

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 357 Manufacturing Development
SPONSOR(S): Economic Development & Tourism Subcommittee; Boyd
TIED BILLS: **IDEN./SIM. BILLS:** SB 582

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Economic Development & Tourism Subcommittee	12 Y, 0 N, As CS	Collins	West
2) Economic Affairs Committee	15 Y, 0 N	Collins	Creamer

SUMMARY ANALYSIS

The bill directs the Department of Economic Opportunity (DEO) to create a model ordinance for local governments to use as a guide to establish local manufacturing development programs which grant master development approval for manufacturers. For manufacturers participating in a local manufacturing development program, the bill creates an expedited state development and permit approval process which DEO is directed to coordinate with the cooperation of any involved state agencies.

The bill directs DEO to develop materials that identify each local government with a local manufacturing development program, and for those materials to be distributed by Enterprise Florida, Inc. (EFI) to prospective, new, expanding, and relocating businesses.

The bill does not have a fiscal impact on state or local funds.

The bill has an effective date of July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Florida's manufacturing industries are diverse and include companies in traditional manufacturing industries, such as plastics, food processing and printing, as well as those that are engaged in innovative technologies, like electronics, medical devices and aviation/aerospace. The state is home to nearly 18,000 manufacturers accounting for approximately 5 percent (315,000) of Florida's 6,359,000 private, nonagricultural jobs.¹ Nationally, manufacturing employs an estimated 12,000,000 workers which accounts for roughly 9 percent of the entire U.S. workforce.² Wages for Floridians in the manufacturing industry are higher than those in other industries. The average yearly wage for a manufacturing employee in the state is \$52,372 while the average yearly wage for a private sector employee in the state is \$41,377.³

Enterprise Florida, Inc. (EFI) has identified manufacturing as a targeted industry, along with corporate headquarters, research and development, clean technologies, life sciences, information technology, aviation/aerospace, homeland security/defense, financial/professional services, and emerging technologies. Of the 122 economic development incentive contracts completed by EFI during Fiscal Year 2012, manufacturing ranked highest in terms of number of project commitments by industry with 38, and expected capital investment with over \$425 million. Manufacturing projects incentivized by EFI in 2012 contracted to create 2474 jobs paying an average annual wage of \$37,352.⁴

The North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying businesses by industry type for the purpose of statistical data collection and analysis related to the U.S. economy. NAICS Codes 31-33 include 652 unique manufacturing industry codes which include, but are not limited to, the following⁵:

- Food Manufacturing
- Beverage Manufacturing
- Distilleries
- Breweries
- Dairy Product Manufacturing

¹ Department of Economic Opportunity, *Nonagricultural Employment in Florida, Statewide*; January 18, 2013. Can be found at: <http://www.floridajobs.org/labor-market-information/data-center/statistical-programs/current-employment-statistics>; (last visited on February 13, 2013)

² United State Bureau of Labor Statistics, *Current Employment Statistics: Comparison of All Employees, Seasonally Adjusted, before and after the March 2012 Benchmark*; Can be found at: <ftp://ftp.bls.gov/pub/suppl/empsit.compaes.txt>; (last visited on February 13, 2013)

³ United States Bureau of Labor Statistics, *Quarterly Census of Employment and Wages*; 2011. Can be found at: <http://www.bls.gov/cew/data.htm>; (last visited on February 28, 2013)

⁴ Enterprise Florida, Inc., *2012 Annual Incentives Report*; 2012. Can be found at: http://www.eflorida.com/IntelligenceCenter/download/ER/BRR_Incentives_Report.pdf; (last visited on March 11, 2013)

⁵ United States Census Bureau, *North American Industry Classification System*; Can be found at: <http://www.census.gov/eos/www/naics/index.html>; (last visited on March 15, 2013)

- Textile Mills
- Wood Product Manufacturing
- Plastics and Rubber Products Manufacturing
- Primary Metal Manufacturing
- Machinery Manufacturing
- Machine Shops
- Foundries
- Cement and Concrete Product Manufacturing
- Computer and Electronic Product Manufacturing
- Jewelry and Silverware Manufacturing
- Sign Manufacturing
- Sporting and Athletic Goods Manufacturing
- Transportation Equipment Manufacturing
- Ship and Boat Building
- Aerospace Product and Parts Manufacturing
- Furniture and Related Product Manufacturing

Under the Community Planning Act, Chapter 163, Part II, Florida Statutes, local governments are required to adopt land development regulations and comprehensive plans to guide their future development and growth within their respective jurisdictions. Presently, no statutory process exists to encourage and support local governments in the development of manufacturing-specific master development planning processes.

In addition, under current law, no manufacturing-specific coordinated development approval process exists. Manufacturing developments are currently eligible for expedited permitting under s. 403.973, F.S., as are any businesses that meet the requirements imposed under that section.

Effect of Proposed Changes

The bill would establish a model local manufacturing development program aimed at encouraging local governments to establish their own programs which could lead to increased capital investment and job creation within the manufacturing industry. The bill would also create a coordinated approval process for development approvals and permits for manufacturers managed by DEO in order to streamline the process for manufacturers participating in local manufacturing development programs. The bill also directs DEO to develop materials related to local manufacturing development programs, and for EFI to distribute those to prospective, new, expanding, or relocating businesses.

Local Government Manufacturing Development Program

The bill creates a process which local governments may use to establish local manufacturing development programs through local ordinances in order to encourage manufacturing growth and development.

DEO is directed to establish a model ordinance by December 1, 2013 for local governments to use as a guide for the purposes of creating their own local manufacturing development programs. Local governments that have adopted ordinances that satisfy the minimum requirements of the bill before the bill's effective date may submit their ordinance to DEO for approval before September 1, 2013. To qualify under this bill, all manufacturing development ordinances must include:

- Procedures for manufacturers to apply for a master development plan and procedures for local government review and approval.
- Identification of areas within local government boundaries which are subject to the program.
- Minimum elements for master development plan, including:
 - Site map; list of site's available uses; maximum square footage of the development; floor ratio area/building heights for future development; and development conditions.
- A list of development impacts, including:
 - Drainage, wastewater, potable water, solid waste, onsite and offsite natural resources, historic and archaeological resources, offsite infrastructure, public services, compatibility with adjacent offsite land uses, vehicular and pedestrian entrance to/exit from the site, and offsite transportation impacts.
- A provision vesting any existing development rights authorized by local government before approval of a master development plan (if requested by a manufacturer).
- Determination whether an expiration date is required, and if so, that it be no earlier than 10 years.
- A provision limiting the circumstances requiring an amendment to an approved master development plan to only an enactment of a state law or local ordinance addressing immediate or direct threats to public safety, or any revision initiated by the manufacturer.
- A provision limiting any amendment review to only the amendment and no other portion of the approved master development plan.
- A provision that local government cannot require additional approvals for development impacts covered under a master development plan other than approval of a building permit.
- A provision requiring manufacturers to submit certifications signed by an architect, engineer, or landscape architect attesting that any work to be done on the site complies with the approved master development plan.
- A provision establishing the form used by local governments to certify manufacturers eligible to participate in the program.

Any manufacturing development plan approved by a local government must be consistent with the DEO model ordinance and establish procedures for:

- Application review.
- Master development plan approval (which may include conditions that address development impacts over the life of the development).
- Developing the site consistent with the master development plan without requiring additional local development approvals aside from building permits.
- Certifying that a manufacturer is eligible to participate.

A local government cannot abolish a program until it has been in existence for at least 24 months. If the ordinance creating the program is repealed, then any application submitted prior to the effective date of repeal is treated as if the program were still in effect.

Manufacturing Development Coordinated Approval Process

DEO will coordinate the manufacturing development coordinated approval process with the participating agencies for manufacturers participating in a local government manufacturing development program. DEO is not required to mediate issues arising between participating agencies or between the applicant and participating agencies. DEO will not be a party to any legal proceeding

resulting from the coordinated approval process. DEO's participation the coordinated approval process will not affect its decision whether or not to award state economic development incentives to a particular applicant.

The bill defines participating agencies as:

- The Department of Environmental Protection (DEP).
- The Department of Transportation (DOT).
- The Fish and Wildlife Conservation Commission, when acting pursuant to statutory authority granted by the Legislature.
- Water Management Districts.

The approval process must include collaboration, coordination, and simultaneous review by participating agencies with oversight of the following state development approvals:

- Wetland or environmental resource permits.
- Surface water management permits.
- Stormwater permits.
- Consumptive water use permits.
- Wastewater permits.
- Air emission permits.
- Permits relating to listed species.
- Highway or roadway access permits.
- Any other state development approval within the scope of a participating agency's authority.

An application filed with DEO and each participating agency must include proof that its project is located within a local government with a manufacturing development program. If a local government repeals its program, a manufacturer is entitled to participate in the coordinated approval process if it submitted its application for local development approval before the effective date of repeal.

If at any time during the coordinated approval process a manufacturer requests that DEO convene a meeting with participating agencies to facilitate the process, then DEO is directed to convene the meeting, and any involved participating agencies are required to attend.

If an agency determines that an application is incomplete it will notify the applicant and DEO in writing, and request the missing information. Unless the deadline is waived in writing by the manufacturer, an agency must request any additional information within 20 days from the date the application was filed. If the agency does not request additional information within that 20 day period, the agency may not then deny the application based on insufficient information. Within 10 days after the manufacturer's response, an agency may make a second request for additional information only for clarification regarding the manufacturer's response.

Unless the deadline is waived in writing by the manufacturer (or a different deadline is imposed by federal law), each state agency must take final action on the application within 60 days after a completed application is filed unless that period is tolled by legal action. A state agency must notify DEO if it intends to deny an application, and will convene a meeting to facilitate a resolution. If a state agency does not take action on an application within the 60 day window, within the time allowed under

a federal permitting program, or if a legal proceeding is initiated⁶ within 45 days after a recommended order is submitted to the agency and involved parties, the application is deemed approved.

Any time a legal proceeding is initiated the manufacturer may demand expedited resolution by serving notice on an administrative law judge and all other parties to the proceeding. The judge must set the matter for final hearing no more than 30 days after receiving such notice. After the final hearing is set, a continuance may not be granted without the written agreement of all parties.

The bill's permitting and development approval provisions do not apply to permit applications governed by federally delegated or approved permitting programs to the extent that the bill imposes timeframes or other requirements which conflict with federal law.

Materials

DEO is required to develop materials that identify each local government that has implemented a manufacturing development program, and make those materials available to the public. EFI, or another assigned agency, will distribute those materials to prospective, new, expanding, or relocating businesses seeking to conduct business within the state.

B. SECTION DIRECTORY:

- Section 1:** Creates section 288.1101, F.S., the "Manufacturing Competitiveness Act."
- Section 2:** Creates section 288.1102, F.S., to provide definitions.
- Section 3:** Creates section 288.1103, F.S., the "Local Manufacturing Development Program," to provide the requirements and procedures for a local government to create a local manufacturing development program.
- Section 4:** Creates section 288.1104, F.S., the "Manufacturing Development Coordinated Approval Process," to provide a process for the Department of Economic Opportunity and participating agencies to review and approve applications
- Section 5:** Creates section 288.1005, F.S., to provide that the Department of Economic Opportunity shall develop materials to be distributed by DEO, Enterprise Florida, Inc., or another state agency to be distributed to new, expanding, or relocating businesses.
- Section 6:** Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

- 1. Revenues:
None.
- 2. Expenditures:
None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

- 1. Revenues:

⁶ Under either s. 120.569, F.S. or s. 120.57, F.S.

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may help facilitate private industry growth in areas which have implemented local manufacturing development programs.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not require a reduction of the percentage of state tax shared with municipalities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill allows DEO to adopt rules regarding the administration of this section.

C. DRAFTING ISSUES OR OTHER COMMENTS:

- The bill requires that participating agencies simultaneously review applications for various state development approvals, but does not address how such a simultaneous review among participating agencies would function, or what repercussions would exist for participating agencies who fail to simultaneously review applications.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 19, 2013, the House Economic Development and Tourism Subcommittee adopted a strike-all amendment and passed the bill as a Committee Substitute (CS). The CS differs from the original bill as follows:

Section 1

- Section 1 moved from s. 288.1101, F.S. to s. 163.325, F.S. and references in the bill to s. 288.1101, F.S. changed to reflect new section number.

Section 2

- Section 2 moved from s. 288.1102, F.S. to s. 163.3251, F.S. and references in the bill to s. 288.1102, F.S. changed to reflect new section number.
- Definition of "local government" removed.
- Definition of "department" added.

Section 3

- Section 3 moved from s. 288.1103, F.S. to s. 163.3252, F.S. and references in the bill to s. 288.1103, F.S. changed to reflect new section number.

Section 4

- Section 4 moved from s. 288.1104, F.S. to s. 163.3253, F.S. and references in the bill to s. 288.1104, F.S. changed to reflect new section number.
- Removed language pertaining to eligibility requirements for manufacturers seeking to participate in coordinated approval process during the period between a local government repealing its local development program and the effective date of repeal.
- Language added to require involved participating agencies to attend meetings convened by DEO at the request of a manufacturer participating in a coordinated approval process.
- Role of DEO in coordinating the manufacturing development approval process clarified.
- Language added to clarify that DEO is not required to mediate issues arising during coordinated approval process, DEO will not be a party to any proceeding brought as a result of state permitting associated with coordinated approval process, and DEO's participation in a coordinated approval process does not affect its decision whether or not to grant state economic development incentives to an applicant.
- Language added to specify that the bill's permitting and development approval provisions do not apply to permit applications governed by federally delegated or approved permitting programs to the extent that the bill imposes timeframes or other requirements which conflict with federal law.

Section 5

- Section 5 moved from s. 288.1105, F.S. to s. 288.111, F.S. and references in the bill to s. 288.1105, F.S. changed to reflect new section number.
- Clarifies that EFI is the agency responsible for distributing materials associated with the local manufacturing development program.

The analysis has been updated to reflect the strike-all amendment.