

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 7007 (PCB EDTS 13-01) PCB EDTS 13-01 Economic Development
SPONSOR(S): Economic Affairs Committee; Transportation & Economic Development Appropriations
Subcommittee; Economic Development & Tourism Subcommittee; Trujillo
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1024

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Economic Development & Tourism Subcommittee	12 Y, 0 N	Duncan	West
1) Transportation & Economic Development Appropriations Subcommittee	12 Y, 0 N, As CS	Proctor	Davis
2) Economic Affairs Committee	17 Y, 0 N, As CS	Duncan	Creamer

SUMMARY ANALYSIS

This bill modifies and revises various programs and activities administered by the Department of Economic Opportunity (DEO) and increases transparency and accountability of businesses participating in these programs and activities. The bill addresses the following:

Economic Development Program Evaluations and Reporting

- Directs the Office of Economic and Demographic Research (EDR) and the Office of Program Policy Analysis and Government Accountability (OPPAGA) to evaluate economic development programs.
- Directs EDR to determine the economic benefits of each economic development program on a 3-year review schedule. Directs OPPAGA to evaluate each program for effectiveness and value to the state's taxpayers.
- Directs DEO to maintain a website for publishing information relating to economic development incentive programs awarded to Florida businesses on a project-by-project basis.
- Directs DEO to publish on its website Quick Action Closing Fund (QACF) project information and the average time it takes to receive and approve completed applications.
- Consolidates reports and reporting dates for various economic development programs prepared by DEO, Enterprise Florida, Inc. (EFI), the Office of Film and Entertainment, and Space Florida.

Economic Development Incentive Surety Bonds

- Requires economic development incentive agreements that award funds through the QACF or the Innovation Incentive Program on or after July 1, 2013, to be guaranteed or secured. A waiver of the requirement may be granted under certain circumstances.

The Florida Small Business Development Center Network

- Modifies the size and make-up of the statewide advisory board, codifies support services the Network must provide to small businesses, provides for performance incentives, and requires annual reports to the Legislature.

Redevelopment Programs

- Revises the Small Cities Community Development Block Grant Loan Guarantee Program to reduce the risk to the state and eligible local governments.
- Provides for the expansion of enterprise zone boundaries in certain areas of the state designated as rural areas of critical economic concern.
- Specifies the meaning of "brownfield area" for purposes of the sales tax exemption for building materials in redevelopment projects and for the brownfield redevelopment bonus refund.

Reemployment Assistance Program

- Revises provisions related to benefit eligibility, interest assessments, confidentiality, and fraudulent claims to enhance program integrity and implement certain federal requirements.

The bill is effective upon becoming a law, except as otherwise provided in the act.

See FISCAL COMMENTS.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Economic Development Incentives Evaluation

Present Situation

Economic Development Application and Review

Enterprise Florida, Inc. (EFI), a nonprofit public-private partnership, serves as the state's flagship economic development organization, operating under a contract with DEO.¹ 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 deal, an incentive package is developed and sent to DEO for further review. Once the incentive package is finalized, DEO and other appropriate state bodies issue formal approvals.

According to EDR, EFI prospectively evaluates applications for each of the state's economic development incentive programs using RIMS II multipliers, a model 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.² 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.³

In 2010, EDR published its first report⁴ 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.⁵ The next EDR report is due September 1, 2013.

Economic Development Incentives

Florida's economic development incentives utilize tax refunds and performance-based cash 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, and an average wage to be paid for the new jobs. After the business has commenced the project and begun hiring, it will submit an annual claim form and documentation of taxes paid. The state verifies the claim data with the company's quarterly reemployment assistance and payroll reports and verifies that tax documentation. If the state confirms the contractual obligations have been met and any required local financial support has been received, a refund check is sent to the business. Businesses not filing claims or not meeting the performance obligations of its contract are terminated from the program. Only QTI businesses are eligible to receive pro-rated refunds in cases where contracted job or wage requirements are not fully met.

¹ Section 288.901, F.S.

² Section 288.106(4)(c)2., F.S.

³ Section 288.1089, F.S.

⁴ 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)

⁵ Section 288.005, F.S.

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 2012.⁶ Economic development tax credit and grant award incentives include, but are not limited to the following:

- Qualified Target Industry Program⁷
- Qualified Defense and Space Contractor Program⁸
- Brownfield Bonus Program⁹
- Manufacturing and Spaceport Investment Incentive¹⁰
- High Impact Performance Incentive¹¹
- Quick Action Closing Fund¹²
- Innovation Incentive Program¹³
- Quick Response Training Program¹⁴

Quick Action Closing Fund

Established by the Legislature in 1999,¹⁵ the Quick Action Closing Fund (QACF) is a discretionary “deal closing” tool in highly competitive negotiations where Florida’s traditional incentives are not enough to win the deal.”¹⁶ The Legislature declared that sufficient resources must be available to respond to extraordinary economic opportunities and to compete effectively for high-impact business facilities, critical private infrastructure in rural areas, and key businesses in economically distressed urban or rural communities, and that up to 20 percent of these resources may be used for projects to retain or create high-technology jobs that are directly associated with developing a more diverse aerospace economy in the state.¹⁷ Projects eligible to receive funds from the fund must:

- Be a qualified target industry business.¹⁸
- Have a positive economic benefit ratio of at least 5 to 1.
- Be an inducement to the project’s location or expansion in the state.
- Pay an average annual wage of at least 125 percent or the areawide or statewide private sector average wage.
- Be supported by the local community in which the project is located.

DEO and EFI are required to jointly review applications and determine the eligibility of each project. Waivers of the required criteria may be granted under certain circumstances. Within seven business days after evaluating a project, DEO must make a recommendation to the Governor to approve or deny

⁶ Enterprise Florida, Inc., 2012 Annual Incentives Report, (2012), *available at* http://www.eflorida.com/IntelligenceCenter/download/ER/BRR_Incentives_Report.pdf, (last visited on April 2, 2013).

⁷ Section 288.106, F.S.

⁸ Section 288.1045, F.S.

⁹ Section 288.107, F.S.

¹⁰ 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.

¹¹ Section 288.108, F.S.

¹² Section 288.1088, F.S.

¹³ Section 288.1089, F.S.

¹⁴ 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.

¹⁵ Section 105, ch. 99-251, L.O.F.

¹⁶ *Supra* note 6 at 11.

¹⁷ Section 288.1088(1)(c), F.S.

¹⁸ See s. 288.106, F.S.

funds from the QACF. If the project is recommended, then DEO must include proposed performance conditions that the project must meet in order to obtain funds.¹⁹

The Governor is authorized to approve projects requiring less than \$2 million in funding. However, for project funding amounts of \$2 million to \$5 million, the Governor must provide a written description and evaluation of a project recommended for approval to the Legislative Budget Commission.²⁰

Upon approval of the Governor, DEO and the business must enter into a contract that establishes the conditions for payment from the QACF. The contract must include the total amount of funds awarded; the performance conditions that must be met to obtain the award, such as net new employment in the state, average salary, and total capital investment; demonstrate a baseline of current service and a measure of enhanced capability; the methodology for validating performance; the schedule of payments from the fund; and sanctions for failure to meet performance conditions.²¹

EFI is required to validate contractor performance and report the validation within six months after completion of the contract to the Governor and the Legislature.²²

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 marketed by EFI.²³ 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 Portal²⁴ 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
- 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.

¹⁹ Section 288.1088(3), F.S.

²⁰ Section 288.1088(3)(c), F.S.

²¹ Section 288.1088(3)(d), F.S.

²² Section 288.1088(3)(e), F.S.

²³ Section 288.907(1), F.S.

²⁴ 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)

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.

Effect of Proposed Changes

Economic Development Program Evaluation

The Office of Economic and Demographic Research (EDR) and the Office of Office of Program Policy Analysis and Government Accountability (OPPAGA) are directed to develop the Economic Development Programs Evaluation. The work plan must be submitted to the President of the Senate and the Speaker of the House of Representatives by July 1, 2013. EDR and OPPAGA must provide a detailed analysis of economic development programs based on the following schedule:

Incentive Program Evaluation Schedule

Year 1 (January 1, 2014 and every 3rd year thereafter)	
Economic Development Incentives	Florida Statutes
Capital Investment Tax Credit	s. 220.191, F.S.
Qualified Target Industry Tax Refund	s. 288.106, F.S.
Brownfield Redevelopment Bonus Tax Refund	s. 288.107, F.S.
High-Impact Sector Performance Grants	s. 288.108, F.S.
Quick Action Closing Fund	s. 288.1088, F.S.
Innovation Incentive Program	s. 288.1089, F.S.
Enterprise Zone Program	ss. 212.0805, 212.0815, 212.096, 220.181, and 220.182, F.S.

Year 2 (January 1, 2015 and every 3rd year thereafter)	
Economic Development Incentives	Florida Statutes
Entertainment Industry Financial Incentive Program	s. 288.1254, F.S.
Entertainment Industry Sales Tax Exemption Program	s. 288.1258, F.S.
VISIT Florida	ss. 288.122, 288.1266, 288.12265, and 288.124, F.S.
Florida Sports Foundation	ss. 288.1162, 288.11621, 288.1166, 288.1167, 288.1168, 288.1169, and 288.1171, F.S.

Year 3 (January 1, 2016 and every 3rd year thereafter)	
Economic Development Incentives	Florida Statutes
Qualified Defense Contractor and Space Flight Business Tax Refund Program	s. 288.1045, F.S.
Tax Exemption for Semiconductor, Defense, or Space Technology Sales	s. 212.08(5)(j), F.S.

Military Base Protection Program	s. 288.980, F.S.
Manufacturing and Spaceport Investment Incentive Program	s. 288.1083, F.S.
Quick Response Training Program	s. 288.047, F.S.
Incumbent Worker Training Program	s. 445.003, F.S.
International Trade and Business Development Programs	s. 288.826, F.S.

Based on the program evaluation schedule, EDR must evaluate and determine the economic benefits²⁵ of each program over the previous three years. The analysis must also evaluate:

- The number of jobs created.
- The increase or decrease in personal income.
- The impact state gross domestic product from the direct, indirect, and induced effects of the state's investment in each program over the previous three years.

When evaluating incentive programs, EDR must evaluate only data from those projects in which businesses received state funds during the evaluation period. The projects may be fully complete, partially completed with future fund dispersal possible pending performance measures, or partially completed with no future fund dispersal possible as a result of a business's inability to meet performance measures. The analysis must use the model²⁶ developed by EDR to evaluate each program. EDR must provide a written explanation of the model's key assumptions. Should EDR determine that another evaluation model is more appropriate, EDR is authorized to use the model so long as they provide an explanation as to why the selected model was more appropriate.

Based on the program evaluation schedule, OPPAGA is directed to evaluate each program over the previous 3 years for effectiveness and value to the state's taxpayers and include recommendations on each program for consideration by the Legislature. The analysis may include relevant economic development reports or analyses prepared by DEO, EFI, or local or regional economic development organizations; interviews with parties involved; or any other relevant data.

EDR and OPPAGA are provided access to all data necessary to complete the Economic Development Programs Evaluation, including any confidential information, notwithstanding s. 213.053, F.S., relating to confidentiality and information sharing. EDR and OPPAGA are also authorized to collaborate on data collection and analysis.

Economic Development Project Evaluation

Award Publication

DEO is directed to 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 must publish the following information on the 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 industries²⁷ involved, and any high impact sectors²⁸ implicated by the project.

²⁵ "Economic benefits" means the direct, indirect, and induced gains in state revenues as a percentage of the state's investment. The state's investment includes state grants, tax exemptions, tax refunds, tax credits, and other state incentives. Section 288.005, F.S.

²⁶ See s. 216.138, F.S., authority to request additional analysis of legislative proposals.

²⁷ Section 288.106(2)(q), F.S.

- The county or counties that will be substantially impacted by the project.
- 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 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.
- 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.
- 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.

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

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

Quick Action Closing Fund Timeline

At least once per year, DEO must publish 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 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.

Economic Development Incentive Surety Bonds

Present Situation

Surety Bonds

Surety bonds, common in the construction industry, are written agreements used to mitigate project risk and ensure performance involving three entities: the obligee, the principal, and the surety. The obligee is the entity contracting with another entity to perform a particular task. The principal is the entity whose debt or default is the subject of the surety bond itself. And the surety is the entity pledging to complete the contract or compensate the obligee should the principal fail to fulfill the terms of the contract.²⁹

Unlike traditional insurance, the risk remains with the principal as opposed to the insurer. The protection of the surety bond is for the obligee. Under this format, surety professionals view their underwriting as a form of credit so emphasis is placed on prequalification and selection as opposed to allocation of risk.

Florida law requires a surety bond for all state construction projects over \$100,000. For local governments, the threshold is \$200,000. For contracts between those amounts, the Secretary of Management Services may allow state agencies to exempt an entity from the performance bond requirement. Some other forms of security (e.g. irrevocable letter of credit, cash, or certified check) may be tendered in lieu of a surety bond in certain instances.³⁰

Quick Action Closing Fund

DEO and EFI are responsible for evaluating projects to determine their eligibility for QACF incentives. Within seven days of completing its evaluation, DEO must make a recommendation to the Governor as to whether funds from the QACF should be awarded. Should DEO recommend the project, proposed performance conditions must be provided at that time. Upon the Governor's approval, DEO must enter into an agreement with the applicant that includes conditions for payment of the incentive funds and sanctions for failure to meet performance goals. Funds are typically paid out after the business has made a substantial financial investment toward tangible personal property involved with the project.³¹

A total of 120 projects have been approved under QACF since the program was created. Of those, 98 actually executed contracts. The 98 projects which have received funding have committed to create a combined total of 22,121 jobs within the state, with 8,515 of those having been confirmed as created.³²

Innovation Incentive Program

Created by the Legislature in 2006, the Innovation Incentive Program (IIP) is an economic development incentive program aimed at high-value research and development, innovation business, and alternative and renewal energy projects. The program requires DEO to review and evaluate applications for funding based on criteria including the amount of capital investment and new jobs associated with each proposed project, and recommend projects for approval to the Governor. The Governor must consult with the Speaker of the House of Representatives and the President of the Senate prior to approving

²⁹ The Surety and Fidelity Association of America, *About Surety*, available at <http://www.surety.org/?page=AboutSurety> (last visited April 4, 2013).

³⁰ Section 255.05, F.S.

³¹ Section 288.1088, F.S.

³² Enterprise Florida, Inc., *2012 Annual Incentives Report*, available at

http://www.eflorida.com/IntelligenceCenter/download/ER/BRR_Incentives_Report.pdf (last visited April 4, 2013)

an award. Funds may be released following the review and approval of the Legislative Budget Commission.

Once approved, DEO must enter into a written agreement with the awardee that specifies the amount of the award, the performance conditions and measures, a payment schedule, and sanctions for failure to comply with performance conditions. IIP contracts also include reinvestment requirements involving a portion of royalty revenues generated by the incentive recipients being paid to the state for investment in State Trust Funds.³³

Only nine projects have been approved for funding under IIP since the program's inception. Of those projects, eight executed contracts with the state and have been awarded funding. The eight contracted projects have committed to create a combined total of 1,771 jobs in the state, with 819 of those having been confirmed as created.

Effect of Proposed Changes

The bill amends s. 288.061, F.S. to require that economic development incentive agreements that award funds through QACF or IIP on or after July 1, 2013 be guaranteed or secured. The applicant may satisfy this requirement by posting either a surety bond or providing an alternate form of security. The bill provides for a waiver of any securitization under certain circumstances.

Surety Bond Requirement

In order to receive either a QACF or IIP incentive award, an applicant must provide DEO with a surety bond for the amount of the award under the incentive agreement. The incentive agreement must require that the surety bond remain in effect until all performance conditions in the agreement have been met. The release of any funds is contingent upon DEO receiving the surety bond, of which, up to half of the premium payment on the surety bond may be paid from the award amount, but not exceeding 3% of the total award. The applicant is required to notify DEO at least 10 days before each premium payment is due. Cancellation of the surety bond is a violation of the agreement; DEO is released from any obligation to make future payments to the applicant unless the applicant is able to secure a new surety bond or secure a waiver from the department within 90 days before the effective date of the cancellation.

Waivers

An applicant who is unable to secure a surety bond or can demonstrate that the cost of obtaining a surety bond is unreasonable, may obtain a partial waiver if DEO certifies, in writing, to the Governor, Speaker of the House of Representatives, and President of the Senate the following information:

- An explanation of the reasons why the applicant could not obtain a surety bond.
- A description of the economic benefits expected to be generated by the incentive award.
- An evaluation of the quality and value of the applicant which includes a financial analysis of the company, the historical market performance of the company, independent evaluations of the company, the latest audit of the company's financial statement and the related auditor's management letter, and any other reports related to the company's internal controls or management.

If DEO grants a partial waiver, the incentives agreement must include an irrevocable letter of credit furnished by a financial institution, cash or securities held in trust by a financial institution, or a secured transaction in collateral under the control or possession of the applicant for the value of the award amount.

DEO may waive all the requirements related to surety bonds in this bill, if DEO certifies, in writing, to the Governor and chair and vice chair of the Legislative Budget Commission the following:

- The applicant demonstrates the financial ability to fulfill the requirements of the incentive agreement and has submitted an independently audited financial statement for the previous five years.

- The applicant was previously a recipient of an incentive under an economic development program, was subject to clawback³⁴ requirements, and timely complied with those provisions.
- DEO has determined that the waiver is in the best interest of the state.

For any full waiver granted, DEO will provide a written description and evaluation of the waiver to the chair and vice chair of the Legislative Budget Commission. This information will be provided at the same time that the information for the project consultation is provided to the Legislative Budget Commission under s. 288.1088 or s. 288.1089, F.S. If the chair or vice chair determines that such a waiver is contrary to legislative policy or intent, or exceeds department authority, DEO will void the waiver until the Legislative Budget Commission addresses the issue. Notwithstanding such requirement, any project exceeding \$5 million must be approved by the Legislative Budget Commission.

Annual Report Consolidation

Present Situation

Numerous annual reports relating to economic development programs and activities are required to be submitted to the Governor and the Legislature at various times of the year from January 1 to December 31. Additionally, certain entities are required to compile and submit information to the Governor and Legislature and/or to DEO as separate reports. A lack of uniform reporting makes it difficult for DEO to effectively track and report program activities and functions.

Department of Economic Opportunity

The Department of Economic Opportunity, with assistance from EFI, is directed to submit an annual report by January 1 to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the condition of the business climate and economic development in the state.³⁵

Enterprise Florida, Inc.

Enterprise Florida, Inc., is required to prepare an annual report and an annual incentives report.³⁶ Annually, before December 1, EFI is directed to submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, and the House Minority Leader, a complete and detailed report including a description of the operations and accomplishments of EFI, and its divisions, boards, advisory councils, or similar entities created by EFI, and an identification of any major trends, initiatives, or developments affecting the performance of any program or activity. The individual annual reports prepared by each division must be included as addenda.³⁷

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 marketed by EFI.³⁸ The report is not required to be submitted in conjunction with DEO. The following is a list of statutorily required economic development related annual reports and their due dates:

Program	Statute	Date Report Due
Corporate income tax credits for spaceflight	s. 220.194(9), F.S.	November 30 – Separate report submitted to the Governor and Legislature (Beginning 2014)
State of Florida international offices	s. 288.012(3), F.S.	October 1 – Report submitted to DEO
Rural Economic Development	s. 288.0656(8), F.S.	On or before September

³⁴ “Clawback” means the recovery of a sum of money, especially by taxation or a penalty. Dictionary.com available at <http://dictionary.reference.com/browse/claw+back?s=t> (last visited April 5, 2013).

³⁵ Section 20.60(10), F.S.

³⁶ Section 288.903(3), F.S.

³⁷ Section 288.906(1) and (1)(a), F.S.

³⁸ Section 288.907(1), F.S.

Program	Statute	Date Report Due
Initiative		1 – Separate report submitted to the Governor and Legislature
Economic Development Trust Fund	s. 288.095(3)(c), F.S.	December 30 - Separate report submitted to the Governor and Legislature
Tax refund program for qualified target industry businesses	s. 288.106(7), F.S.	December 1 - Separate report submitted to the Governor and Legislature
Economic Gardening Business Loan Pilot Program	s. 288.1081(8), F.S.	June 30 December 31 Separate report submitted to the Governor and Legislature
Economic Gardening Technical Assistance Pilot Program	s. 288.1082(8), F.S.	December 31 - Separate report submitted to the Governor and Legislature
Quick Action Closing Fund	s. 288.1088(3), F.S.	Within 6 months after completion of the contract -Separate report submitted to the Governor and Legislature
Innovation Incentive Program	s. 288.1089(9) and (11)(a), F.S.	Within 90 days after the conclusion of the innovation incentive award agreement. Separate report submitted to the Governor and Legislature Report summarizing the activities and accomplishments of grant recipients from the Innovation Incentive Program during the previous 12 months. No specific date but in time to be submitted as part of the DEO's annual report.
Travel and Entertainment Expenses – Office of Film and Entertainment	s. 288.1253(3), F.S.	December 30 – Separate report submitted to the Legislature.
Entertainment Industry Financial Incentive Program	s. 288.1254(10), F.S.	October 1 - Separate report submitted to the

Program	Statute	Date Report Due
		Governor and the Legislature
Entertainment industry qualified production companies – relationship of tax exemptions and incentives to industry growth	s. 288.1258(5), F.S.	December 1 – Separate Report to the Legislature
Black Business Loan Program	s. 288.714(3), F.S.	August 31 - Separate report submitted to the Governor and Legislature
Florida Export Finance Corporation	s. 288.7771, F.S.	No specific date but should report on its assets and liabilities at the end of its most recent year and submitted in time to be incorporated into the DEO's annual report.
Annual Report of EFI	s. 288.906, F.S.	December 1 – Separate report due to the Governor and Legislature
Annual Incentives Report -EFI	s. 288.907, F.S.	December 30 – Separate report submitted to the Governor and the Legislature
Divisions of Enterprise Florida, Inc.	s. 288.92(3), F.S.	October 15
Florida Small Business Technology Growth Program	s. 288.95155(5), F.S.	No specific date – Report prepared for inclusion in DEO's annual report.
New Markets Development Program Act	s. 288.9918, F.S.	April 30 – Report submitted to DEO
Enterprise Zone Development Agency	s. 290.0056(11), F.S.	December 1 – Report submitted to DEO
Information detailing the usage and revenue impact of state incentives authorized for use in support of the Florida Enterprise Zone Act provided by the Department of Revenue (DOR).	s. 290.014(1), F.S.	February 1 – Report submitted to DEO
Information provided by the enterprise zone development agencies required under the Florida Enterprise Zone Act.	s. 290.014(2), F.S.	March 1 – Separate report but combined with the information provided by DOR submitted to the Governor and the Legislature.

Program	Statute	Date Report Due
Displaced Homemaker Program	s. 446.50(4), F.S.	January 1 – 3 year plan and annual updates submitted to the Governor and the Legislature.

Effect of Proposed Changes

The bill consolidates annual reporting requirements of statutorily required reports and information and incorporates them into reports prepared by DEO, EFI, and the Office of Film and Entertainment.

DEO Annual Report

The bill changes the due date of DEO's annual report from January 1 to November 1 and incorporates the annual reports of the following programs:

- Rural Economic Development Initiative.
- Economic Gardening Business Loan Pilot Program and the Economic Gardening Technical Assistance Pilot Program.
- Black Business Loan Program.
- Enterprise Zone Program.
- Displaced Homemaker Program.

Enterprise Florida, Inc. Annual Report

The bill directs EFI to include, as a supplement to its annual report, information or reports required for the following programs and activities:

- State of Florida International Offices.
- The Florida Export Finance Corporation.
- EFI's division reports.

Annual Incentives Report

The bill incorporates the following reports or information into the annual incentives report:

- Beginning in 2014, the summary of activities relating to the Florida Space Business Incentives Act.
- The Economic Development Trust Fund Annual Report. Section 288.095(3)(c), F.S., relating to the annual report and its components for the Economic Development Trust Fund is repealed and most of the provision is integrated into the annual incentives report, rather than a separate report. The following information originally required as part of the Economic Development Incentives Account Report must be incorporated in the annual incentives report:
 - Tax refunds or other payments funded out of the Economic Development Incentives Account for each project.
 - The types of projects supported.
 - Separate analysis of the impact of tax refunds on state enterprise zones, rural communities, brownfield areas, and distressed urban communities.
 - The name and tax refund amounts for each business receiving a tax refund under the qualified defense contractor and space flight business tax refund program or the tax refund program for qualified target industry businesses.
- Information on the causes of a business's inability to complete its Qualified Targeted Industry (QTI) incentives agreement.
- Validation by DEO, instead of EFI, of contractor performance for the Quick Action Closing Fund which makes it consistent with the Innovation Incentive Program.
- Validation of the Innovation Incentive Program to include the evaluation as to whether the recipients were catalysts for additional economic development in Florida, is also added to the report. The bill deletes the requirement for reporting on contractor performance 90 days after completion because it is included in the annual incentives report.

- Validation of contractor performance for incentives.
- Recommended changes to the underutilized incentive programs. Current law requires the annual incentive report to identify incentive programs that are not utilized.
- Florida Small Business Technology Growth Program.

The bill revises the annual incentives report to require it be a joint report by EFI and DEO. The report due date remains December 30 as provided in current law.

Office of Film and Entertainment

The bill changes the due date of the Office of Film and Entertainment's (OFE) annual report from October 1 to November 1 and consolidates the annual reports relating to the OFE by requiring the expenditures report and the report detailing the relationship between tax exemptions and incentives to industry growth³⁹ to be included. The report remains as a separate report submitted to the Governor and Legislature.

Space Florida Annual Report

The bill requires that the annual operations report be included as a supplement to the annual performance report.

Florida Small Business Development Center Network

Present Situation

Small Business Development Centers (SBDCs)

The Florida Small Business Development Center Network (Network) was established in 1976 pursuant to the Small Business Act⁴⁰ as a partnership between the U.S. Small Business Administration (SBA) and the post-secondary education system to provide business management and educational assistance directly to small businesses. The Network consists of eight affiliated SBDCs and 34 offices located throughout the state which are managed by the Lead Center at the University Of West Florida (UWF) as designated through cooperative agreement with SBA. The Lead Center, in addition to serving its local small business community, is also responsible for administering the activities of the Network through memoranda of understanding with each affiliated SBDC. The eight SBDCs are housed within UWF, Gulf Coast State College, Pam Beach State College, the University of North Florida, the University of Central Florida, The University of South Florida, Florida Gulf Coast University, and Florida Agricultural and Mechanical University.

Each SBDC provides services such as development of business plans, manufacturing assistance, financial packages, and procurement contracts. Special emphasis areas include:

- International trade and export assistance.
- E-commerce.
- Technology transfer.
- Assistance for veterans, including reservists, active duty, and disabled personnel returning from deployment.
- Disaster recovery assistance.
- IRS, EPA, and OSHA regulatory compliance.
- Research and development as well as market research.

Based on client needs and local business trends and individual business requirements, SBDCs modify their services to meet the evolving needs of the small business community in which they are situated.

The Network's statewide director is appointed by the President of UWF on a funded faculty line, and evaluated annually by the university. Directors and staff of the affiliate SBDCs are employees of their respective organizations and are not subject to termination or suspension by the Network director. An advisory board of no more than 23 members representing the various segments and industries of the Florida marketplace are appointed by the provost of UWF after being recommended by the eight regional SBDCs.

³⁹ See s. 288.1258(5), F.S.

⁴⁰ 15 U.S.C. § 648

Funding for the Network is supplied from federal, state, local, and private sources, including both cash and in-kind contributions. Federal funds must be matched through cash, indirect, and in-kind contributions. The Network receives no direct state matching funds, but does receive cash match and indirect contributions from host universities, colleges, economic development organizations, regional workforce boards, and some local governments. In-kind contributions are provided from chambers of commerce, private businesses, and other organizations. Each participating university is responsible for supplying the required cash match and indirect contributions to receive the federal funds available to each service area within the state.

According to the Network, in 2011 they served approximately 38,000 entrepreneurs and small business owners through consulting, training, and information, resulting in 43,856 created, retained and saved jobs; \$6 billion in sales growth; \$98.1 million in capital accessed; \$426.2 million in government contract awards; and 1,067 new businesses started.

Effect of Proposed Changes

The bill makes a number of changes to the Florida Small Business Development Center Network including changing the size and make-up of the statewide advisory board, codifying support services the Network must provide to small businesses, providing for performance incentives, and requiring annual reports to the Legislature.

Advisory Board

The statewide advisory board must consist of 19 members, of which include:

- 3 members from the private sector appointed by the Governor.
- 3 members from the private sector appointed by the Speaker of the House of Representatives.
- 3 members from the private sector appointed by the President of the Senate.
- 3 members from the private sector appointed by the statewide director.
- 1 member from the host institution.
- The Chief Financial Officer
- The president of Enterprise Florida, Inc.
- The president of the Florida Chamber of Commerce.
- The executive director of the Florida chapter of the National Federation of Independent Businesses.
- The executive director of the Florida United Business Association.
- The SBDC project officer from the SBA at the South Florida district office.

The bill requires that at least 12 members of the advisory board must be representatives of the private sector who are knowledgeable of the needs and challenges of small businesses. Members must represent various segments and industries of the state economy and bring knowledge and skills to the advisory board. Minority and gender representation must be considered when making appointments to the advisory board. The term of appointed members shall be for four years, except at the time of the initial appointments two members appointed by the Governor, one appointed by the Speaker of the House of Representatives, one appointed by the President of the Senate, and one appointed by the statewide director shall be appointed for two years.

Support Services

The statewide director, in consultation with the advisory board, is required to develop support services to be delivered through regional SBDCs and target the needs of businesses of less than 100 employees and demonstrate the capacity for growth. These support services must include providing information or research, consulting, educating, or assisting businesses with the following:

- Planning related to start-up, operation, or expansion of a small business enterprise.
- Developing and implementing strategic or business plans.
- Developing the financial literacy of existing businesses related to their business cash flow and financial management plans.
- Developing and implementing plans for existing businesses to access or expand to new or existing markets
- Supporting access to capital for business investment and expansion.

- Assisting existing businesses to plan for a natural or man-made disaster, and assisting businesses when such an event occurs.

The bill requires that businesses receiving support services must agree to participate in service assessments. Information to be provided by the businesses includes demographic characteristics, changes in employment and sales, debt and equity capital attained, and government contracts acquired. The host institution may require additional reporting requirements.

Performance Incentives

Any funding directly appropriated by the Legislature to the host institution specifically designated for the Network must be matched by the Network. Of that match, at least 50% must be cash. The remaining portion may be provided through any allowable combination of additional cash, in-kind contributions, or indirect costs.

The statewide director, coordinating with the host institution, must establish a pay-per-performance incentive for regional SBDCs funded by half of any state appropriation received directly by the host institution specifically for the Network. The distribution formula developed by the statewide director must be based in part on the gross number of jobs created annually by each regional SBDC and in part on the number of jobs created per support service hour. The incentive may not reduce matching funds dedicated to the regional SBDCs, but must supplement their operations and support services.

Half of the state funds received directly by the host institution designated for the Network shall be distributed to the statewide director who, in coordination with the advisory board, shall establish annual programs to distribute funds for the following purposes:

- Ensuring that support services are available statewide, including underserved and rural areas.
- Enhancing participation in the Network among state universities and colleges.
- Facilitating the adoption of innovative small business assistance best practices by the regional SBDCs.

The Network must announce the annual amount of funds available for each program, performance expectations, and other requirements. The statewide director is directed to present applications and make recommendations to the advisory board for final approval. The bill requires that the programs include, at a minimum, new regional SBDCs and awards for the top six regional SBDCs that adopt best practices.

If the statewide director determines that any regional SBDC has performed poorly, engaged in improper activity affecting the operation and integrity of the Network, or failed to follow the rules and procedures set forth in the laws, regulations, and policies governing the Network are not eligible to receive funds through the programs created by this bill.

Annual Reporting

The statewide director, in coordination with the advisory board, is directed to provide a report on June 30th of each year to the Speaker of the House of Representatives and the President of the Senate detailing the Network's progress and outcomes for the previous fiscal year. The report must include information regarding businesses assisted, services and programs, the use of funds specifically dedicated to the Network, and the Network's economic benefit to the state. The report must contain specific information on performance-based metrics and contain the methodology used to calculate the network's economic benefit to the state.

Florida Small Cities Community Development Block Grant Loan Guarantee Program

Present Situation

Chapter 290, F.S., provides that the intent of the Florida Small Cities Community Development Block Grant Program Act (CDBG) is to provide the necessary means to develop, preserve, redevelop, and revitalize Florida communities exhibiting signs of decline or distress by enabling local governments to undertake necessary community development programs. Mirroring the federal law, the overall objective of the program is to create viable communities by eliminating slum and blight, fortifying

communities in urgent need, providing adequate housing and suitable living environments, and expanding economic opportunities, principally for persons of low or moderate income.⁴¹

“Persons of low or moderate income” means any person who meets the definition established by the U.S. Department of Housing and Urban Development (HUD).⁴² HUD defines “persons of low income” as families and individuals whose incomes do not exceed 50 percent of the median income of a service area, as determined by HUD. “Persons of moderate income” are defined as families and individuals whose incomes exceed 50 percent, but do not exceed 80 percent of a service area, as determined by HUD.⁴³

Section 108 Loan Guarantee Program

Section 108 is the loan guarantee provision of the CDBG program.⁴⁴ Section 108 provides communities with a source of financing for economic development, housing rehabilitation, public facilities, and large-scale physical development projects. It allows eligible communities to transform a small portion of their CDBG funds into federally guaranteed loans large enough to pursue physical and economic revitalization projects. Such public investment is often needed to encourage private economic activity, providing the initial resources that private firms and individuals may need to invest in distressed areas. Section 108 loans are not risk-free, however; the principle security for the loan guarantee is a pledge by the state of its current and future CDBG funds.⁴⁵

Activities eligible for Section 108 financing include:⁴⁶

- Economic development activities eligible under CDBG.
- Acquisition of real property.
- Rehabilitation of publicly owned real property.
- Housing rehabilitation eligible under CDBG.
- Construction, reconstruction, or installation of public facilities (including street, sidewalk, and other site improvements).
- Related relocation, clearance, and site improvements.
- Payment of interest on the guaranteed loan and issuance costs of public offerings.
- Debt service reserves.
- Public works and site improvements.

DEO is authorized to pledge existing revenues on deposit or projected future revenues in the Florida Small Cities CDBG Program in order to guarantee the payment of principal or interest on a loan.⁴⁷

Upon a determination by DEO that the application meets eligibility requirements and the applicant has submitted the proposed activity to a loan underwriter for documentation of financial feasibility, DEO is required to submit all applications to HUD for approval, in the order received.⁴⁸ The local government must provide evidence to DEO that alternative financing was investigated and determined to be unavailable or insufficient to meet the financing needs of the activity.⁴⁹

The maximum amount of loan guarantee commitments that any eligible local government may receive may be limited to \$7 million.⁵⁰ The maximum amount of loan guarantee commitments statewide may not exceed an amount equal to five times the amount of the most recent grant received by DEO under

⁴¹ Section 290.0411, F.S.

⁴² Section 290.042(6), F.S.

⁴³ 42 U.S.C 5302 a.20.

⁴⁴ 24 C.F.R. 570, Subpart M, Loan Guarantees.

⁴⁵ U.S. Department of Housing and Urban Development, Section 108 Loan Guarantee Program, Loan Details, Security http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/programs/108 (last visited January 22, 2013).

⁴⁶ *Id.*

⁴⁷ Section 290.0455(3), F.S.

⁴⁸ Section 290.0455(4), F.S.

⁴⁹ Section 290.0455(7), F.S.

⁵⁰ See 24 C.F.R., s. 570.705.

the Florida Small Cities CDBG Program.⁵¹ Loans guaranteed by the program must be repaid within 20 years.⁵²

Current Section 108 Loans:⁵³

HUD has approved three Section 108 loans since the inception of Florida's Small Cities CDBG. In 2001, HUD approved the first Section 108 Loan for a major economic development project in the City of Alachua. This loan, in the amount 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, historic Harder Hall. In late 2006, the developer for the project, Joran Realty, experienced financial shortfalls, filed bankruptcy and work ceased 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.

Effect of Proposed Changes

The bill revises the provisions relating to the Section 108 Loan Guarantee Program to reduce the risk to the state and eligible local governments. The bill requires an applicant approved by HUD to receive a Section 108 loan to enter into an agreement with DEO, which requires the applicant to pledge half the amount necessary to guarantee the loan in the event of default.

The bill clarifies that DEO is directed to review all Section 108 loan applications in the order received, subject to a determination that each application meets all eligibility requirements and has been deemed financially feasible by a loan underwriter approved by DEO. If the statewide maximum available for loan guarantee commitments has not been committed, then DEO is authorized to submit the Section 108 loan application to HUD, with a recommendation that the loan be approved, with or without conditions, or be denied.

In order to reduce the state's risk, the bill reduces from \$7 million to \$5 million the maximum amount of an individual loan guarantee commitment that an eligible local government may receive and reduces the maximum amount of loan guarantee commitments statewide from 5 times to 2 times the amount of the most recent grant received by DEO under the Small Cities CDBG Program. The \$5 million loan guarantee limit does not apply to loans guaranteed prior to July 1, 2013, that may be financed. If a local government defaults on a Section 108 loan requiring DEO to reduce its annual grant award in order 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 the debt service on the loan.

Additionally, if a local government is a recipient of a Section 108 loan guarantee through the Small Cities CDBG Program and is granted entitlement status by HUD prior to paying the loan in full, the local government must pledge its CDBG entitlement allocation as a guarantee of its previous loan and request HUD to release DEO as the guarantor of the loan.

Enterprise Zones in Rural Communities

Present Situation

Enterprise Zones

The Florida Enterprise Zone Program was created in 1982 to encourage economic development in economically distressed areas of the state by providing incentives and inducing private investment. Currently, Florida has 65 enterprise zones.⁵⁴

⁵¹ Section 290.0455(5), F.S.

⁵² Section 290.0455(6), F.S.

⁵³ Florida Department of Economic Opportunity, Division of Community Development, Email dated January 29, 2013.(On file with the House Economic Development & Tourism Subcommittee.)

Sections 290.001-290.016, F.S., authorize the creation of enterprise zones and establish criteria and goals for the program. Prior to submitting an application for an enterprise zone, a local government body must determine that an area:

- Has chronic extreme and unacceptable levels of poverty, unemployment, physical deterioration, and economic disinvestment.
- Needs rehabilitation or redevelopment for the public health, safety, and welfare of the residents in the county or municipality.
- Can be revitalized through the inducement of the private sector.

An area nominated by a county or municipality, or a county and one or more municipalities together, for designation as an enterprise zone must meet the following criteria:

- The selected area does not exceed 20 square miles.
- The selected area must have a continuous boundary, or consist of not more than three noncontiguous parcels.
- The selected area does not exceed the following mileage limitation:⁵⁵

Community Population	Mileage Limit
150,000 or more	20 sq. mi.
50,000 - 149,999	10 sq. mi.
20,000 - 49,999	5 sq. mi.
7,500 - 19,999	3 sq. mi.
7,499 or less	3 sq. mi.

DEO is responsible for approving applications for enterprise zones, and also approves changes in enterprise zone boundaries when authorized by the Florida Legislature. As part of the application process for an enterprise zone, the county or municipality in which the designation will be located also is responsible for creating an Enterprise Zone Development Agency and an enterprise zone development plan.

As outlined in s. 290.0056, F.S., an Enterprise Zone Development Agency is required to have a board of commissioners of at least eight, and no more than thirteen, members. The agency has the following powers and responsibilities:

- Assisting in the development, implementation and annual review of the zone and updating the strategic plan or measurable goals.
- Identifying ways to remove regulatory burdens.
- Promoting the incentives to residents and businesses.
- Recommending boundary changes.
- Working with nonprofit development organizations.
- Ensuring the enterprise zone coordinator receives annual training and works with EFI.

Pursuant to s. 290.0057, F.S., an enterprise zone development plan (or strategic plan) must accompany an application. At a minimum this plan must:

- Describe the community's goal in revitalizing the area.
- Describe how the community's social and human resources—transportation, housing, community development, public safety, education, and environmental concerns—will be addressed in a coordinated fashion.
- Identify key community goals and barriers.
- Outline how the community is a full partner in the process of developing and implementing this plan.
- Describe the commitment from the local governing body in enacting and maintaining local fiscal and regulatory incentives.

⁵⁴ 2013 Fact Sheet, Florida Enterprise Zone Program, The Department of Economic Opportunity, on file with the Economic Development & Tourism Subcommittee.

⁵⁵ Section 290.0055(4)(a) and (b), F.S.

- Identify the amount of local and private resources available and the private/public partnerships.
- Indicate how local, state, and federal resources will all be utilized.
- Identify funding requested under any state or federal program to support the proposed development.
- Identify baselines, methods, and benchmarks for measuring success of the plan.

Available Incentives

Florida's enterprise zones qualify for various incentives from corporate income tax and sales and use tax liabilities. Examples of local incentives include: utility tax abatement, reduction of occupational license fees, reduced building permit fees or land development fees, and local funds for capital projects.

Available state sales tax incentives for enterprise zones include:

- Building Materials Used in the Rehabilitation of Real Property Located in an Enterprise Zone - Provides a refund for sales taxes paid on the purchase of certain building materials, up to \$5,000 or 97 percent of the tax paid.
- Business Equipment Used in an Enterprise Zone - Provides a refund for sales taxes paid on the purchase of certain equipment, up to \$5,000 or 97 percent of the tax paid.
- Rural Enterprise Zone Jobs Credit against Sales Tax - Provides a sales and use tax credit for 30 or 45 percent of wages paid to new employees who live within a rural county.
- Urban Enterprise Zone Jobs Credit against Sales Tax - Provides a sales and use tax credit for 20 or 30 percent of wages paid to new employees who live within the enterprise zone.
- Business Property Used in an Enterprise Zone - Provides a refund for sales taxes paid on the purchase of certain business property, up to \$5,000 or 97 percent of the tax paid per parcel of property, which is used exclusively in an enterprise zone for at least 3 years.
- Community Contribution Tax Credit - Provides 50 percent sales tax refund for donations made to local community development projects.
- Electrical Energy Used in an Enterprise Zone - Provides 50 percent sales tax exemption to qualified businesses located within an enterprise zone on the purchase of electrical energy.

Available state corporate income tax incentives for enterprise zones include:

- Rural Enterprise Zone Jobs Credit against Corporate Income Tax - Provides a corporate income tax credit for 30 or 45 percent of wages paid to new employees who live within a rural county.
- Urban Enterprise Zone Jobs Credit against Corporate Income Tax - Provides a corporate income tax credit for 20 or 30 percent of wages paid to new employees who live within the enterprise zone.
- Enterprise Zone Property Tax Credit - Provides a credit against Florida corporate income tax equal to 96 percent of ad valorem taxes paid on the new or improved property.
- Community Contribution Tax Credit - Provides a 50 percent credit on Florida corporate income tax or insurance premium tax, or a sales tax refund, for donations made to local community development projects.

Rural Areas of Critical Economic Concern (RACEC)

RACECs are a collection of rural communities, or a region composed of rural communities, that have been adversely affected by extraordinary economic events or natural disasters. RACECs are designated based on measures of economic interdependence among the rural counties in the following geographic regions: northwest Florida, north central Florida, and south central Florida.

A RACEC designation establishes each region as a priority assignment for state agencies and allows the Governor to waive criteria for certain economic development incentives including, but not limited to: the Qualified Target Industry Tax Refund Program, the Quick Response Training Program, the Rural Job Tax Credit Program and certain transportation projects.⁵⁶ RACEC counties in each region also partner in creating catalyst sites that will attract key businesses.

Effect of Proposed Changes

⁵⁶ Section 288.0656(7)(a), F.S.
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DATE: 4/22/2013

The bill amends s. 290.0055 (6)(d)1, F.S., to allow for any enterprise zone that is at least 15 square miles and less than 20 square miles and includes a portion of the state designated as a rural area of critical economic concern (RACEC) to expand the boundary of the enterprise zone up to 3 miles. Also, any enterprise zone that is at least 20 square miles and includes a portion of the state designated as a RACEC to expand the boundary of the enterprise zone up to 5 miles.

An application to expand the boundary of an enterprise zone under the new criteria must be submitted by December 31, 2013.

The Brownfields Redevelopment Act

Present Situation

In 1995, the U.S. Environmental Protection Agency (EPA) initiated a program to empower states, communities, and other stakeholders in economic redevelopment to work together in a timely manner to prevent, assess, safely clean up, and reuse brownfields.⁵⁷ The federal brownfields program was significantly expanded on January 11, 2002, when President Bush signed into law the Small Business Relief and Liability and Brownfields Revitalization Act,⁵⁸ also known as the “Brownfields Amendments.”

The main purpose of this new law was to create incentives for the redevelopment of brownfield properties and Superfund sites and provide grants to assess or cleanup a brownfields property.

Florida followed federal law in 1997⁵⁹ when the Legislature enacted the Brownfields Redevelopment Act⁶⁰ (Act) to provide incentives for the private sector to redevelop abandoned or underused real property, the development of which was complicated by real or perceived environmental contamination. The Act provides legislative intent; a brownfield area designation process; environmental cleanup criteria; a program administration process; eligibility criteria and liability protections; and economic and financial incentives.

A “brownfield area” is a contiguous area of one or brownfield sites, some of which may not be contaminated, and which has been designated by local government resolution. Such areas may include all or portions of community redevelopment areas, enterprise zones, empowerment zones; other such designated economically deprived communities and areas, and Environmental Protection Agency-designated brownfield pilot projects.⁶¹

The Act also created the Brownfields Redevelopment Bonus Refund. This provision in the Act authorizes from the Economic Development Incentives Account a bonus refund of \$2,500 to any qualified target industry business for each new Florida job created in a brownfield and claimed on the business’s annual refund claim.⁶²

As an economic incentive, current law authorizes a sales tax exemption on building materials in a housing project or mixed use housing project in a redevelopment area such as a designated brownfield area.⁶³

Effect of Proposed Changes

The bill amends the definition of “housing project” and “mixed-use project” to specify that a redevelopment project located in a brownfield site for which a rehabilitation agreement with the Department of Environmental Protection (DEP) or a local government delegated by DEP has been executed under the Brownfields Redevelopment Act and any abutting real property parcel within a brownfield area is eligible for the sales tax exemption.

⁵⁷ U.S. Environmental Protection Agency, Brownfields and Land Revitalization, Community Reinvestment Fact Sheet, <http://www.epa.gov/swerosps/bf/laws/cra.htm> (last visited February 20, 2013).

⁵⁸ Public Law No. 107-118, 115 stat. 2356.

⁵⁹ Chapter 97-277, L.O.F.

⁶⁰ Sections 376.77 – 376.86, F.S., are known as the “Brownfields Redevelopment Act.”

⁶¹ Section 376.79(4), F.S. “Brownfield sites” are real property, the expansion, redevelopment, or reuse of which may be complicated by actual or perceived environmental contamination. Section 376.79(3), F.S.

⁶² Section s. 288.107, F.S.

⁶³ Section 212.08(5)(o), F.S.

The bill also amends the brownfield redevelopment bonus refund to specify that in order to be eligible for the bonus refund for a qualified target industry agreement, the jobs must be created in a brownfield area eligible for bonus refunds. The term “brownfield area eligible for bonus refunds” is amended to specify that an eligible area is a brownfield site for which a rehabilitation agreement with DEP or a local government delegated by DEP has been executed under the Brownfields Redevelopment Act and any abutting real property parcel within a brownfield area which has been designated by a local government.

The bill further provides that the amendments to ss. 212.08(5)(o) and 288.107, F.S., made by this act do not apply to building materials purchased before the effective date of the act or to contracts for brownfield redevelopment bonus refunds executed by DEO or EFI prior to the effective date of this act.

Reemployment Assistance

Present Situation

The Federal-State Unemployment Insurance Program provides unemployment benefits to eligible workers who are unemployed through no fault of their own, as determined by state law, and meet the requirements of state law. The program is administered as a partnership of the federal government and the states.

Florida’s Reemployment Assistance (RA) Program is funded solely by employers who pay quarterly state reemployment taxes provided in ch. 443, F.S., and annual payroll taxes under the Federal Unemployment Tax Act (FUTA).⁶⁴ State reemployment taxes are deposited into the Unemployment Compensation Trust Fund (UC Trust Fund), which are then used to pay reemployment benefits at no cost to eligible workers. Taxes collected from employers pursuant to FUTA fund the administrative costs of the RA Program. A portion of these funds is also used to finance the federal share of the Extended Benefits program, which is available during periods of high unemployment.

In general, states are permitted to set eligibility conditions for benefit recipients, the amount and duration of benefits, and the state tax structure, so long as state provisions are not in conflict with FUTA or the Social Security Act.⁶⁵

Program Administration

The Department of Economic Opportunity is the agency responsible for administering the RA program.⁶⁶ DEO contracts with the Department of Revenue (DOR) to provide reemployment tax collection services. The United States Department of Labor (USDOL) provides DEO with administrative resource grants from the taxes collected from employers pursuant to FUTA. These funds finance the processing of claims by DEO, state reemployment tax collections performed by DOR, appeals conducted by DEO and the Unemployment Appeals Commission, and related administrative functions.

DEO administers Florida’s RA laws through the Office of Reemployment Assistance within the Division of Workforce Services. The Office is divided into two sections, the Claims and Benefits Office, and the Appeals Office. The Claims and Benefits Office handles initial claims, questions about reemployment assistance benefits, and monitors the payment of unemployment benefits in an effort to detect and deter overpayment and to prevent fraud. The Appeals Office holds hearings and issues decisions to resolve disputes related to eligibility, claims, and the payment and collection of reemployment taxes compensation taxes.

Reemployment Appeals Commission

Administratively housed in DEO, the Commission is a quasi-judicial administrative appellate body independent of DEO. The Commission is 100 percent federally funded and consists of a three member panel that is appointed by the Governor. It is the highest level for administrative review of contested reemployment cases decided by appeals referees.

Benefit Structure

⁶⁴ Federal Unemployment Tax Act is codified at 26 U.S.C. 3301-3311.

⁶⁵ Title III, Title IX, and Title XII of the Social Security Act.

⁶⁶ Sections 20.60(5)(c)(3) and 443.171, F.S.

Qualified claimants may receive state reemployment benefits equal to 25 percent of their wages, not to exceed \$6,325 in a benefit year.⁶⁷ Benefits range from a minimum of \$32 to a maximum weekly benefit amount of \$275 for up to 23 weeks, depending on the claimant's length of prior employment and wages earned.⁶⁸

The number of benefit weeks and total benefit amount is subject to the "Florida average unemployment rate," which is used to determine the maximum benefit weeks a claimant may receive. If the Florida average unemployment rate is 10.5% or higher, a claimant is eligible for up to a maximum of 23 weeks. If the Florida average unemployment rate is 5% or below, the maximum number of available weeks is 12. Each 0.5% increment in the unemployment rate above 5% adds an additional week of benefits.

To receive unemployment compensation benefits, claimants must meet certain monetary and non-monetary eligibility requirements.⁶⁹ Key eligibility requirements include a claimant's earnings during a certain period of time, the manner in which the claimant became unemployed, and the claimant's efforts to find new employment.

Monetary Eligibility

Pursuant to s. 443.111(2), F.S., in order to establish a benefit year from which UC benefits can be paid, an individual must:

- Have been paid wages in two or more calendar quarters in the base period.
- Have minimum total base period wages equal to the high quarter wages multiplied by 1.5, but at least \$3,400 in the base period.

The base period is the first four of the last five completed calendar quarters immediately before the individual filed a valid claim for benefits.⁷⁰ The most recent quarter of work (or fifth completed calendar quarter) is not used to determine monetary eligibility and cannot be credited toward the two-quarter requirement or the \$3,400 requirement.

Non-monetary Eligibility

The state's UC laws contemplate that a claimant was employed in the capacity of an employee, and not an independent contractor. A claimant must be unemployed due to layoffs or otherwise through no fault of their own to be eligible for benefit payments. An individual may be disqualified from receiving UC benefits for voluntarily leaving work without good cause, or being discharged by his or her employing unit for misconduct.

Good Cause

The term "good cause" means only that cause attributable to the employer which would compel a reasonable employee to cease work or which consists of illness or disability of the individual requiring separation from work. An individual who voluntarily quits work for a cause not related to any of the conditions specified in statute will be disqualified from receiving benefits.⁷¹

Misconduct

Florida law provides several provisions of what constitutes misconduct for the purpose of non-monetary eligibility. Under s. 443.036(30), F.S., Florida disqualifies claimants that demonstrate the following:

- Conduct demonstrating conscious disregard of an employer's interests and found to be a deliberate violation or disregard of the reasonable standards of behavior.
- Carelessness or negligence to a degree or recurrence that manifests culpability or wrongful intent, or shows an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations.

⁶⁷ Section 443.111(5), F.S.

⁶⁸ Section 443.111(3), F.S. A benefit week begins on Sunday and ends on Saturday.

⁶⁹ Section 443.091(1), F.S.,

⁷⁰ Section 443.036(7), F.S.

⁷¹ Section 443.101, F.S.

- Chronic absenteeism or tardiness in deliberate violation of a known policy of the employer or one or more unapproved absences following a written reprimand related to such absences.
- Willful and deliberate conduct that causes the employer to be sanctioned or have its license or certification suspended by this state.
- A violation of an employer's rule. A violation is not considered misconduct if the claimant can demonstrate that the rule is unlawful or not reasonably related to the job, enforced inconsistently or unfairly, or if such rule's requirements were not reasonably known to the claimant.

Initial Skills Review

After UC benefits eligibility has been established, a claimant must complete an initial skills review as a reporting requirement under s. 443.091, F.S. As established by the DEO, the online initial skills review assessment contains three required sections: applied mathematics, reading for information, and locating information. Test scores measure skill level by dividing each section into three proficiency levels, ranging from a minimum of three to a maximum of five.⁷² The initial skills review administrator reports the results of the review to DEO and the appropriate workforce board or one-stop career center. The workforce board must develop a plan for referring individuals to training and employment opportunities.

Work Search Requirements

To maintain eligibility for benefits, an individual must also be ready, willing, and able to work and actively seeking work.⁷³ Claimants are required to contact at least five prospective employers for each week of unemployment claimed. For claimants residing in a small county as defined by s. 120.52(19), F.S., the number of required weekly employer contacts is reduced to three.⁷⁴ DEO may require the claimant to provide proof of such efforts to the one-stop center and may conduct random audits of work search information provided by claimants. As an alternative to contacting at least five prospective employers each week, a claimant may report once-a-week in person to a one-stop center to meet with a representative and access reemployment services.

Claimants are automatically registered with their local One-Stop Career Center when their claims are filed online. The One-Stop Career Centers provide job search counseling and workshops, occupational and labor market information, referral to potential employers, and job training assistance. Claimants may also receive an e-mail from the Employ Florida Marketplace with information about employment services or available jobs.⁷⁵ Additionally, a claimant may be selected to participate in reemployment assistance services, such as Reemployment and Eligibility Assessments (REAs).⁷⁶

Other circumstances under which an individual would be disqualified from receiving unemployment compensation benefits include:⁷⁷

⁷² Scoring a "5," indicates foundational career readiness skills for on average 90 percent of jobs. Conversely, scoring a "3," indicates foundational career readiness skills for on average 30 percent of jobs.

⁷³ Section 443.036(1) and (6), F.S., provide the meaning of the phrases "able to work" and "available for work" as:

- "Able to work" means physically and mentally capable of performing the duties of the occupation in which work is being sought.
- "Available for work" means actively seeking and being ready and willing to accept suitable employment.
- Additionally, DEO has adopted criteria, as directed in the statute, to determine an individual's ability to work and availability for work in Rule 60BB-3.021, F.A.C.

⁷⁴ "Small county" means any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census.

⁷⁵ Employ Florida Marketplace is a partnership of Workforce Florida, Inc., and DEO. It provides job-matching and workforce resources. <https://www.employflorida.com>, last visited April 4, 2013.

⁷⁶ REAs are in-person interviews with selected UC claimants to review the claimants' adherence to state UC eligibility criteria, determine if reemployment services are needed for the claimant to secure future employment, refer individuals to reemployment services, as appropriate, and provide labor market information which addresses the claimant's specific needs. Florida administers the REA Initiative through local One-Stop Career Centers. Rule 60BB-3.028, F.A.C., further sets forth information on reemployment services and requirements for participation.

⁷⁷ Section 443.101, F.S. The statute specifies the duration of the disqualification depending on the reason for the disqualification.

- Failing to apply for available suitable work when directed by DEO, to accept suitable work when offered, or to return to suitable self-employment when directed to do so.
- Receiving remuneration in the form of wages, severance pay, or compensation for temporary total disability or permanent total disability under the workers' compensation law of any state with a limited exception.⁷⁸
- Receiving benefits from a retirement, pension, or annuity program with certain exceptions.
- Receiving unemployment compensation from another state.
- Terminated for any crime committed in connection with work for which the employee was convicted or entered a plea of guilty or nolo contendere, or any dishonest act in connection with his or her work.
- Making false or fraudulent representations in filing for benefits.
- Discharge from employment due to drug use or rejected for offered employment due to a positive confirmed drug test.
- Involvement in an active labor dispute which is responsible for the individual's unemployment.
- Illegal immigration status.
- Unavailable for work due to incarceration or imprisonment.

Determinations and Appeals

Based upon information provided with filed claims for benefits, DEO makes an initial determination on entitlement to benefits. Unless a party to a claim files a request for reconsideration within 20 days of the date the determination is mailed, such determination becomes final.⁷⁹ The Department is required to review the information on which the request is based and issue a redetermination.

If a claimant or employer is not satisfied with the initial determination or redetermination, either party may file, within 20 days, a request for an administrative hearing before an appeals referee. Appeals referees in Department's Appeals Section hold hearings and issue decisions to resolve disputes related to eligibility, claims, and the payment and collection of reemployment taxes.

A party may request the Reemployment Assistance Appeals Commission to review a referee's decision. The Commission can affirm, reverse, or remand the referee's decision for further proceedings. A review of the Commission's order can be sought through a Florida district court of appeal.

Tax Structure

Through the FUTA, the IRS levies an unemployment tax of 6.0% on employers.⁸⁰ This tax is applied to a taxable wage base of \$7,000 per employee. Federal law provides employers up to a 5.4%, credit against that tax. Due to having outstanding federal advances for more than two years, Florida had its FUTA tax credit reduced by 0.6% for the 2012 tax year.

In addition to FUTA, Florida employers pay a state reemployment tax which funds the UC Trust Fund, an account used to pay weekly benefits. Currently, employers pay quarterly state reemployment taxes on the first \$8,000 of each employee's annual wages.⁸¹

An employer's initial state tax rate is 2.7 percent.⁸² After an employer is subject to benefit charges for 8-calendar quarters, the standard tax rate is 5.4 percent, but may be adjusted down to a low of 1.0 percent.⁸³ The adjustment in the tax rate is determined by calculating a statutory formula that incorporates an employer's experience rating,⁸⁴ size of the UC Trust Fund, and other socialized costs.

Interest Assessments

⁷⁸ Wages in lieu of notice is income deemed to have been earned in connection with employment. If the employee has received severance pay from an employer, an employee is disqualified from benefits in an amount based on the formula provided in s. 443.101(3)(b), F.S.

⁷⁹ Section 443.151(3), F.S.

⁸⁰ The FUTA surcharge of .02% expired on June 30, 2011. This reduced the federal tax rate for employers from 6.2% to 6.0%.

⁸¹ Section 443.1217(2), F.S.

⁸² Section 443.131(2)(a), F.S.

⁸³ Section 443.131(2)(b), F.S.

⁸⁴ Section 443.131(3)(b), F.S.

When persistent high unemployment causes state UC Trust Funds to fall into deficit, states are authorized to seek advances from the federal government in order to continue the payment of reemployment benefits. Since 2009, Florida has borrowed \$3.5 billion and, of this total, \$647 million remains outstanding. According to the Revenue Estimating Conference (REC), all federal advances should be repaid by June of 2013 and a final interest payment of \$9.6 million will be due on September 30, 2013.

Section 443.131(5), F.S., imposes an additional assessment on employers to pay the interest on federal advances. Using the interest estimate provided by the REC, the Department of Revenue is required to calculate and bill the assessment before February 1st of this year. An employer has until June 30th to pay this assessment. Current law provides that any remaining assessments on deposit in the Audit and Warrant Clearing Trust Fund are to be credited to employer accounts after all federal advances and associated interest due has been paid.

Fraudulent Claims

Under current law, claimants found to be collecting benefits fraudulently are disqualified from receiving benefits from the date the fraudulent claim was made. This disqualification may continue up to one year from the date DEO discovers a fraudulent claim and until any fraudulent overpayments are repaid in full.⁸⁵ Federal law requires states to assess a penalty, equal to at least 15 percent of the amount overpaid, on any claimant who fraudulently receives benefits.⁸⁶ Currently, Florida does not apply a penalty for fraudulent overpayments.

Confidential Information

Federal regulations require Florida to provide penalties for the unlawful disclosure of confidential information related to the RA Program.⁸⁷ Florida's penalties were inadvertently removed from statute in 2012.

Reemployment Assistance Claims and Benefits Information System

Section 443.1113, F.S., provides for DEO to create a unified internet portal to replace several outdated electronic processing systems. The system is required to be fully operational by June 30, 2013.⁸⁸ According to DEO, the vendor deploying the system will be unable to meet this deadline.

Effect of Proposed Changes

Non-Monetary Eligibility

Employment Related Licenses

The bill provides that DEO may disqualify a claimant for reemployment benefits, if the Department finds the claimant was discharged from employment for failure to maintain a license, registration, or certification. The license, registration and certification must be required by law and necessary for the claimant to perform his or her job duties. Further, if a claimant can provide good cause for failing to possess required documentation, the claimant is entitled to reemployment benefits. The bill stipulates that good cause in this instance includes, but is not limited to:

- Failure of the employer to submit information required for license, registration or certification.
- Short-term physical injury which prevents an employee from completing or taking a required test.
- Inability to take or complete a required test due to a circumstance that is outside of the employee's control.

Misconduct

The bill adds the following examples of misconduct to s. 443.036, F.S.:

- Willful damage to an employer's property that results in damage of more than \$50.

⁸⁵ Section 443.101(6), F.S.

⁸⁶ The Trade Adjustment Assistance Extension Act of 2011, P.L. 112-40.

⁸⁷ 20 C.F.R. part 603.

⁸⁸ Section 443.1113(4)(b), F.S.

- Theft of an employer's property or property of a customer or invitee of an employer.
- Criminal assault or battery on an employee, customer, or invitee of the employer.
- Abuse or neglect of a patient, resident, disabled person, elderly person, or child under his or her professional care.

Misconduct under this statute is not limited to the conduct provided in the examples above. In addition, the examples specified in this bill clarify but do not affect the function of the statute.

Work Search Requirements and Initial Skills Review

Related to a claimant's proof of work search efforts, the bill provides that a claimant may not include a single employer for three consecutive benefit weeks, unless after the initial contact the employer indicates the intention to hire additional employees. Further, the bill exempts claimants participating in reemployment services from work search requirements in s. 443.091, F.S. The bill also exempts certain individuals from online registration requirements and the initial skills review.

Appeals Referees

Effective January 1, 2014, the bill requires a practicing appeals referee to be admitted to the Florida Bar within eight months after commencement of employment. The bill stipulates that DEO must implement this requirement by attrition.

Fraudulent Claims

The bill assesses a penalty, equal to 15 percent of the amount overpaid, on any claimant who fraudulently acquires reemployment benefits. Any recovered penalties must be deposited into the Unemployment Compensation Trust Fund.

Interest Assessments

The bill authorizes DOR to use assessments on deposit in the Audit and Warrant Clearing Trust Fund and any earned interest to pay the interest on advances received from the federal government. Further, the bill provides that no additional assessment on employers may occur if remaining assessments on deposit, plus any earned interest, is at least 80 percent of the estimated amount of the interest due on federal advances. The bill also provides that any excess assessments will be transferred to the Unemployment Compensation Trust Fund four months after all federal advances are repaid. The provisions related to interest assessments on federal advances will sunset on July 1, 2014.

Confidential information

The bill provides penalties for the unlawful disclosure of confidential information.⁸⁹ This provision aligns s. 443.1715, F.S., with federal requirements and corrects a drafting error.

Reemployment Assistance Claims and Benefits Information System

The bill extends the deadline by which the system must be operational to June 30, 2014.

Unless otherwise provided in the bill, CS/HB 7007 takes effect upon becoming a law

B. SECTION DIRECTORY:

Section 1: Amends s. 20.60(10), F.S., relating to the Department of Economic Opportunity; creation; powers; and duties, to change the due date of DEO's annual report from January 1 to November 1 and directs DEO to incorporate various economic development reports into the agency's annual report prepared in consultation with Enterprise Florida, Inc. on the condition of the business climate and economic development in the state and submitted to the Governor and Legislature.

Section 2: Amends s. 201.15(1), F.S., relating to distribution of taxes collected, to delete an outdated provision related to the Grants and Donations Trust Fund.

⁸⁹ The bill provides that a violation under s. 443.1715(1), F.S., is a misdemeanor of the second degree, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S.

Section 3: Amends s. 212.08(5), F.S., relating to sales tax exemptions for the building materials used in redevelopment projects, to specify that the definitions of “housing project” and “mixed-use project” include a brownfield site for which a rehabilitation agreement with Department of Environmental Protection (DEP) or a local government delegated by DEP has been executed under the Brownfields Redevelopment Act and any abutting real property parcel within a brownfield area.

Section 4: Amends s. 213.053(8), F.S., relating to confidentiality and information sharing, to allow the Department of Revenue to share certain information with the Office of Program Policy Analysis and Government Accountability and the Office of Economic and Demographic Research.

Section 5: Amends s. 220.194(9), F.S., relating to corporate income tax credits for spaceflight projects, to require a summary of the activities relating to the Florida Space Business Incentives Act be included in the annual incentives report required in s. 288.907, F.S.

Section 6: Amends s. 288.001, F.S., relating to the Small Business Development Center, to include certain changes related to the statewide advisory board, support services offered, performance incentives, and annual reporting requirements.

Section 7: Amends s. 288.005(4), F.S., relating to definitions used in chapter 288, F.S., commercial development and capital improvements, to include a definition of “jobs.”

Section 8: Amends s. 288.012(3), F.S., relating to the State of Florida international offices; state protocol officer; protocol manual, to require each international office to submit its annual report to Enterprise Florida, Inc.(EFI) for inclusion in EFI’s required annual report pursuant to s. 288.906, F.S.

Section 9: Amends s. 288.061, F.S., relating to economic development incentive applications, to require DEO to review and evaluate each economic development incentive application for economic benefits using a model to be developed by the Office of Economic and Demographic Research (EDR). Applicants for the Quick Action Closing Fund and the Innovative Incentive Program economic development incentives must obtain a surety bond for the amount of the award before any state funds may be dispersed.

Section 10: Amends s. 288.0656(8), F.S., relating to the Rural Economic Development Initiative, to require its annual report to be included as a supplement to DEO’s annual report pursuant to s. 20.60, F.S.

Section 11: Creates s. 288.076, F.S., relating to the return on investment reporting for economic development programs, to establish a formal economic development incentive publication process to be implemented by DEO.

Section 12: Creates s. 288.0761, F.S., to establish the Economic Development Programs Evaluation. EDR and the Office of Program Policy Analysis and Government Accountability (OPPAGA) are directed to coordinate a work plan for completing the evaluation of the state’s economic development programs and must submit the work plan to the Legislature by July 1, 2013.

Section 13: Repeals s. 288.095(3)(c), F.S., the requirement for EFI to submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on activities relating to the Economic Development Incentives Account, including an analysis of benefits and costs, types of projects supported, and employment and investment created.

Section 14: Amends s. 288.106(4) (c) and (7)(d), F.S., relating to the tax refund program for qualified target industry businesses, to require each application to include whether a business received economic development incentives in other states and the results of such incentive agreements; and to require DEO to submit its findings and recommendations regarding DEO’s attempt to determine the causes for a business’s failure to complete its agreement in the annual incentives report pursuant to s. 288.907, F.S.

Section 15: Amends s. 288.107, relating to brownfield redevelopment bonus refunds, to specify the eligibility for the award of such refunds.

Section 16: Amends s. 288.1081(8), F.S., relating to Economic Gardening Business Loan Pilot Program, to report information regarding this program be included in DEO's annual report pursuant to s. 20.60, F.S., rather than submitted to the Governor and Legislature as a separate report.

Section 17: Amends s. 288.1082(8), F.S., relating to the Economic Gardening Technical Assistance Pilot Program to require the report information relating to this program be included in DEO's annual report pursuant to s. 20.60, F.S., rather than submitted to the Governor and Legislature as a separate report.

Section 18: Amends s. 288.1088(3)(e), F.S., relating to the Quick Action Closing Fund, to require contractor performance validation be included in the annual incentives report pursuant to s. 288.907, F.S.

Section 19: Amends s. 288.1089(4), (9) and (11), F.S., relating to the Innovation Incentive Program to delete the requirement that at the conclusion of an innovation incentive award agreement or its early termination, DEO submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives detailing whether recipients of innovation incentive grants achieved its outcomes; providing that such information be included in the annual incentives report pursuant s. 288.907, F.S. The section is further amended to require the report summarizing the activities and accomplishments of the Innovation Incentive Program's grant recipients from the previous 12 months to be included in the annual incentives report pursuant to s. 288.907, F.S.

Section 20: Amends s. 288.1253(3), F.S., relating to travel and entertainment expenses for the Office of Film and Entertainment to require the annual report of the expenditures of the OFE to be included in the annual report required under the Entertainment Industry Financial Incentive Program pursuant to s. 288.154(10), F.S.

Section 21: Amends s. 288.1254(10), F.S., relating to the Entertainment Industry Financial Incentive Program to change the due date of the annual report from October 1 to November 1 and to require the annual report to include the OFE's expenditure report pursuant to s. 288.1253(3), F.S., and the report detailing the relationship between tax exemptions and incentives to industry growth pursuant to s. 288.1258(5), F.S.

Section 22: Amends s. 288.1258(5), F.S., relating to entertainment industry qualified production companies, to require the annual report on the relationship of tax exemptions and incentives to industry growth to be included in the Entertainment Industry Financial Incentive Program annual report pursuant to s. 288.1254(10), F.S.

Section 23: Amends s. 288.714(3), F.S., relating to the quarterly and annual reports for the Black Business Loan Program, to require the annual report to be included in DEO's annual report pursuant to s. 20.60, F.S.

Section 24: Amends s. 288.7771, F.S., relating to the annual report for the Florida Export Finance Corporation, to require the report be submitted to EFI for inclusions in EFI's annual report pursuant to s. 288.906, F.S., instead of DEO.

Section 25: Amends s. 288.903(3), (4), and (5), F.S., relating to the duties of EFI, to require EFI to prepare the annual incentives report in conjunction with DEO pursuant to s. 288.907, F.S.

Section 26: Repeals s. 288.904(6), F.S., the requirement for EFI to, as part of its annual report, provide the Legislature with information quantifying the return on the public's investment each fiscal year and in consultation with DEO hire an economic analysis firm to develop the methodology for establishing and reporting the return on the public's investment.

Section 27: Adds subsection (3) to s. 288.906, F.S., relating to EFI's annual report, to provide that the annual report of the Florida Export Finance Corporation pursuant to s. 288.7771, F.S., and the report on international offices pursuant to s. 288.012, F.S., must be included as supplements to EFI's annual report.

Section 28: Amends s. 288.907(1), F.S., relating to the annual incentives report, to provide that EFI must prepare the annual incentives report in conjunction with DEO to include tax refunds paid or other payments made out of the Economic Development Incentives Fund and the types of projects supported; requiring a separate analysis of the impact of tax refunds on rural communities, brownfield areas, distressed urban communities, and state enterprise zones pursuant to s. 290.0065, F.S.; list the

name and tax refund amount for each business that has received a tax refund under the qualified defense contractor and space flight business tax refund pursuant to s. 288.1045, F.S., and the tax refund program for qualified target industry businesses pursuant to s. 288.106, F.S.; include recommendations for changes to underutilized tax incentive programs; include information related to the validation of contractor performance required under s. 288.061, F.S.; and beginning in 2014, summarize the activities related to the Florida Space Business Incentive Act pursuant to s. 220.194, F.S.

Section 29: Amends s. 288.92(3), F.S., relating to the divisions of EFI, to remove the report due date and to require the division annual reports to be included in EFI's annual report pursuant to s. 288.906, F.S.

Section 30: Amends s. 288.95155(5), F.S., relating to the Florida Small Business Technology Growth Program, to require EFI to include the program's annual report in EFI's annual incentives report pursuant to s. 288.907, F.S.

Section 31: Amends s. 288.9918, F.S., relating to annual reporting by a community development entity (CDE), to change the due date of the annual report from April 30 to January 31.

Section 32: Amends s. 290.0055 (6), F.S., relating to enterprise zones, to allow for any enterprise zone that is at least 15 square miles and less than 20 square miles and includes a portion of the state designated as a rural area of critical economic concern (RACEC) to expand the boundary of the enterprise zone up to 3 miles. Also, any enterprise zone that is at least 20 square miles and includes a portion of the state designated as a RACEC to expand the boundary of the enterprise zone up to 5 miles.

Section 33: Amends s. 290.0056(11), F.S., relating to the Florida Enterprise Zone Development Agency, to require the Agency to submit the required annual report before October 1 rather than December 1 to be included in DEO's annual report pursuant to s. 20.60, F.S.

Section 34: Amends s. 290.014, F.S., relating to annual reports for enterprise zones, to require information compiled by the Department of Revenue detailing the usage and revenue impact by county of the state incentives authorized under the Florida Enterprise Zone Act to be submitted to DEO annually by October 1 rather than February 1 to be included in DEO's annual report pursuant to s. 20.60, F.S.

Section 35: Amends s. 290.0455, F.S., relating to the Small Cities CDBG Loan Guarantee Program, to rename the section; substantially revise the provisions relating to the Section 108 Loan Guarantee Program to require an applicant approved by HUD to receive a Section 108 loan to enter into an agreement with DEO, which requires the applicant to pledge half the amount necessary to guarantee the loan in the event of default to limit the amount of risk of such loans to the state.

Section 36: Amends s. 331.3051(11), F.S., relating to the duties of Space Florida, to change the due date of the annual performance report from September 1 to November 30 and requires the annual report to include operations information as required under s. 331.310(2)(e), F.S.

Section 37: Amends s. 331.310(2), F.S., relating to the powers and duties of Space Florida's board of directors, to require the annual report of operations to be submitted as a supplement to the performance annual report pursuant to s. 331.3051(11), F.S.

Section 38: Amends s. 443.036(30), F.S., relating to the definition of misconduct under the Reemployment Assistance Program Law, to provide examples of misconduct.

Section 39: Amends s. 443.091(1), F.S., relating to benefit eligibility conditions, to exempt certain individuals from online registration and revise provisions related to work search requirements.

Section 40: Adds subsection (13) to s. 443.101, F.S., relating to disqualification for benefits, to include claimants discharged from employment for failure to maintain a license, registration, or certification; providing exceptions.

Section 41: Amends s. 443.1113(4), F.S., extending the full deployment date of the Reemployment Assistance Claims and Benefits Information System to June 30, 2014.

Section 42: Amends 443.131(5), F.S., providing for when the Revenue Estimating Conference shall make an estimate on the amount of interest due on federal advances; providing for when a

reemployment tax assessment may not be made; requiring assessments on deposit to be available to pay interest on federal advances; requiring excess funds to be transferred to the Unemployment Compensation Trust Fund after a certain time period; providing an expiration date of July 1, 2014.

Section 43: Amends s. 443.151(2), (3) and (6), F.S., relating to the procedure concerning claims, to impose a penalty of 15 percent on reemployment benefits overpaid due to fraud.

Section 44: Amends s. 443.151(4), F.S., relating to appeals, to require a practicing appeals referee to be admitted to the Florida Bar within eight months after commencement of employment. This provision is effective January 1, 2014.

Section 45: Provides that after January 1, 2014, DEO must, through attrition of staff, meet the requirements of the changes made by the act to s. 443.151(4)(a), F.S.

Section 46: Amends s. 443.1715(1), F.S., imposing penalties for the unlawful disclosure of confidential information related to the Reemployment Assistance Program.

Section 47: Amends s. 443.191(1), F.S., directing that penalties related to fraudulent reemployment benefits must be deposited into the Unemployment Compensation Trust Fund.

Section 48: Amends s. 446.50(3) and (4), F.S., relating to the Displaced Homemaker Trust Fund, to delete the requirement for the development of a three year state plan to be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives; requiring an annual plan be submitted as a part of DEO's annual report pursuant to s. 20.60, F.S.

Section 49: Provides that the modifications to ss. 212.08(5)(o), F.S., and 288.107, F.S., made by this act do not apply to building materials purchased before the effective date of this act or to contracts for brownfield redevelopment bonus refunds executed by DEO or EFI, Inc., before the effective date of this act.

Section 50: Provides that except as otherwise expressly provided in the act, the act is effective July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See FISCAL COMMENTS.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Brownfield Redevelopment Act

To the extent that the definitions of "housing project" and "mixed-use project" are narrowed, the number of businesses that qualify for the sales tax exemption under s. 212.08(5)(o), F.S., will decrease.

To the extent that the eligibility requirements for the brownfield redevelopment bonus refunds are narrowed, there will be a decrease in the number of businesses eligible to receive such refunds.

Enterprise Zones

The bill has the potential to positively impact the economy of select designated enterprise zone areas through job growth and capital investment.

Small Business Development Center Network

To the extent that small businesses receive improved assistance through a more effective network and regional centers, the private sector will benefit.

D. FISCAL COMMENTS:

Economic Development Incentives Evaluation

It is anticipated that EDR and OPPAGA will incur costs associated with implementing the provisions in the bill related to developing the model and conducting the economic development program evaluations and analysis.

Annual Report Consolidation

None.

Small Business Development Centers

None.

Economic Development Incentive Surety Bonds

The bill may have a negative impact on businesses receiving economic development incentives through premiums and/or professional fees related to the acquisition of surety bonds required by the bill.

DEO's costs associated with implementing the requirements of the bill are estimated to be indeterminate, but insignificant.

Florida Small Cities Community Development Block Grant Loan Guarantee Program

The provisions of the bill relating to the Small Cities CDBG Loan Program will require DEO to revise the program; however, it is anticipated that the costs associated with the revisions are minimal and will be absorbed by DEO.

Enterprise Zones

On February 22, 2013, the Revenue Estimating Conference estimated the provision of the bill relating to enterprise zones will have a negative fiscal impact on state revenues of \$120,000 for FY 2013-14, \$100,000 for FY 2014-15, and \$200,000 for FY 2015-16 due to the potential expansion for select enterprise zone boundaries.

Brownfields Redevelopment Act

The Revenue Estimating Conference has not determined the fiscal impact these provisions may have on state revenue. However, it is anticipated that the provisions in the bill will have a positive impact on state revenues because the brownfield eligibility requirements are narrowed.

Reemployment Assistance

The Unemployment Compensation Trust Fund

The collection of penalties related to fraudulent claims may have a positive impact on the balance of the Unemployment Compensation Trust Fund. In FY 2011-12, DEO issued 25,294 fraud determinations totaling \$33.2 million in overpaid benefits. If these benefits had been subject to the 15 percent penalty, up to an additional \$4.9 million would have been directed to the Unemployment Compensation Trust Fund. However, in FY 2011-12, only 25 percent of the \$33.2 million in overpaid benefits were recovered by DEO.

The bill provides that when all federal advances are repaid, any excess assessments on deposit in the Audit and Warrant Clearing Trust Fund will be transferred to the Unemployment Compensation Trust

Fund. While the amount of funds transferred will likely be minimal, this provision may have a positive impact on the balance of the Unemployment Compensation Trust Fund.

The bill sunsets the statutory provision authorizing an additional assessment on employers for paying interest on federal advances which continue the payment of re-employment benefits. In the event the federal government advances funds for this purpose in the future, the legislature would need to either reauthorize this subsection or find an alternative funding mechanism for paying this interest.

Department of Economic Opportunity

According to DEO, a recurring cost would result from the higher salaries that DEO would need to pay attorneys for their service as appeals referees. DEO expects that the average salary and benefits of a referee would increase from \$58,870 to \$73,688 per year if they become attorneys or are replaced by attorneys through attrition. DEO has indicated that a portion of the funds available through administrative grants will be used to implement this provision. Due to the requirement that this provision be implemented through attrition, the total cost of implementation would be spread over several years.

The bill's provision extending the deadline for the Reemployment Assistance Claims and Benefits Information System to be operational will not have a fiscal impact on the state, but may result in additional administrative costs for DEO that can be absorbed within existing resources.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 5, 2013, the House Transportation & Economic Development Appropriations Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment does the following:

- Amends s. 290.0055 (6)(d)1, F.S., to allow for any enterprise zone that is at least 15 square miles and less than 20 square miles and includes a portion of the state designated as a RACEC to expand the boundary of the enterprise zone up to 3 miles. Also, any enterprise zone that is at least 20 square miles and includes a portion of the state designated as a RACEC to expand the boundary of the enterprise zone up to 5 miles.

On April 16, 2013, the House Economic Affairs Committee adopted a "strike-all" amendment and reported the bill favorable as a committee substitute. The amendment addresses the following:

Small Cities Community Development Block Grant (CDBG) Loan Guarantee Program

- Revises the Small Cities CDBG Loan Guarantee Program to reduce the risk to the state and eligible local governments.

Florida Enterprise Zone Act and Rural Areas of Critical Economic Concern (RACEC)

- Allows any enterprise zone that is at least 15 square miles and less than 20 square miles and includes a portion of the state designated as a rural area of critical economic concern (RACEC) to expand the boundary of the enterprise zone up to 3 miles.
- Allows any enterprise zone that is at least 20 square miles and includes a portion of the state designated as a RACEC to expand the boundary of the enterprise zone up to 5 miles.

Economic Development Program Evaluation and Reporting

- Directs the Office of Economic and Demographic Research (EDR) and the Office of Office of Program Policy Analysis and Government Accountability (OPPAGA) to develop and present the Economic Development Programs Evaluation.
- Establishes a three-year incentive evaluation schedule for economic development programs.
- Directs DEO to maintain a website for the purpose of publishing information related to economic development incentives awarded to Florida businesses on a project-by-project basis.
- 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.
- 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.
- Consolidates annual reporting requirements of statutorily required reports and information and incorporates them into reports prepared by DEO, EFI, and the Office of Film and Entertainment.

Economic Development Incentive Surety Bonds

- Requires economic development incentive agreements that award funds through QACF or IIP on or after July 1, 2013, be guaranteed or secured.
- Permits an applicant who is unable to secure a surety bond or can demonstrate that the cost of obtaining a surety bond is unreasonable, to obtain a partial or full waiver under certain circumstances.

The Florida Small Business Development Center Network

- Makes a number of changes to the Florida Small Business Development Center Network (Network) including changing the size and make-up of the statewide advisory board, codifying support services the Network must provide to small businesses, providing for performance incentives, and requiring annual reports to the Legislature.

Brownfields Redevelopment Act

- Amends the definition of “housing project” and “mixed-use project” to specify that a redevelopment project located in a brownfield site for which a rehabilitation agreement with (DEP or a local government delegated by DEP has been executed under the Brownfields Redevelopment Act and any abutting real property parcel within a brownfield area is eligible for the sales tax exemption.
- Amends the brownfield redevelopment bonus refund to specify that in order to be eligible for the bonus refund for a qualified target industry agreement, the jobs must be created in a brownfield area eligible for bonus refunds.
- Amends the term “brownfield area eligible for bonus refunds” to specify that an eligible area is a brownfield site for which a rehabilitation agreement with DEP or a local government delegated by DEP has been executed under the Brownfields Redevelopment Act and any abutting real property parcel within a brownfield area which has been designated by a local government.

Reemployment Assistance Program

- Authorizes DEO to disqualify a claimant for reemployment benefits, if the Department finds the claimant was discharged from employment for failure to maintain a license, registration, or certification.
- Provides that if a claimant can provide good cause for failing to possess required documentation, the claimant is entitled to reemployment benefits. Examples of good cause are provided in the bill.
- Includes examples of misconduct to the definition of misconduct under Florida's Reemployment Assistance Act.
- Provides that a claimant may not include a single employer for three consecutive benefit weeks, unless after the initial contact the employer indicates the intention to hire additional employees.
- Exempts claimants participating in reemployment services from work search requirements in s. 443.091, F.S.
- Exempts certain individuals from online registration requirements.
- Requires a practicing appeals referee to be admitted to the Florida Bar within eight months after commencement of employment. The provision is effective January 1, 2014 and DEO must implement this requirement by attrition.
- Assesses a penalty, equal to 15 percent of the amount overpaid, on any claimant who fraudulently acquires reemployment benefits. Any recovered penalties must be deposited into the Unemployment Compensation Trust Fund.
- Authorizes DOR to use assessments on deposit in the Audit and Warrant Clearing Trust Fund and any earned interest to pay the interest on advances received from the federal government.
- Provides that no additional assessment on employers may occur if remaining assessments on deposit, plus any earned interest, is at least 80 percent of the estimated amount of the interest due on federal advances.
- Provides penalties for the unlawful disclosure of confidential information.
- Extends the deadline by which the Reemployment Assistance Claims and Benefit Information System must be operational to June 30, 2014.