

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: SB 1634

INTRODUCER: Commerce and Tourism Committee

SUBJECT: Department of Economic Opportunity

DATE: March 4, 2014

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Siples	Hrdlicka		CM SPB 7058 as introduced

I. Summary:

SB 1634 modifies several activities under the jurisdiction of the Department of Economic Opportunity (DEO). The bill establishes requirements for the operation of all loan programs administered by the DEO to increase accountability and performance of loan programs under ch. 288, F.S.

The bill revises the Florida Small Cities Community Development Block Grant Act to streamline application procedures and competitive grant scoring criteria, grant rulemaking authority to the DEO, and streamline public hearing requirements.

The bill requires Space Florida to consult with Florida Tourism Industry Marketing Corporation rather than Enterprise Florida, Inc., in developing a space marketing plan. The requirement for the establishment of a Center for Excellence for Aerospace is repealed, but Space Florida will continue to promote research necessary to develop commercially promising, advanced, and innovative science and technology.

The bill repeals the requirement for reemployment assistance claimants to complete an initial skills review and requires the DEO to develop a voluntary online assessment to identify an individual's skills, abilities, and career aptitude. The DEO, through the regional workforce boards and one-stop centers, must offer services and training to individuals that are consistent with the results of the online assessment.

The bill implements changes to the Short Time Compensation program to conform to federal law, including requiring an employer to describe how its plan will be implemented, requiring an employer to treat the fringe benefits of participants the same as if he or she was not a participant, and prohibiting the DEO from denying benefits due to an individual's participation in certain training programs.

The bill extends the ability of employers to make quarterly contributions to the Unemployment Compensation Trust Fund, rather than a single, annual payment. This provision was set to sunset in 2014.

The bill rebrands “rural areas of critical economic concern” as “rural areas of opportunity.”

II. Present Situation:

Loan Programs Administered by the Department of Economic Opportunity

The Department of Economic Opportunity (DEO) administers the following loan programs under ch. 288, F.S.:

- Rural Development Revolving Loan Program;
- Economic Gardening Business Loan Pilot Program; and
- Black Business Loan Program.

Rural Community Development Revolving Loan Program¹

The Rural Community Development Revolving Loan Program provides long-term loans, loan guarantees, and loan loss reserves to units of local governments or economic development organizations substantially underwritten by a unit of local government. Applicants must be within a county with a population of 75,000 or fewer; a county with a population of 125,000 or fewer that is contiguous to a county with a population of 75,000 or fewer, including those residing in incorporated areas and those residing in unincorporated areas of the county; or within a rural area of critical economic concern.²

Requests for loans must be made by application to the DEO and are made pursuant to agreements specifying the terms and conditions agreed to between the applicant and the DEO. All repayments of principal and interest must be returned to the loan fund and made available for loans to other applicants. However, upon approval by the DEO, in a rural area of critical economic concern repayments of principal and interest may be retained by the applicant if such repayments are dedicated and matched to fund regionally-based economic development organizations representing the rural area of critical economic concern.³

The DEO is directed to manage the fund and establish loan practices that include procedures for establishing loan interest rates, uses of funding, application procedures, and application review procedures. The DEO is granted the authority for the final approval for any loan under the program.⁴

¹ Section 288.065, F.S. *See also* DEO, Rural Revolving Loan Program, available at <http://www.floridajobs.org/business-growth-and-partnerships/rural-and-economic-development-initiative/economic-development/rural-revolving-loan-program> (last visited Feb. 28, 2014). The term “rural area of critical economic concern” is defined in s. 288.0656(2)(d), F.S.

² Section 288.065(2)(a), F.S.

³ Section 288.065(2)(b) and (c), F.S.

⁴ Section 288.065(3), F.S.

*Economic Gardening Business Loan Pilot Program*⁵

The Economic Gardening Business Loan Pilot Program provides low-interest, short-term loans to second-stage, high growth businesses. For eligibility in the loan program, a business must:⁶

- Be a for-profit, privately-held, investment-grade business that employs between 10 and 50 persons;
- Have maintained its principal place of business in Florida for at least the last 2 years;
- Generate between \$1 million and \$25 million in annual revenue;
- Be eligible for the Qualified Targeted Industry tax refund program pursuant to s. 288.106, F.S.;⁷ and
- Have experienced steady growth in its gross revenues and employment for in at least 3 of the preceding 5 years.

The maximum amount of the loan available for receipt under the pilot program is \$250,000. The proceeds of the loan may be used for working capital purchases, employee training, or salaries for newly created jobs in the state. The loan period is 4 years.⁸

The DEO is authorized to designate one or more qualified entities to serve as loan administrators for the program. A loan administrator must be a Florida not-for-profit corporation that has its principal place of business in this state, and have at least 5 years of verifiable experience of lending to businesses in this state.⁹

The DEO, upon selection of a loan administrator, must enter into a grant agreement with the administrator to issue the available loans to eligible applicants. The grant agreement must specify the aggregate amount of the loans authorized for award by the loan administrator. The term of the grant agreement must be at least 4 years, except that the DEO may terminate the agreement earlier if the loan administrator fails to meet minimum performance standards set by the DEO. The grant agreement may be amended by mutual consent of both parties.¹⁰

A loan administrator is entitled to receive a loan origination fee, payable at closing, of 1 percent of each loan issued by the loan administrator and a servicing fee of 0.625 percent per annum of the loan's outstanding principal balance, payable monthly. During the first 12 months of the loan, the servicing fee must be paid from the disbursement from the Economic Development Trust Fund, and thereafter the loan administrator must collect the servicing fee from the payments made by the borrower, charging the fee against repayments of principal.¹¹

The loan administrator, after collecting the servicing fee, must remit the borrower's collected interest, principal payments, and charges for late payments to the DEO on a quarterly basis. If the borrower defaults on the loan, the loan administrator must initiate collection efforts to seek

⁵ Section 288.1081, F.S. See the DEO's website for more information about the pilot program and loans made, *available at* <http://floridajobs.org/news-center/reports-and-legislative-presentations> (last visited Feb. 28, 2014).

⁶ Sections 288.1081(3)(a), F.S., and 288.1082(4)(a), F.S.

⁷ The qualified targeted industries are clean tech, life sciences, info tech, aviation/aerospace, homeland security/defense, and financial/professional services.

⁸ Section 288.1081(4), F.S.

⁹ Section 288.1081(5), F.S.

¹⁰ Section 288.1081(5)(b), F.S.

¹¹ Section 288.1081(5)(d), F.S.

repayment of the loan. Upon collecting payments for a defaulted loan, the loan administrator, must remit the payments to the DEO; but, to the extent authorized in the grant agreement, may deduct the costs of the administrator's collection efforts. The DEO must deposit all funds received under this provision into the General Revenue Fund.¹²

The loan administrator is required to submit quarterly reports to the DEO, which must include the information required in the grant agreement, which must include the number of full-time equivalent jobs created as a result of the loans, the amount of wages paid to employees in the newly created jobs, and the locations and types of economic activity undertaken by the borrowers.¹³

The DEO contracted with the Black Business Investment Fund to administer the pilot program in 2009, and received an initial appropriation of \$8.5 million.¹⁴ No additional funds have been appropriated to the program.

The program expires July 1, 2016.¹⁵

Black Business Loan Program¹⁶

Under the Black Business Loan Program, the DEO annually certifies entities to provide loans, loan guarantees, or investments to black business enterprises that cannot obtain capital through conventional lending institutions but that could otherwise compete successfully in the private sector.¹⁷

The program is subject to annual legislative appropriation. If the Black Business Loan Program is appropriated any funding in a fiscal year, the DEO must distribute an equal amount of the appropriation to each eligible entity, calculated as the total annual appropriation divided by the total number of eligible entities certified on or before July 31 of that fiscal year.¹⁸

An entity submitting an initial application for certification must demonstrate that it has:¹⁹

- A board of directors that includes citizens of the state experienced in the development of black business enterprises.
- A business plan that allows the recipient to operate in a manner consistent with the law and the DEO's rules for the program.
- The technical skills to analyze and evaluate applications by black business enterprises for loans, loan guarantees, or investments.
- Established viable partnerships with public and private funding sources, economic development agencies, and workforce development and job referral networks.

¹² Section 288.1081(5)(e), F.S.

¹³ Section 288.1081(5)(f), F.S.

¹⁴ Chapter 2009-1, L.O.F.

¹⁵ Section 288.1081(10), F.S.

¹⁶ Section 288.7102, F.S. *See also* DEO, Minority-Owned Business Assistance, Black Business Loan Program, available at <http://www.floridajobs.org/business-growth-and-partnerships/for-businesses-and-entrepreneurs/business-resources/minority-owned-business-assistance> (last visited Feb. 28, 2014).

¹⁷ Section 288.7102(1), F.S.

¹⁸ Section 288.7102(3), F.S.

¹⁹ Section 288.7102(4)(c), F.S.

- The ability to provide a private match equal to 20 percent of the amount of funds provided by the DEO.

An eligible entity must be a corporation registered in this state. Existing certified entities must annually submit to the DEO a financial audit performed by an independent certified public accountant for the most recently completed fiscal year. The audit must not reveal any material weaknesses or instances of material noncompliance.²⁰

Both existing and new entities must agree to maintain the books and records relating to funds received by the DEO according to generally accepted accounting principles and in accordance with the requirements of the Single Audit Act.²¹ The entities must also agree to make those books and records available to the DEO for inspection upon reasonable notice.²²

Each eligible entity must meet the requirements of the loan program, the terms of the contract between the entity and the DEO, and any other applicable state or federal laws. An entity may not receive funds unless the entity meets annual certification requirements.²³

For Fiscal Year 2013-14, there are 6 certified entities and the amount appropriated was \$2.225 million.²⁴

Florida Small Cities Community Development Block Grant Program

The Community Development Block Grant (CDBG) Program is a federally funded housing and community development program that targets assistance to low and moderate income populations. Administered by the U.S. Department of Housing and Urban Development (HUD), the program provides annual grants on a formula basis to units of local government and states. Eligible program activities include housing rehabilitation and preservation, economic development, and water and sewer facilities construction. The Federal CDBG regulations set forth eligible activities and the national objectives that each activity must meet.²⁵ As recipients of CDBG funds, grantees are charged with ensuring that these requirements are met. States are given “maximum feasible deference” in the administration of the program.²⁶

Local governments in urban areas apply and receive funds directly from HUD.²⁷ Rural or smaller area governments also receive grants but these funds are first funneled through the state. In Florida, this competitive rural distribution mechanism is known as the Florida Small Cities

²⁰ Section 288.7102(4), F.S.

²¹ *See* s. 215.97, F.S.

²² Section 288.7102(4)(d), F.S.

²³ Section 288.7102(5), F.S.

²⁴ Chapter 2012-118, F.S.

²⁵ The regulations implementing the CDBG Program are found at 24 C.F.R. Part 570.

²⁶ U.S. Department of Housing and Urban Development, Office of Block Grant Assistance, “Basically CDBG Guide,” (July 2012), available at https://www.onecpd.info/resources/documents/BasicallyCDBG_Guidebook.pdf (last visited March 3, 2014). “Maximum feasible deference” provides for minimal regulation beyond the statute; and states can adopt more restrictive requirements, but may not contradict or be inconsistent with the HCDA statute.

²⁷ *Id.* This is referred to as the “Entitlement Program” and to be eligible an entity must be a city in a metropolitan area with a population of 50,000 or more, a principal city of a metropolitan area, or an urban county with a population of at least 200,000.

Community Block Grant Program (Small Cities CDBG), which is administered by the DEO. The Small Cities CDBG program grants assistance to non-entitlement communities within the state (i.e., cities with fewer than 50,000 residents and counties with fewer than 200,000 residents). The state annually develops funding priorities and criteria for selecting projects.²⁸

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

Communities in the state with populations below the entitlement thresholds must compete for funding by submitting applications through the Small Cities CDBG. There are 246 communities eligible to participate in the program for the Federal Fiscal Year 2013 funding cycle.²⁹ The DEO annually develops funding priorities and criteria for selecting Small Cities CDBG projects subject to statutory provisions and applicable rules.³⁰

While federal regulations "give maximum feasible deference to the state's interpretation of the statutory requirements" of CDBG, Florida's Small Cities CDBG is bound by the national objectives and eligible activities of the federal act.³¹

Small Cities CDBG HUD Allocation

HUD determines the amount of the Small Cities CDBG funding allocation using a formula comprised of several measures of community need, including the extent of poverty, population, housing overcrowding, age of housing, and population growth lag in relationship to other states.³² Each year since 1983, Florida has received between \$18 and \$35 million from HUD for the program.³³ Florida's Federal Fiscal Year 2013 allocation is \$22,887,374.³⁴

²⁸ 24 C.F.R. Part 91 requires states to submit a consolidated plan 45 days before the start of its program year. The plan must include the objectives and outcomes identified in the plan, as well as an evaluation of past performance. The plan must also include a housing and homeless needs assessment, housing market analysis, a strategic plan for addressing identified needs and how the allocation of funds will resolve needs across income categories, an action plan, certain certifications, and a plan for monitoring the activities carried out under the program.

²⁹ The DEO, "State of Florida Annual Action Plan for Programs Funded by the U.S. Department of Housing and Urban Development, Federal Fiscal Year 2013," 10-12, *available at* <http://www.floridajobs.org/fhcd/cdbg/Files/ConsolidatedPlan/FINALAnnualActionPlan2013.pdf> (last visited March 3, 2014).

³⁰ Small Cities CDBG is administered in accordance with ss. 290.0401-290.048, F.S., ch. 73C-23, F.A.C., (formerly 9B-43), and 24 C.F.R. 570, Subpart I.

³¹ 24 C.F.R. s. 570.480(c).

³² HUD, "Community Development Block Grant – CDBG," *available at* http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/programs (last visited March 3, 2014).

³³ DEO, "Florida Small Cities Community Development Block Grant Program," *available at* <http://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/florida-small-cities-community-development-block-grant-program> (last visited February 5, 2013).

³⁴ The DEO, "State of Florida Annual Action Plan" at 5. Pending Congressional action on funding for federal fiscal year 2013, the Plan uses the federal fiscal year 2012 funding levels.

Categories of Funding

Section 290.044, F.S., specifies certain grant program categories for the Small Cities CDBG and allows the DEO to define the broad community objectives served by each category. Major grant categories and the DEO's defined objectives are:³⁵

- **Commercial Revitalization** – The objective of this category is to revitalize commercial areas that are showing signs of decline by addressing problems causing deterioration or decline. Activities that achieve this objective include installation or reconstruction of necessary public improvements, and repair and rehabilitation of building facades.
- **Economic Development** – Economic development objectives include promoting investment of private capital, retaining local economic enterprises, and providing long-term jobs with growth potential primarily for very low-, low-, and moderate-income persons. Activities that achieve this objective include acquisition, construction, or rehabilitation of commercial and industrial buildings, and activities designed to provide job training and job placement. Eligible local governments may apply up to three times in any annual funding cycle for an Economic Development grants. Applicants may have up to two open Economic Development grants.³⁶
- **Housing Rehabilitation** – The objective of this category is to improve housing conditions and expand housing opportunities for very low-, low- and moderate-income persons. Activities that achieve this objective include rehabilitation of housing or publicly owned or acquired properties, and weatherization and energy-efficiency improvements.
- **Neighborhood Revitalization** – The objective of this category is to revitalize declining neighborhoods and improve infrastructure. Activities that may achieve this objective may involve street paving, construction, or rehabilitation of neighborhood facilities that provide health, social, or recreational services.

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

Local governments applying for Small Cities CDBG funds must consider national and state goals and objectives when developing applications for funding. Applications may reflect more than one activity, but each eligible activity must meet at least one of the three national objectives (i.e., benefit low- and moderate-income persons, eliminate slum or blight, or meet an urgent need).

Grant Selection Criteria and Process

Upon receipt of an application, an initial review is conducted by the DEO to determine if threshold criteria have been met. This review is used as a screening method to ensure compliance with minimum application requirements. Specific criteria established by s. 290.0475, F.S.,

³⁵ The DEO, "State of Florida Annual Action Plan."

³⁶ Rule 73C-23.0041(6)(f). F.A.C., stipulates that an economic development project must meet a national objective through the creation or retention of jobs, of which 51 percent must be jobs for persons from low to moderate-income households and must provide a public benefit by creating or retaining a number of full time equivalent jobs that divided into the subgrant amount results in a cost per job of under \$35,000.

governs the basis upon which the DEO may reject an application without regard to scoring. These criteria are:

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

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

- Community need (25 percent) measures the extent of poverty in the community and the condition of physical structures. Each application, regardless of program category is scored on the same community need criteria.³⁷
- Project impact (65 percent) measures the direct benefit received by persons of low income and persons of moderate income, the extent to which the problem identified is addressed by the proposed activities, and the extent to which resources other than the funds being applied for are being used to carry out the proposed activities. Project impact criteria are unique to each program category.³⁸
- Equal opportunity employment and housing performance (10 percent) measures outstanding efforts in this area.

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

The DEO may not award a grant until it has determined, based upon a site visit, that a project or activities are eligible, in accordance with the description contained in the application.³⁹

Local Government Citizen Participation Requirements

Section 290.046, F.S., and federal regulations, set out the requirements local governments must follow to obtain citizen input for Small Cities CDBGs. Local governments submitting a CDBG application must comply with citizen participation requirements as provided in the Housing and Community Development Act of 1974, and the DEO's rules. To ensure compliance, these provisions are incorporated in grant applications, the scoring system and award agreements.⁴⁰ Prior to the submission of an application for funding, a local government must:

³⁷ Rule 73C-23.0041(10)(b)4., F.A.C., specifies three factors to determine community need: 1) the number of low and moderate income persons, 2) the number of persons below poverty level, and 3) the number of year-round housing units with 1.01 or more persons per room.

³⁸ Section 290.046(3)(d), F.S., further provides that the criteria used to measure the direct benefit to persons of low income and persons of moderate income shall represent no less than 42 percent of the points assigned to the program impact factor.

³⁹ Section 290.046(2)(d), F.S.

⁴⁰ The DEO, "State of Florida Annual Action Plan" at 22-23.

- Publicize information concerning the amount of funds available to the local government and the range of activities that may be undertaken.
- Hold at least one public hearing to obtain citizens' views on community development needs.
- Publish a notice concerning the proposed application advising citizens of the application's location and notifying them that it is available for inspection and comment.
- Publicly state its plans to assist displaced persons should displacement occur.
- Hold at least one public hearing on the proposed application prior to its submission to the state.
- If appropriate, modify the proposed application to respond to citizens' comments.⁴¹

In addition, a Citizen's Advisory Task Force must be established to provide input throughout the project process.⁴² At least three of the task force members are required to be residents of the jurisdiction where the proposed project or activities are to be implemented. No task force members may be elected officials and only one may be an employee of the local government.⁴³ Failure to meet these or any other citizen participation requirements will result in the rejection of an application pursuant to s. 290.0475(6), F.S.

DEO Recommendation on Small Cities CDBG: January 2012

Chapter 2011-142 L.O.F., directed the DEO to provide recommendations for further reorganization and streamlining of economic development and workforce functions that improve the effectiveness and operation of economic development and workforce programs. In January of 2012, the DEO released the "Report on Further Streamlining & Reorganization of Florida's Economic Development & Workforce Functions."⁴⁴ As one of its recommendations, the DEO suggested revisions to the Florida Small Cities Community Development Block Grant Act in ch. 290, F.S.

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

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

The desired outcome is to remove unnecessary regulation and competitive CDBG grant scoring criteria from statute and to put more of the framework of the CDBG grant scoring criteria in rule so that DEO has more agility and flexibility to work with our stakeholders to put more of

⁴¹ Section 290.046(5), F.S.

⁴² Section 290.046(6), F.S.

⁴³ See Rule 73C-23.0041(3)(b), F.A.C.

⁴⁴ This report is available at <http://www.floridajobs.org/about%20awi/12.31.2011%20-%20DEO%20Streamlining%20Report%20Jan%202012.pdf> (last visited March 3, 2014).

an economic development focus on the Small Cities CDBG program and streamline the process for the other grant categories as well.

Space Florida⁴⁵

Space Florida was created as an independent special district to “foster the growth and development of a sustainable and world-leading aerospace industry in this state.” Space Florida is required to promote aerospace business development by facilitating business financing, spaceport operations, research and development, workforce development, and innovative education programs.

Space Florida duties, among other things, include the development of a business plan to foster the growth and development of the aerospace industry, the creation of a marketing campaign, to help attract, develop, and retain aerospace research and technology, as well as other related activities. It is also charged with developing a space tourism marketing plan in consultation with Enterprise Florida, Inc.⁴⁶

Background on Reemployment Assistance

According to the U.S. Department of Labor (USDOL), the Federal-State Unemployment Insurance Program provides unemployment benefits to eligible workers who are unemployed through no fault of their own (as determined under state law) and who meet the requirements of state law.⁴⁷ Individual states collect payroll taxes on a quarterly basis, which are used to pay benefits, while the Internal Revenue Service collects an annual federal payroll tax under the Federal Unemployment Tax Act (FUTA).⁴⁸ FUTA collections go to the states for costs related to the administration of state unemployment insurance and job service programs. In addition, the FUTA pays one-half the cost of extended unemployment benefits (during periods of high unemployment) and provides for a fund from which states may borrow, if necessary, to pay benefits.⁴⁹

States are permitted to set benefit eligibility requirements, the amount and duration of benefits and the state tax structure, as long as state law does not conflict with the FUTA or the Social Security Act requirements. Florida’s unemployment insurance program was created by the Legislature in 1937.⁵⁰ The program was rebranded as the “reemployment assistance program” in 2012.⁵¹ The DEO is responsible for administering Florida’s reemployment assistance (RA) laws, primarily through its Division for Workforce Services. The DEO contracts with the Florida Department of Revenue (DOR) to provide unemployment tax collection services.⁵²

⁴⁵ Space Florida was created by ch. 2006-60, L.O.F., and codified in part II, ch. 331, F.S.

⁴⁶ Section 331.3051, F.S.

⁴⁷ USDOL, Employment and Training Administration, State Unemployment Insurance Benefits, available at <http://workforcesecurity.doleta.gov/unemploy/uifactsheet.asp> (last visited Feb. 24, 2014).

⁴⁸ FUTA is codified at 26 U.S.C.

⁴⁹ USDOL, Employment and Training Administration, Unemployment Insurance Tax Topic, available at <http://workforcesecurity.doleta.gov/unemploy/uitaxtopic.asp> (last visited Feb. 24, 2014).

⁵⁰ Chapter 18402, L.O.F.

⁵¹ Chapter 2012-30, L.O.F.

⁵² Section 443.1316, F.S.

A qualified claimant may receive RA benefits equal to 25 percent of wages, not to exceed \$6,325 in a benefit year.⁵³ Benefits range from a minimum of \$32 per week 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, and the unemployment rate.⁵⁴

To receive RA benefits, a claimant must meet certain monetary and non-monetary eligibility requirements. Key eligibility requirements involve 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.

Initial Skills Review

Florida requires claimants to participate in an initial skills review in order to be eligible to receive RA benefits.⁵⁵ The initial skills review must be completed within 14 days of filing of a benefits claim; if it is not completed during that time, benefits may be denied. The initial skills review is an online training program that is approved by the DEO and is designed to measure an individual's mastery level of workplace skills.⁵⁶ The program takes approximately 30-45 minutes to complete. The administrator or operator of the online education or training program is required to report to the DEO that an individual has taken the initial skills test for benefit eligibility purposes, and to the regional workforce board or One-Stop Career Center, the results of the initial skills test for purposes of reemployment services. The regional workforce board is required to develop a plan to use the initial skills review to refer individuals to training and employment opportunities.⁵⁷

An individual may take the initial skills review at the assessment center or online at any location with Internet access. The assessment measures general skills necessary for most jobs in three areas: locating information, reading, and applied math. All the questions are based on workplace scenarios. After taking the initial skills review, an individual may take additional course material to try to improve his or her skills.⁵⁸ In Fiscal Year 2012-13, 424,886 individuals completed the initial skills review, and 61,676 individuals were denied for failure to timely complete the initial skills review.⁵⁹

⁵³ Section 443.111(5), F.S. The maximum amount of benefits available is calculated by multiplying an individual's weekly benefit amount by the number of available benefit weeks.

⁵⁴ Section 443.111(3), F.S. A benefit week begins on Sunday and ends on Saturday. If the average unemployment rate for the 3 months in the most recent third calendar year quarter is at or below 5 percent, then the maximum weeks of benefits available is 12; for each 0.5 percent that the unemployment rate is above 5 percent, an additional week of benefits becomes available up to 23 weeks at an unemployment rate of 10.5 percent.

⁵⁵ Individuals who are not Florida residents, temporarily laid off, union members who customarily obtain employment through a union hiring hall, claiming benefits under a short-time compensation plan, or unable to complete the ISR due to illiteracy, physical or mental impairment, a legal prohibition from using a computer, or language impediment are exempt from the ISR requirement.

⁵⁶ Section 443.036(26), F.S.

⁵⁷ Section 443.091(1)(c), F.S.

⁵⁸ Florida Department of Economic Opportunity, Division of Workforce Services, "Report on the Use, Effectiveness and Costs Associated with Training Opportunities and Related Services Provided to Reemployment Assistance Claimants As Required by Chapter 2012-30, Laws of Florida," 6-7 (Dec. 28, 2012), available at http://www.floridajobs.org/about%20awi/open_government/2013_Chapter2012-30LawsofFloridareportReemploymentAssistanceProgram.pdf (last visited Feb. 28, 2014).

⁵⁹ E-mail from Audra Wiggins, Operations Manager, Reemployment Assistance Program, Division of Workforce Services, Department of Economic Opportunity (Aug. 16, 2013) (on file with the Senate Commerce and Tourism Committee).

In 2012, the USDOL Civil Rights Center issued an initial determination as a result of a complaint of discrimination filed by the Miami Workers Center that found that the initial skills review might violate federal disability law in one of two ways.⁶⁰ It opined that the initial skills requirement, as implemented, had the tendency to screen out persons with disabilities from fully and equally enjoying the benefits of the RA program. Specifically, it was noted that the website required use of certain technology that could not easily be made accessible to persons with disabilities and no alternative method for completing the initial skills assessment was offered. Second, it found that the DEO did not effectively communicate to applicants that exemptions to the ISR were available to those with disabilities.

The DEO objected to the findings and there has been no resolution at this time.

Installment Plans

In Florida, RA benefits are financed solely through contributions by employers – employers pay taxes on the first \$8,000 of each employee’s wages.⁶¹ The calculation for determining each employer’s tax rate is statutorily set, and takes into consideration an employer’s “experience” (as former employees collect RA benefits, these benefits are charged to the employer), the balance of the Unemployment Compensation Trust Fund, and other factors.

Since 2010, state law has allowed employers to elect to make quarterly contributions to the UC Trust Fund, instead of making a single, annual contribution.⁶² Employers electing to pay quarterly are assessed an annual administrative fee of \$5. This fee is deposited into the DOR’s Operating Trust Fund. Currently, 2014 is the last year for this option.⁶³

Short Time Compensation Program⁶⁴

Short Time Compensation (STC) is a voluntary program that allows employers to retain trained employees during a slow down or disruption to regular business activity by reducing the hours of work for an entire group of affected employees rather than laying off some while continuing others in full time employment. An employer wishing to participate in STC must submit a signed, written short-time plan to the DEO for approval.⁶⁵ The plan will be approved if:

- The plan applies to and identifies each specific unit affected;
- The individuals in the affected unit are identified by name and social security number;
- The normal weekly hours of work for individuals in the affected unit are reduced by a least 10 percent but not more than 40 percent;

⁶⁰ USDOL, Civil Rights Center, “Initial Determination,” (Apr. 5, 2013), available at

http://www.floridajobs.org/about%20awi/docs/media_InitialDetermination.pdf (last visited Feb. 25, 2014).

⁶¹ Nonprofit employers may choose to finance compensation through either the contributory method or the reimbursement method. A reimbursing employer is one who must pay the Unemployment Compensation Trust Fund on a dollar-for-dollar basis for the benefits paid to its former employees. The employer is otherwise not required to make payments to the trust fund. See s. 443.1312, F.S. State and local governments are reimbursing employers. Most employers are contributory employers. In January 2015, the “wage base” will be reduced to \$7,000. See s. 443.1217(2)(a), F.S.

⁶² Section 443.141(1)(d), F.S.

⁶³ Section 443.141(1)(f), F.S.

⁶⁴ Section 443.1116, F.S.

⁶⁵ Section 443.1116(2), F.S.

- The plan includes a certified statement by the employer that the aggregate reduction in work hours is in lieu of temporary layoffs that would affect at least 10 percent of the employees in the affected unit and that would have resulted in an equivalent reduction in work hours;
- The plan applies to at least 10 percent of the employees in the affected unit;
- The plan has written approval of all collective bargaining groups covering individuals in the affected unit;
- The plan does not serve to subsidize seasonal employees during the off-season or subsidize employers who traditionally use part-time employees; and
- The plan certifies the manner in which the employer will treat fringe benefits⁶⁶ of the individuals in the affected unit if the hours of the individuals are reduced to less than their normal weekly hours.

To be eligible to receive benefits under an approved STC, an employee must meet the following conditions:

- Must be employed as a member of an affected unit in an approved plan;
- Must be able to work and available to work additional hours or full-time with the short-time employer; and
- Must have had work hours reduced by at least 10 percent but no more than 40 percent, with a corresponding reduction in wages.

In 2012, the Middle Class Tax Relief and Job Creation Act of 2012, passed by the U.S. Congress, made several changes to STC.⁶⁷ States are not required to enact an STC program, but must conform to the new law in order to continue to offer an STC program.⁶⁸

Rural Areas of Critical Economic Concern

The Rural Economic Development Initiative (REDI), housed within the DEO, is a multi-agency endeavor that coordinates the efforts of state and regional agencies to address the problems that affect the fiscal, economic, and community viability of Florida's economically distressed rural communities.⁶⁹ The REDI works with local governments, community-based organizations, and private organizations that have an interest in the growth and development of these communities to find ways to balance environmental and growth management issues with local needs and economic development.

A rural area of critical economic concern (RACEC) is a community, or a region composed of rural communities, designated by the Governor, that has been adversely affected by an extraordinary economic event, severe or chronic distress, a natural disaster, or that presents a unique economic development opportunity of regional impact.⁷⁰

⁶⁶ Fringe benefits include, but are not limited to, health insurance, retirement benefits under defined benefit pension plans, paid vacation and holidays, and sick leave.

⁶⁷ Pub. Law No. 112-96, H.R. 3630, 112th Cong. (Feb. 22, 2012).

⁶⁸ USDOL, Employment and Training Administration, UIPL No. 22-12 (Jun. 18, 2012), *available at* http://wdr.doleta.gov/directives/attach/UIPL/UIPL_22_12_Acc.pdf (last visited Feb. 27, 2014).

⁶⁹ Section 288.0656(3), F.S.

⁷⁰ Section 288.0656(2)(d), F.S.

Upon a recommendation from the REDI, the Governor may designate up to three RACEC areas. This designation allows these areas to receive priority assignments for the REDI, and allows the Governor, acting through the REDI, to waive criteria, requirements, or similar provisions of any economic development incentive. Currently, there are three designated RACEC areas consisting of the following counties and communities:

- Northwest RACEC - Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Wakulla, and Washington counties, and the City of Freeport in Walton County.
- South Central RACEC – DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee counties, and the Cities of Pahokee, Belle Glade, and South Bay (Palm Beach County), and Immokalee (Collier County).
- North Central RACEC – Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor, and Union counties.⁷¹

In 2012, Enterprise Florida, Inc., commissioned a study to help develop an economic development strategic plan for rural Florida.⁷² The study found that Florida had a fragmented framework for addressing rural economic development; that although rural Florida is perceived to be distressed and an “an area of critical economic concern,” it has greater assets than its potential competition in other southeastern states; and finally, the name “Rural Areas of Critical Economic Concern,” may be counterproductive when seeking positive attention from economic development interests. One of the strategic recommendations is to change the RACEC name.

III. Effect of Proposed Changes:

Section 1 amends s. 163.3202, F.S., to correct a cross-reference that inadvertently left newly-created cities out the requirement to update their land development regulations.

Loan Programs

Section 2 amends s. 288.005, F.S., to provide definitions for loan administrator and loan program. The bill defines “loan administrator” as a statutorily eligible recipient of state funds authorized by the DEO to make loans under a loan program. “Loan program” is defined as a program established under ch. 288, F.S., that provides appropriated funds to an eligible entity to further a specific state purpose for a limited time. The term loan program also includes “loan fund” or “loan pilot program.”

Section 3 creates s. 288.006, F.S., which outlines the procedure for operating all loan programs under ch. 288, F.S.

The bill provides that state funds appropriated for loan programs may only be used by an eligible recipient or loan administrator and these funds may only be used to carry out the specific state purpose of the loan program, subject to any compensation due to a recipient or loan administrator. The DEO may award state funds directly to an eligible recipient or to a loan

⁷¹ The DEO, Annual Report 2012-2013 (October 2013), 37, available at http://sitefinitly.floridajobs.org/about%20awi/open_government/2013_DEOAnnualReport.pdf (last visited Feb. 27, 2014).

⁷² Enterprise Florida, Inc., “Florida Rural Economic Development Study,” (December 2012), available at <http://www.enterpriseflorida.com/wp-content/uploads/12.31.2012-Rural-Strategy-Deliverable-Presentation.pdf> (last visited Feb. 25, 2014).

administrator. All state funds, including any accrued interest, remain state funds unless statutory requirements of the loan program state otherwise.

Upon termination of a loan program, all appropriated funds will revert to the General Revenue Fund, minus any outstanding administrative expenses due. Upon termination of a contract between the DEO and an eligible recipient or loan administrator, any remaining funds will revert to the fund from which the appropriation was made. The DEO will become the successor entity for any outstanding loans and is directed to pay the former loan administrator for any allowable administrative expenses due to the loan administrator. However, this does not apply when the contract is terminated for fraud or a finding that the recipient or loan administrator was not meeting the terms of the program. The former loan administrator or recipient must execute all appropriate instruments to reconcile any remaining accounts associated with the terminated loan program or contract.

An eligible recipient or loan administrator must avoid any potential conflicts of interest regarding the use of loan program funds. Loan administrators, as well as their board members, employees, or agents, are not allowed to have a financial interest in an entity that is an eligible recipient of the loan program. The bill prohibits loans from being awarded to a person or entity if there is a conflict of interest between the parties involved without full disclosure of the conflict of interest to the DEO by the eligible recipient or loan administrator.

To determine eligibility as a recipient or as a loan administrator for a loan program, an applicant must submit an application to the DEO. The DEO must evaluate the applicant's business practices, financial stability, past performance in other state programs, and ability to meet the statutory requirements of the loan program. An applicant's eligibility may be conditionally granted or denied if the DEO determines that the entity is not compliant with any law, rule, or program requirement.

Revolving loans or new negotiable instruments using appropriated state funds that have been repaid to a loan administrator may be entered into when a loan program's statutory structure permits. However, all revolving loans or new negotiable instruments made by a loan administrator remain subject to the loan program requirements and compensation to a recipient or administrator is prohibited from exceeding the provisions that are permitted under ch. 288, F.S.

The bill authorizes the Auditor General to perform audits to verify that loan funds are expended by eligible recipients and loan administrators as required for each loan program. If the Auditor General determines that the funds are not expended as required, DEO must be notified so that it may pursue recovery of the funds. DEO is authorized to adopt rules to implement the provisions of the bill.

Florida Small Cities Community Development Block Grant Program

Section 4 amends s. 290.411, F.S., to reflect that the legislative intent and purpose of the Small Cities Community Development Block Grant Program Act also includes economic need as one of the factors to make a Florida community eligible to participate in the program and economic development programs as an activity for such communities to undertake.

Section 5 amends s. 290.044, F.S., to provide the DEO rule-making authority to establish guidelines to distribute the Small Cities CDBG program funds through a competitive selection process. Applicants will compete against each other in four grant program categories: housing rehabilitation, economic development, neighborhood revitalization, and commercial revitalization. The DEO is directed to define broad community development objectives for the distribution of CDBG funds that are consistent with the national objectives, as established by federal law.

Section 6 amends s. 290.046, F.S., to substantially revise the application procedures for the Florida Small Cities CDBG Program. Eligible local governments may only submit one application for a noneconomic development project during an application cycle. An eligible local government may apply for an economic development grant up to three times each annual funding cycle but may only receive one such grant per annual funding cycle. A local government is permitted to have more than one open economic development grant.

A grant may not be awarded until the DEO has completed a site visit to verify the information contained in the award application.

The DEO must rank each application received based on criteria established by rule. The rankings must incorporate a procedure intended to reduce or eliminate any population-related bias that places exceptionally small communities at a competitive disadvantage. The bill repeals some specific criteria and procedures for scoring applications that currently exist in statute.

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

The application's program impact score, equal employment opportunity and fair housing score, and the communitywide needs score may take into consideration scoring factors that include: unemployment, poverty levels, benefits to low- and moderate-income residents, use of minority-owned or woman-owned businesses in previous grants, health and safety issues, and the condition of physical structures.

The bill makes the requirement that a local government must establish a Citizen's Advisory Task Force permissive. Local government citizen participation requirements are also substantially revised. An applicant must make information about the amount of funds available for various activities and the range of activities that may be undertaken available to the public. An applicant is also required to hold a minimum of two public meeting to solicit public input before submitting the final application. The applicant must conduct an initial hearing to solicit public input about community needs, to inform about funding opportunities to address those needs, and to discuss activities that may be undertaken. Prior to the second public hearing, the local government must publish a summary of the proposed application to give citizens the opportunity to review the contents of the application. A second public hearing must be held to obtain public comment about the proposed application and make appropriate modifications.

Section 7 amends s. 290.047, F.S., to provide that the maximum amount of block grant funds that may be spent on administrative costs under the economic development program category is \$120,000.⁷³ The maximum amount of block grant funds that may be spent on engineering and architectural costs for any grant must be in accordance with a method adopted by the DEO by rule.

Section 8 amends s. 290.0475, F.S., to update references to statutes and department rules.

Section 9 repeals s. 290.048(5), F.S., which grants the DEO the power to adopt and enforce requirements concerning an applicant's written description of a service area. This repeal is related to the substantial revisions to the application process.

Space Florida

Section 10 amends s. 331.3051, F.S., to require Space Florida to consult with the Florida Tourism Industry Marketing Corporation (VISIT Florida) in developing a space tourism marketing plan, and allows Space Florida and VISIT Florida to enter into a mutually beneficial agreement to implement the plan.

The bill repeals the requirement that Space Florida develop a proposal for a Center of Excellence for Aerospace. Space Florida must still collaborate with one or more public or private universities and other public or private entities to promote research necessary to develop commercially promising, advanced, and innovative science and technology so that it may transfer those discoveries to the public sector.

Reemployment Assistance

Initial Skills Review

Section 11 repeals s. 443.036(26), F.S., which provides a definition for "initial skills review."

Section 12 amends s. 443.091, F.S., to repeal the requirement that applicants for reemployment assistance must complete an initial skills requirement for receipt of benefits. The bill directs DEO to offer a voluntary online assessment that will identify an individual's skills, abilities, and career aptitude. The assessment must be made available to any person seeking services from a regional workforce board or one-stop center. The results of the online assessment must be made available to the claimant, the regional workforce board, and the one-stop center. The individual must be informed of and encouraged to participate in services, including career counseling, provision of skill match and job market information, skills upgrade, and other training opportunities offered at no cost to the individual through the one stop delivery service.

Aggregate data on the assessment outcomes may also be made available to Workforce Florida, Inc., also known as CareerSource Florida, and Enterprise Florida, Inc., for use in the

⁷³ Under current law, the maximum Small Cities CDBG administration costs are capped at 15 percent for housing grants and 8 percent for all other program category grants. A schedule of maximum percentage used for engineering costs is adopted by the DEO consistent with the schedule used by the U.S. Farmers Home Administration or another comparable schedule. See s. 290.047, F.S.

development of policies related to education and training programs to ensure that businesses in this state have access to a skilled and competent workforce.

The bill authorizes DEO to competitively procure an online assessment system that will work seamlessly with the CONNECT system.⁷⁴

Short Time Compensation

Section 13 amends s. 443.1116, F.S., to bring Florida in conformity with federal law. As a part of its STC plan, the employer must certify that if fringe benefits are provided to an employee whose workweek is reduced under the program, the employer will continue to provide the fringe benefits while the employee is participating in the STC program under the same terms and conditions as if the employee were not a participant or to the same extent as other employees not participating in the STC program.

The STC plan must also describe the manner in which it will be implemented, including the provision of notice and an estimate of layoffs that would have occurred in the absence of the ability to participate in the STC program. The employer's written plan and its implementation must be consistent with the employer's obligations under applicable state and federal law.

The bill prohibits the DEO from denying STC benefits to an individual who is otherwise eligible due to her or his participation in employer-sponsored training or a training program under the Workforce Investment Act to improve job skills when the training is approved by the DEO. The bill defines "employer-sponsored training" as training sponsored by an employer to improve the skills of the employer's workers.

Installment Plans

Section 14 amends s. 443.141, F.S., to make the RA contribution installment plans a permanent option. Employers will continue to have the option of making quarterly contributions to the Unemployment Compensation Trust Fund for an annual administrative fee of \$5.

Sections 36 and 37 amend ss. 215.125 and 443.1216, F.S., to update statutory citations to conform to changes made by this bill.

Rural Areas of Critical Economic Concern

Section 15 through Section 35 amend ss. 125.271, 163.3177, 163.3187, 163.3246, 211.3103, 212.098, 218.67, 288.018, 288.065, 288.0655, 288.0656, 288.1088, 288.1089, 290.0055, 339.2819, 339.63, 373.4595, 380.06, 380.0651, 985.686, and 1011.76, F.S., to replace the phrase rural area of "critical economic concern" with rural area of "opportunity."

Section 38 provides an effective date of July 1, 2014.

⁷⁴ The CONNECT system is DEO's Reemployment Assistance Claims and Benefits Information System.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

Continuation of the installment plan option for RA contributions may have an indeterminate effect on the balance of the Unemployment Compensation Trust Fund that could affect RA tax rates.

B. Private Sector Impact:

The availability of the STC program allows employers to avoid layoffs while retaining skilled employees.

For those employers that may experience difficulty in remitting an annual lump sum payment of RA contributions, the continuation of installment plan option will provide an alternative means of payment and possibly reduce the risk of delinquency.

The rebranding of “rural areas of critical economic concern” to “rural areas of opportunity” may have a positive economic effect on these communities.

C. Government Sector Impact:

Indeterminate. The DEO has not analyzed the impacts of this bill.

The DEO will likely incur cost in the procurement of an online assessment. However, this may be partially offset by the elimination of the Initial Skills Review.

VI. Technical Deficiencies:

Section 290.0475(6), F.S, (line 520 of the bill) references the Housing and Community Development Act of 1984; however, the correct reference is the Housing and Community Development Act of 1974.

VII. Related Issues:

The bill authorizes the DEO to adopt rules relating to the general operation of loan programs and the Small Cities CDBG program.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 125.271, 163.3177, 163.3187, 163.3246, 163.3202, 211.3103, 212.098, 215.425, 218.67, 288.005, 288.018, 288.065, 288.0655, 288.0656, 288.1088, 288.1089, 290.0411, 290.044, 290.046, 290.047, 290.0475, 290.0055, 331.3051, 339.2819, 339.63, 373.4595, 380.06, 380.0651, 443.091, 443.1116, 443.141, 443.1216, 985.686, and 1011.76.

This bill creates section 288.006 of the Florida Statutes.

This bill repeals sections 443.036(26) and 290.048(5) of the Florida Statutes.

IX. Additional Information:

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

None.

- B. **Amendments:**

None.