

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 563 Reporting Requirements for Economic Development Programs

**SPONSOR(S):** Economic Development & Tourism Subcommittee and Rodríguez

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 572

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Economic Development & Tourism Subcommittee	13 Y, 0 N, As CS	Collins	West
2) Transportation & Economic Development Appropriations Subcommittee	12 Y, 0 N	Proctor	Davis
3) Economic Affairs Committee			

### SUMMARY ANALYSIS

The bill directs the Department of Economic Opportunity (DEO) to use a model created by the Office of Economic and Demographic Research (EDR) to determine the economic benefits of economic development projects that receive state incentives. In addition, the bill requires DEO to maintain a website on which to publish information regarding state-incentivized economic development projects which will be updated no less than once per year and be easily accessible to the public. Information included on this website will be related to projects receiving state incentives and include the number of new jobs associated with each project, the median wage of those new jobs, the amount of capital being invested in the state as part of the project, and the amount of state tax revenue generated by the project.

The bill also requires DEO to annually publish a timeline demonstrating the progress of projects that are participating in the Quick Action Closing Fund program, including the average number of days between the dates upon which DEO received a completed application and the date upon which a project was approved.

The bill requires DEO to publish on its website within 48 hours following the expiration of confidentiality provided under s. 288.075, F.S., project-specific information, a copy of the incentive contract or agreement between a participant business and DEO, and any report of findings related to a business's failure to complete an agreement under the qualified target industry tax refund program.

Information regarding projects completed prior to October 1, 2013 shall be compiled and published on the website by DEO no later than October 1, 2014.

The bill does not appear to have a fiscal impact on state government. DEO currently has an established website that contains an Economic Development Incentives Portal that can be modified to meet the requirements outlined in the bill within existing resources.

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

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Current Situation

##### Economic Impact Model Review

Enterprise Florida, Inc. (EFI), a nonprofit public-private partnership, serves as the state's economic development organization, operating under a contract with DEO.<sup>1</sup> EFI works with businesses and economic development partners to determine whether projects are eligible for state economic development incentives. Once the project has been vetted by EFI and it has been determined that incentives are necessary to secure a project, an incentive package is developed and sent to DEO for further review and approval.

According to EDR, EFI prospectively evaluates applications for each of the state's economic development incentive programs using a model that incorporates RIMS II multipliers developed by the U.S. Department of Commerce's Bureau of Economic Analysis. EDR is required to evaluate the model used by EFI for the prospective impact analysis of all qualified target industry tax refund projects (QTI), and to report such findings every 3 years.<sup>2</sup> The model evaluated by EDR and used by EFI for the QTI tax refund program is also used across all economic development incentive programs with the exception of the Innovation Incentive Program, which is not required by law to be evaluated for "economic benefits." Innovation Incentive Program projects are required to have a break-even "return on investment" (ROI) within a 20-year period except for certain exceptions.<sup>3</sup>

In 2010, EDR published its first report<sup>4</sup> on the model used by EFI to evaluate QTI projects. In this report, EDR concluded that the model being utilized by EFI was not fully in compliance with statutory requirements that EFI's model evaluate ROI, defined as the gain in state revenues as a percentage of the state's investment. EDR determined that the model used by EFI needed changes in order to move incrementally closer to a true ROI. Enterprise Florida and EDR worked to redefine certain variables for the impact analysis in the interim period. In the report, EDR noted that a new ROI model will ultimately be required. Since the publication of the EDR report in 2010, the term "economic benefits" has replaced "return on investment" for the purposes of evaluating QTI in state statute.<sup>5</sup> The next EDR report is due September 1, 2013.

##### Economic Development Incentives

Florida's competitive economic development incentives utilize performance based tax refunds, tax credits and grant awards. To receive an incentive, businesses must first enter into a contract with DEO which outlines performance expectations such as specific job creation goals, a schedule by which new jobs are to be created, an average wage to be paid for the new jobs, and a schedule for new capital investment. After the business has commenced the project it will submit an annual claim form and documentation of taxes paid during any period that a contractual obligation is to be met or maintained. The state verifies the claim data with the company's quarterly reemployment assistance and payroll reports, and verifies tax documentation. If the state confirms the contractual obligations have been met and any required local financial support has been received, then a refund check is sent to the business in the case of the tax refund based programs. Businesses not filing annual claims or not meeting the minimum performance obligations of its contract are terminated from the programs. QTI businesses are

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<sup>1</sup> Section 288.901, F.S.

<sup>2</sup> Section 288.106(4)(c)2., F.S.

<sup>3</sup> Section 288.1089, F.S.

<sup>4</sup> Office of Economic and Demographic Research, Tax Refund Program for Qualified Target Industry Businesses: A review of the methodology and model used in determining the state's return on investment, (9/1/2010), available at:

<http://edr.state.fl.us/Content/special-research-projects/economic/ROI.pdf>, (last visited on February 8, 2013)

<sup>5</sup> Section 288.005, F.S.

eligible to receive pro-rated refunds in cases where contracted job or wage requirements are not fully met.

Businesses receiving economic development incentive grant awards must also enter into performance-based contracts with the state, which outlines specific milestones for performance and payment. All of the state's incentive grant awards contain penalties for non-performance, and the state may actively pursue the recapture of funds in cases where a business has failed to meet the terms of its contract.

The state has developed numerous economic development programs designed to incentivize private sector investment for the purpose of encouraging job growth. DEO awarded over \$111 million in tax refund and grant awards through existing incentive programs in FY 2012.<sup>6</sup> Economic development tax refund, tax credit and grant award incentives include, but are not limited to the following:

- Qualified Target Industry Program<sup>7</sup>
- Qualified Defense and Space Contractor Program<sup>8</sup>
- Brownfield Bonus Program<sup>9</sup>
- Manufacturing and Spaceport Investment Incentive<sup>10</sup>
- High Impact Performance Incentive<sup>11</sup>
- Quick Action Closing Fund<sup>12</sup>
- Innovation Incentive Program<sup>13</sup>
- Quick Response Training Program<sup>14</sup>.

#### Publication of Economic Development Incentives Information

Annually, by December 30 of each year, EFI is directed to submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a detailed incentives report quantifying the economic benefits for all of the economic development incentive programs (those listed above are included) marketed by EFI.<sup>15</sup> This report contains information related to the validation of business performance under the various economic development programs, and tax refunds and other payments provided to businesses under the various economic development programs.

In addition to the EFI annual incentives report, DEO has developed and maintains a website that contains the Economic Development Incentives Portal<sup>16</sup> for the purpose of publishing information related to economic development incentives awarded and completed since January 1996 to Florida businesses on a project-by-project basis. The Economic Development Incentives Portal can run a report based on:

- Economic Development Incentive Program
- Project County

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<sup>6</sup> Enterprise Florida, Inc., 2012 Annual Incentives Report, (2012), available at:

[http://www.eflorida.com/IntelligenceCenter/download/ER/BRR\\_Incentives\\_Report.pdf](http://www.eflorida.com/IntelligenceCenter/download/ER/BRR_Incentives_Report.pdf), (last visited on February 11, 2013).

<sup>7</sup> Section 288.106, F.S.

<sup>8</sup> Section 288.1045, F.S.

<sup>9</sup> Section 288.107, F.S.

<sup>10</sup> Section 288.1083, F.S. The Manufacturing and Spaceport Investment Incentive was created in 2010 to serve as a means of relieving some of the sales tax burden on existing manufacturers that were not increasing their productive output enough to be eligible for the standard manufacturing and equipment sales tax exemption. This is a temporary program, with refunds available through Fiscal Year 2012.

<sup>11</sup> Section 288.108, F.S.

<sup>12</sup> Section 288.1088, F.S.

<sup>13</sup> Section 288.1089, F.S.

<sup>14</sup> Section 288.047, F.S. Quick Response Training Program awards are made directly to third parties on behalf of eligible businesses to be used for employer-driven training programs designed to assist new value-added businesses and to provide existing businesses the necessary training for expansion. This program is managed by Workforce Florida, Inc., a division within DEO.

<sup>15</sup> Section 288.907(1), F.S.

<sup>16</sup> DEO's Economic Development Incentives Portal is available at: <http://www.floridajobs.org/office-directory/division-of-strategic-business-development/economic-development-incentives-portal>, (last visited on February 27, 2013)

- Date Approved
- Business Name.

Reports generated from the Economic Development Incentives Portal show:

- Economic Development Incentive Program Name
- Economic Development Incentive Program Statutory Reference
- Business Name
- Business Industry
- Approval Date
- Amount of State Incentive
- Payments to Date
- Project County
- Project Status
- Capital Investment
- New Jobs related to Performance Requirements
- New Jobs related to Performance Due to Date
- New Jobs Confirmed to Date.

DEO is in the process of populating the Economic Development Incentives Portal with data for all approved economic development projects by March 2013, and not just those that have been completed since January 1996.

### **Proposed Changes**

The bill statutorily establishes a formal economic development incentive publication process to be implemented by DEO for the purpose of creating greater transparency and accountability within the state's economic development activities.

### **Economic Development Project Award Publication**

DEO will maintain a website for the purpose of publishing information related to economic development incentives awarded to Florida businesses on a project-by-project basis. Within 48 hours after expiration of the period of confidentiality provided under s. 288.075, F.S., DEO will publish the following information on this website:

*Projected Economic Benefits* - The projected economic benefits at the time of the initial project award date.

### *Project Information*

- Program or programs through which the state investment is being made;
- The maximum potential value of the state investment in the project;
- The target industry or industries<sup>17</sup> involved, and any high impact sectors<sup>18</sup> implicated by the project;
- The county or counties that will be substantially impacted by the project; and
- The total value of local financial commitment and in-kind support for the project.

### *Participant Business Information*

- The location of the participant business's headquarters, or, if a subsidiary, the headquarters of its parent company;
- The firm size class of the participant business, or where owned by a parent company the firm size class of the participant business' parent company, using the firm size classes established

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<sup>17</sup> Section 288.106(2)(q), F.S.

<sup>18</sup> Section 288.108(6)(a), F.S.

by the US Department of Labor Bureau of Labor Statistics, and whether the participant business qualifies as a small business under s. 288.703, F.S. ;

- Project award date;
- Expected duration of the project; and
- Anticipated dates when the participant business will claim the first and last state investment.

#### *Project Evaluation Criteria*

- Economic benefits generated by the project;
- The net indirect and induced incremental jobs in the state to be generated by the project;
- The net indirect and induced incremental capital investment in the state to be generated by the project; and
- The net indirect and induced incremental tax revenue to the state to be generated by the project.

#### *Project Performance Goals*

- The incremental direct jobs attributable to the project, identifying the number of jobs generated and the number of jobs retained by the project;
- The number of jobs generated and the number of jobs retained by the project; for projects that commence after the effective date of this act, the median annual wage of persons holding such jobs;
- The incremental direct capital investment in the state generated by the project; and
- The incremental projected tax revenue to the state paid by the participant business for the project.

*Total Amount of State Investment* - The total amount of state investment disbursed to the participant business to date, itemized by incentive program.

#### Other Publication Requirements

The bill directs DEO to publish, within 48 hours after the expiration of the period of confidentiality under s. 288.075, F.S., the projected economic benefits of each project at the time of the initial project award date.

The bill requires DEO to update information on its website related to Project Information, Participant Business Information, Project Evaluation Criteria, and Project Performance Goals at least once a year, and to publish on its website when such information was most recently updated.

The bill also requires DEO to publish on its website copies of incentive contracts or agreements entered into by the department. This information must be published within 48 hours after the expiration of the period of confidentiality provided under s. 288.075, F.S, and may be redacted to protect the participant business from disclosure of information that remains confidential or exempt by law.

Within 48 hours after submitting any report of findings and recommendations concerning a business's failure to complete a QTI tax refund agreement, DEO must publish the report.

DEO is required by the bill to compile a list of economic development projects completed prior to October 1, 2013, and to publish information related to those prior to October 1, 2014.

#### Quick Action Closing Fund Timeline

The bill also requires that once a year DEO publishes on its website information pertaining to Quick Action Closing Fund projects and the average number of days between the date upon which DEO has received completed applications and the date upon which they were approved.

#### Economic Benefits Methodology

The bill directs DEO to use methodology and formulas established by the Office of Economic and Demographic Research (EDR) to determine the economic benefits for each project. DEO is required to publish the economic benefits of each project on its website within 48 hours of the conclusion of the agreement between each participant business and DEO. EDR is directed to provide a description of the methodology and formulas established for this purpose to DEO for publication on the department's website. DEO shall publish this information with 48 hours after receiving it from EDR.

#### B. SECTION DIRECTORY:

Section 1: Creates s. 288.076, F.S. related to reporting requirements for economic development incentive programs.

Section 2: Provides an effective date of October 1, 2013.

### **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

DEO currently has an established website that contains an Economic Development Incentives Portal that can be modified to meet the requirements outlined in the bill within existing resources.

EDR advised that the requirements outlined in the bill can be handled within existing resources.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

#### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

#### D. FISCAL COMMENTS:

EDR advised that the requirements outlined in this bill for them can be handled within existing resources.

### **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:

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

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

Changes made to the bill:

- Adds “participant business” and “jobs,” as new definitions. Updates “project” and “project award date” to more closely align definitions with those currently in statute. Removes “beneficiary business” as definition.
- Removes language requiring the assignment of a unique code to allow the public to track information pertaining to businesses from which specific identifying information is temporarily withheld.
- Adds requirement that DEO publish the projected economic benefits of each project at the time of the initial project award date; removes language regarding projects not being required to be published until at least 60 days after the project award date.
- “General information” changed to “Project information.”
- “Beneficiary business information” changed to “Participant business information.”
- Removes language requiring number of full time employees of the business and/or parent business to be published by DEO, and replaced it with a requirement that DEO publish firm size classes of the business and/or parent business. Firm size classes are defined by the US Department of Labor Bureau of Labor Statistics.
- Removes requirement to publish North American Industry Classification System information.
- Adds requirement that DEO publish the anticipated date a business will claim its first state investment.
- Adds “Project evaluation criteria” paragraph.
- Adds requirement that DEO publish economic benefits generated by each project.
- Removes language requiring DEO to identify the lowest, highest, and median annual wages associated with incremental direct jobs attributable to each project; replaced with language requiring median annual wages to be published for jobs generated or retained by projects which commence after July 1, 2013.
- Moves net indirect and induced incremental jobs, capital investment, and tax revenue under “Project evaluation criteria.”
- Removes reference to incremental direct tax revenue paid to the state by the beneficiary business; replaced with reference to incremental projected tax revenue to the state paid by the participant business for the project.

- Removes requirement that DEO publish total value of state investment disbursed to date for each project; adds requirement for DEO to publish the total amount of state investment disbursed to a participant business to date, itemized by incentive program.
- Changes update frequency from June 30, and December 31 of each year to no less than annually.
- Removes timeline reporting requirements for Quick Action Closing Fund; adds requirement that DEO publish average time between completed application receipt and project approval for all Quick Action Closing Fund projects approved annually by the department.
- Changes dates for DEO to gather and publish information for previously completed projects from July 1, 2013 and July 1, 2014 to October 1, 2013 and October 1, 2014.
- Removes language creating a process by which businesses can request a delay in the release of specific information.
- Removes language regarding the commission of a second degree misdemeanor for employees of economic development agency who violate this section.
- Removes language pertaining to the methodology and formulas to be established by EDR for the purpose of determining indirect and induced job creation, capital investment, and tax revenue; adds language requiring DEO to use methodology and formulas established by EDR to determine economic benefits for each project, to publish the economic benefits for each project on with website within 48 hours after the conclusion of the incentive agreement, and to publish a description, proved by EDR, of the methodology and formulas used on its website within 48 hours.
- Removes language amending s. 288.075, F.S. regarding economic development incentive confidentiality requirements.

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