33.2 million in benefit overpayments. If these benefit overpayments had been subject to the 15 percent penalty, approximately \$4.9 million could have been deposited in the Unemployment Compensation Trust Fund. Revenues generated by the imposition and collection of the penalty created in the bill could have a positive impact on employer contribution rates.

The provisions of the bill that streamline reporting requirements, delete duplicative reports, and consolidate reporting due dates may improve efficiencies and are not expected to have a fiscal impact to the Department of Economic Opportunity, Enterprise Florida, Inc., the Office of Film and Entertainment, or Space Florida.

The provisions of the bill that authorize the DEO to adopt rules to implement the revisions to the Florida Small Cities CDBG Program will have an indeterminate fiscal impact to the department. It is anticipated that this impact could be absorbed by the DEO within existing resources.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill authorizes DEO to adopt rules relating to the guidelines for the distribution of Small Cities CDBG Program grants; application procedures; grant ceilings; the maximum percentage of funds which can be spent on administrative costs by a local government; and the methodology used to determine the maximum amount of funding that may be spent on architectural and engineering costs by an eligible local government.

**VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Community Affairs on March 7, 2013:**

The CS provides the \$5 million loan guarantee limit for the Florida Small Cities Community Development Block Grant Program does not apply to loans guaranteed prior to July 1, 2013, that may be refinanced. The CS creates an exemption for people who are unable to complete the online work registration due to various stated reasons from having to complete the department's online work registration.

- B. **Amendments:**

None.