

**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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: SB 1214

INTRODUCER: Senators Latvala and Detert

SUBJECT: Economic Development

DATE: April 20, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Askey</u>	<u>McKay</u>	<u>CM</u>	<b>Favorable</b>
2.	<u>Gusky</u>	<u>Miller</u>	<u>ATD</u>	<b>Recommend: Fav/CS</b>
3.	<u>Gusky</u>	<u>Kynoch</u>	<u>AP</u>	<b>Pre-meeting</b>

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**I. Summary:**

SB 1214 makes a number of changes to the state's economic development programs, by providing more flexibility in some programs, and increasing transparency and accountability across the economic development programs. Specifically, the bill:

- Standardizes the economic development application and evaluation processes.
- Specifies incentive project approval by the amount of required funding, as follows:
  - The Governor may approve projects requiring less than \$2 million without legislative approval.
  - The Governor must give 10 days' notice to the Legislative Budget Commission (LBC) for projects between \$2 million and \$7.5 million.
  - The Governor must wait on LBC approval before taking action on any projects requiring \$7.5 million or more.
  - Projects of \$5 million or greater with any waivers of program requirements require LBC approval.
  - This application approval process applies to:
    - The Quick Action Closing (QAC) Fund;
    - The Qualified Target Industry Business (QTI) Tax Refund;
    - The High-Impact Business Performance Grants;
    - The Qualified Defense Contractor and Space Flight Business Tax Refund Program (QDSC);
    - The Innovation Incentive Program;
    - The Brownfield Redevelopment Bonus Refund; and
    - The Local Government Distressed Area Matching Grant Program.
- Mandates that contracts requiring capital investment in the state must oblige that the investment remain in the state for the duration of the contract.
- Limits the contract term to 10 years, except for projects receiving \$20 million or more in total state incentives.

- Requires that contracts with job creation performance conditions require applicants to use the workforce information systems implemented by Career Source Florida.
- Requires advance notice of any proposed amendment to a contract, with a 3-day notice to the Legislature, except for a proposed amendment that would reduce the projected ROI by 0.50 or more, which requires a 10-day legislative consultation period. Amendments that reduce the project's ROI must include a proportionate reduction in the award amount.
- Requires that the average private sector wage requirement reflects the wages in the local area where the business is located.
- Extends the date applicants can be certified under the QDSC Program until June 30, 2020.
- Makes the following changes to the QAC Fund:
  - The economic benefit ratio required for a project to qualify has been lowered from 5 to 1, to 4 to 1;
  - The number of qualifying project criteria allowed to be waived is limited to two;
  - The criteria that the incentive be an inducement to the project's location or expansion in this state may not be waived;
  - That no payments may be made to a qualifying project until required performance goals have been achieved; and
  - Provides that a waiver of the annual wage requirement may not be below 100 percent of the average private sector wage in the area, and that a ROI waiver cannot be below 2 to 1.
- Makes the following changes to the QTI Program:
  - Permits businesses in brownfield or rural areas to receive 100 percent of the total tax refunds allowed, if local financial support is waived;
  - Permits businesses to receive a prorated award if at least 90 percent of agreed-to higher wage requirements are met; and
  - Permits the DEO to grant 60 day extensions for applicants to claim tax refunds.
- Requires that the appointment of the President of Enterprise Florida, Inc., (EFI) is subject to Senate confirmation, and prohibits the EFI President from engaging in lobbying efforts in Florida, in a manner similar to other state agency heads. The bill applies these changes to presidents appointed or reappointed after July 1, 2015.
- Amends the terms "cumulative capital investment" and "fixed capital investment" to exclude any state or local funds from being counted toward the total investment, in certain programs, and clarifies that the state's investment for purposes of determining "economic benefits" includes all state funds spent or forgone to benefit the business.
- Requires the Office of Economic Development and Research (EDR) and the Office of Program Policy Analysis and Government Accountability (OPPAGA) to review the baseball spring training program and the Microfinance Loan and Guarantee programs.

The extension of the Qualified Defense Contractor and Space Flight tax refund program to allow the Department of Economic Opportunity (DEO) to certify applications through June 30, 2020, will have an impact to state revenues. The Revenue Estimating Impact Conference has not yet reviewed the bill. The DEO has indicated that it has sufficient resources to administratively implement the bill.

The bill provides an effective date of July 1, 2015.

## II. Present Situation:

### Florida Economic Development Incentives

Florida has a number of incentive programs intended to promote economic development in the state. These programs are collectively referred to as the economic development “toolkit” and come in a variety of forms including tax credits, tax refunds, tax exemptions, and cash grants. The toolkit is used to incentivize highly competitive projects to remain, locate, or expand in the state. Enterprise Florida, Inc. (EFI), a public-private partnership between businesses and the state, acts as the principal economic development organization for Florida. The state is responsible for oversight and administration of tax refund claims and performance reviews, processing incentive payments, and local financial support. After EFI has made the initial steps in the economic development incentive process, the Department of Economic Opportunity (DEO) begins its own processes. The DEO is responsible for evaluating project applications and has a role in the approval process. Following final approval by the DEO, the Governor, and in some cases the Legislative Budget Commission, the business enters into an agreement or contract with the DEO concerning the incentives. Most contracts require certain performance measures to be met before any incentive funds are paid out. Two notable exceptions are the Quick Action Closing Fund and the Innovation Incentive Program. Incentive programs that pay out before performance requirements are met have contractual provisions to recapture funds and impose sanctions if performance measures are not met as scheduled. The Office of Economic Development and Research (EDR) and the Office of Public Policy Analysis and Government Accountability (OPPAGA) are required to review and report on the economic development toolkit programs as well as some other programs related to economic development in ch. 288, F.S.

### Economic Development Programs with Tax Refunds

#### *Qualified Target Industry Business Tax Refund*

The Qualified Target Industry Business Tax Refund (QTI) was established in 1995, in s. 288.106, F.S., with the purpose of attracting high wage jobs to the state. The tax refunds are made to qualified, pre-approved businesses creating jobs in target industries. The target industries are identified by the DEO for criteria including future growth, stability, high wages, market and resource independence, industrial base diversification, and positive economic impact. Approved QTI projects have contractual performance measures with specific milestones to be verified prior to payment of any tax refunds. This incentive requires 20 percent of the award to come from the local government. The program is funded through a specific annual appropriation.<sup>1</sup> The program shares a \$35 million cap, per fiscal year, with the Qualified Defense and Space Contractor Tax Refund. The DEO reported that \$55.3 million in maximum awards was approved in Fiscal Year 2013-14.<sup>2</sup> Additionally the department reported that of the 1,110

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<sup>1</sup> Section. 288.095, F.S.

<sup>2</sup> The amount approved in any fiscal year may exceed the statutory cap, but payments in any fiscal year will not exceed the cap.

contracts executed from the beginning of the program to June 30, 2014, 322 contracts are active and 122 contracts were successfully completed.<sup>3</sup>

### ***Qualified Defense Contractor and Space Flight Business Tax Refund***

Also known as the Qualified Defense and Space Contractor (QDSC) Tax Refund, the program was established in 1996, in s. 288.1045, F.S., and is designed to attract high wage jobs in the space and defense industries. The QDSC tax refunds are made to qualified and approved businesses bidding on new or securing existing defense or space contracts. As with the QTI refund, 20 percent of the award comes from the local government. As with other programs, the QDSC tax refunds are awarded after contractual performance-based milestones are met and verified by the state. Since June 30, 2014, no new applicants may be certified as eligible under statute. The program is funded through a specific annual appropriation. The program shares a \$35 million cap, per fiscal year with the QTI Tax Refund. The DEO reported that \$3.2 million in maximum rewards was approved in Fiscal Year 2013-2014. Additionally, the DEO reported that of the 28 contracts executed from the beginning of the program to June 30, 2014, five contracts are active and five contracts were successfully completed.<sup>4</sup>

### ***Brownfield Redevelopment Bonus Refund***

The Brownfield Redevelopment Bonus Refund was established in 1997, in s. 288.107, F.S., to improve economic activity in designated Brownfield areas. These areas are designated by the respective community for the presence or perceived presence of economic blight or environmental contamination. As with the QTI and QDSC programs, the Brownfield program requires 20 percent of the award to come from the local government. As with other programs, the Brownfield program requires performance-based contracts and specific milestones to be met in order for a project to receive awards. The Brownfield program offers a bonus for any tax refund awarded to a QTI qualified business for job creation, if that job creation occurred in a Brownfield area. The program is funded through a specific annual appropriation. The DEO reported that \$2.6 million in maximum rewards was approved in Fiscal Year 2013-2014, with an additional \$875,000 in maximum awards for the Brownfield Bonus with QTI. Additionally, the department reported that of the 59 contracts executed from the beginning of the program to June 30, 2014, 33 contracts are active and 9 contracts were successfully completed. For the Brownfield Bonus with QTI, there are 103 contracts executed in the same timeframe with 40 active contracts and 6 completed.<sup>5</sup>

## **Economic Development Programs with Tax Credits**

### ***Capital Investment Tax Credit***

The Capital Investment Tax Credit (CITC) became effective in 1998, in s. 220.191, F.S., and its purpose is to attract and grow capital-intensive industries in Florida. Eligible projects must be in designated high-impact portions of certain sectors, determined by the DEO, including clean energy, biomedical technology, financial services, information or silicon technology, or

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<sup>3</sup> Florida Department of Economic Opportunity, *2014 Annual Incentives Report*, 11, 15 (Dec. 30, 2014) available at <http://sitefinity.floridajobs.org/docs/default-source/sbd-sports/2014-annual-incentives-report.pdf?status=Temp&sfvrsn=0.028032216409722532> (last visited March 3, 2015).

<sup>4</sup> *Id.*

<sup>5</sup> *See supra* note 3.

transportation equipment manufacturing. The project could also be a corporate headquarters facility. The DEO reports that the value of credits claimed is often lower than the value of credits approved because the company's tax liability may be lower than the value of the credits, and most often, because the credits can only be used to offset a portion of the incremental new tax liability attributable to a project. There is no cap for this program. The DEO reported that \$7.2 million in tax credits were claimed in 2013. The DEO also reported that there have been 37 approvals or certifications for CITC projects through June 30, 2013 (numbers from 2014 were not reported), with 32 being active and five having been terminated.<sup>6</sup>

### ***Entertainment Industry Financial Incentive Program***

The Entertainment Industry Financial Incentive Program was established in 2003, in s. 288.1245, F.S., to develop and sustain the workforce and infrastructure for film, digital media, and entertainment productions. This program offers transferable tax credits for expenditures related to qualified productions on a first-come, first-served basis. Currently the Office of Film and Entertainment has committed all of the state's tax credits (under this program), certifying 351 projects to receive \$296 million.<sup>7</sup> The Entertainment Industry Sales Tax Exemption Program, in s. 288.1258, F.S., is a related program.

### **Economic Development Programs with Cash Grants**

#### ***High-Impact Business Performance Grants***

Also known as the High-Impact Performance Incentive (HIPI), the program was established in 1997, in s. 288.108, F.S. HIPI is a grant reserved for projects operating in the same high-impact sectors as in the CITC program. The cash grant is performance based and paid in two installments. First, upon operational commencement, and the second upon full operational commencement as determined in contract. The program has an annual cap of \$30 million. The DEO reports that \$10.6 million in grant incentives was approved in Fiscal Year 2013-14. The DEO also reports that of the 14 contracts executed from the beginning of the program to June 30, 2014, seven contracts are active and three contracts were successfully completed.<sup>8</sup> This program authorizes the recapture of funds if a business fails to meet its performance measures.

#### ***Quick Action Closing Fund***

The Quick Action Closing (QAC) Fund was established in 1999, in s. 288.1088, F.S. The program is designed to be a competitive "deal closing" tool for negotiations where the state's other incentives are not enough to incentivize a business to remain, locate, or expand in the state. All QAC Fund projects have a performance based contract requiring specific scheduled milestones and annual compliance requirements. The program authorizes sanctions and penalties for failure to perform. The program is funded by a specific annual appropriation, and has no cap. The DEO reports that \$44.7 million in grant incentives was approved in Fiscal Year 2013-14.

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<sup>6</sup> See *supra* note 3, at 12-13, 22.

<sup>7</sup> Office of Program Policy Analysis and Government Accountability, Florida Legislature, *Florida Economic Development Program Evaluations – Year 2*, Report No. 15-01, 10 (Jan. 1, 2015), <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1501rpt.pdf> (last visited Feb. 26, 2015).

<sup>8</sup> See *supra* note 3, at 12 and 17.

Additionally, the report stated that 144 contracts have been executed through June 30, 2014, with 106 active contracts and ten successfully completed contracts.<sup>9</sup>

### ***Innovation Incentive Program***

The Innovation Incentive Program (IIP) was created in 2006, in s. 288.1089, F.S. The program is designed to empower the state to compete effectively for research and development, innovation business, or alternative and renewable energy projects. The program creates long-term investments, made by the state, in industry clusters critical to the state's future economic diversification. The projects have contractual performance measures and milestones that must be achieved before grant payment. The contracts also include a reinvestment portion, requiring recipients to reinvest a portion of royalty revenues earned back to the state for investment in existing state trust funds. The DEO reports that as of 2013, nine companies have been awarded funds of \$455.7 million, not including the Scripps Florida Grant (\$310 million).<sup>10</sup>

### ***Local Government Distressed Area Matching Grant Program***

The Local Government Distressed Area Matching Grant (LGDAMG) Program was established in 2010, in s. 288.0659, F.S. The program goal is to improve economic activity and enhance job creation in distressed communities. The grant is administered as a contract between the state and the local government. The state's funds, a \$50,000 maximum, are passed through to the business.<sup>11</sup>

## **Other Economic Development Programs**

### ***Professional Sports Facilities***

Florida offers state funding to pay for a facility for a professional sports franchise, under certain circumstances. Local governments, non-profit and for-profit entities may apply to the program. The program is reviewed by the EDR and the OPPAGA on a schedule required by s. 288.001, F.S. The state extends the program for the retention of Major League Baseball spring training baseball franchises in s. 288.11631, F.S.

### ***Microfinance Programs***

The state has two separate microfinance programs, the Microfinance Loan Program<sup>12</sup> and the Microfinance Guarantee Program.<sup>13</sup> The loan program is designed to make short-term, fixed-rate microloans for business management training, business development training, and technical assistance to entrepreneurs and newly established or growing small businesses for startup costs, working capital, and the acquisition of materials, supplies, furniture, fixtures, and equipment. The intent of the program is to enable entrepreneurs and small businesses to access private financing after completing the program. The guarantee program is intended to stimulate access to credit for entrepreneurs and small businesses by providing targeted guarantees to their loans.

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<sup>9</sup> See *supra* note 3, at 12 and 17.

<sup>10</sup> See *supra* note 3, at 19.

<sup>11</sup> See *supra* note 3, at 12.

<sup>12</sup> Section 288.9934, F.S.

<sup>13</sup> Section 288.9935, F.S.

### III. Effect of Proposed Changes:

#### Definition Changes

**Section 1** of the bill amends the definition for “cumulative capital investment” for purposes of the state’s capital investment tax credit.<sup>14</sup> The definition is amended to prohibit the inclusion of any state or local funds used for capital investment, including funds appropriated to public or private entities, when calculating the total capital investment made in connection with a qualifying project.

Under current law, a qualifying project’s “cumulative capital investment” is used to determine the maximum percentage of the annual corporate income tax liability or premium tax liability generated by the project against which the capital investment tax credit may be imposed. This term is also used in the Innovation Incentive Program (program)<sup>15</sup> when determining if a business is qualified to receive incentives under the program.

**Section 3** amends the definition of “economic benefits” as used in ch. 288, F.S., which currently means the direct, indirect and induced gains in the state revenues as a percentage of the state’s investment. The current definition includes state grants, tax exemptions, tax refunds, tax grants, and other state incentives when calculating the state’s investment, to be used as a measure of economic gain in state revenue as a percentage of the state’s investment. The amended definition includes “all state funds spent or forgone to benefit the business, including state funds appropriated to public and private entities.”

The amended definition will change the calculation of “economic benefits” when used as a metric for the following programs and reports:

- The state’s economic development programs evaluation;
- The economic development incentive application process;
- The return on investment reporting for economic development programs;
- The Qualified Target Industry Tax Refund Program;
- The High-Impact Business Performance Grants;
- The Quick Action Closing Fund;
- The Entertainment Industry Financial Incentive Program;
- The annual incentives report required of Enterprise Florida, Inc., (EFI) for all of the economic development incentive programs marketed by EFI; and
- The evaluation of the Microfinance Loan Program and the Microfinance Guarantee Program.

#### Economic Development Incentive Application and Evaluation

**Section 4** amends the Economic Development Incentive Application process under s. 288.061, F.S. The bill directs the DEO to create a uniform application form for incentive applications beginning January 1, 2016. The bill requires the form to include at minimum:

- The applicant’s federal employee identification number, reemployment assistance account number, and state sales tax registration number (if these are unavailable at the time of

<sup>14</sup> Section 220.191, F.S.

<sup>15</sup> Section 288.1089, F.S.

application, they must be submitted before disbursing any incentive payments or granting any tax credits or refunds);

- The applicant's signature;
- The location in the state where the project will be located;
- The anticipated commencement date of the project;
- A description of the business activity, product, or research and development undertaken by the applicant, and the 6-digit North American Industry Classification System (NAICS) code for all activities included in the project; and
- An attestation verifying that the information in the application is true and accurate.

The bill creates a uniform evaluation process, by which the DEO will review and evaluate each incentive application for the economic benefits of the potential award of state incentives proposed for the project. The bill directs the EDR to include guidelines for the application of the model established to calculate the economic benefits. Current law allows the EDR to use an amended version of the term "economic benefits" for the purposes of this requirement. The bill requires that the amended definition must reflect the changes made by the bill in s. 288.005, F.S., namely that the calculation for the state's investment include all state funds spent or forgone to benefit the business, including state funds appropriated to public and private entities.

The bill requires that the department's evaluation of an application must also include the following:

- A financial analysis of the company including information on liens, pending or ongoing litigation, credit ratings, and regulatory filings;
- A review of any independent evaluations of the company;
- A review of the historical market performance of the company;
- A review of the latest audit of the company's financial statement and related auditor management letter;
- A review of any other audits related to the internal controls or management of the company;
- A review of performance in connection with past incentives; and
- Any other review deemed necessary by the department.

The bill creates a uniform approval process for economic incentive applications for potential projects under any of the following programs:

- The Local Government Distressed Area Matching Grant Program;
- The Qualified Defense Contractor and Space Flight Business Tax Refund Program;
- The Qualified Target Industry Business Tax Refund;
- The Brownfield Redevelopment Bonus Refund;
- The High-Impact Business Performance Grants;
- The Quick Action Closing Fund; and
- The Innovation Incentive Program.

The bill provides a specific approval process for economic incentive applications. Within 10 days of receiving a complete application, the DEO gives a project recommendation for approval or disapproval to the Governor. Recommendations must include a justification for that recommendation and the proposed performance conditions the project must meet to receive incentive funds. The Governor may approve any project that requires less than \$2 million



without consulting the Legislature. For projects that require funding of at least \$2 million and up to \$7.5 million, the Governor must provide a written description and evaluation to the Legislative Budget Commission (LBC) at least 10 days before final approval of the project. If the chair or vice chair of the LBC, the President of the Senate, or the Speaker of the House of Representatives advises the Governor in writing that the action exceeds executive authority or is contrary to legislative intent, the Governor and the DEO shall suspend all actions until the LBC or the Legislature make a determination on the project. Any project requiring funding of \$7.5 million or more must be approved by the LBC before final approval by the Governor.

Current law provides that potential projects businesses submit applications for under these programs only require approval from the executive director of the DEO, except for the Innovation Incentive Program (IIP) and the Quick Action Closing Fund (QAC). The IIP requires that projects must be approved by the LBC. The QAC Fund allows projects receiving under \$2 million in funding to be approved by the Governor. Projects receiving between \$2 million and \$5 million in QAC funds require legislative consultation and projects exceeding \$5 million in funding is subject to approval by the LBC.

The bill clarifies that, upon certification, an applicant and the DEO will enter into contract. The bill requires that any contract that requires capital investment to be made by the applicant must also require that capital investment to remain in this state for the duration of the contract. The bill requires that the contract term is not to exceed 10 years. Under current law, project terms are written into each contract but are not limited by statute. The bill provides that the department may enter into successive agreements for a project after the first 10 year term, providing that each successive contract is contingent upon the successful completion of the previous contract. The bill does not impose the term restriction on contracts that have a total of \$20 million or more of combined state incentives. The bill requires that if the contract has any performance conditions related to job creation, the contract must require the applicant to use the workforce information systems implemented by CareerSource Florida, Inc., (formerly Workforce Florida, Inc.) required by s. 445.011, F.S.

The bill requires that any proposed changes to the contract by the DEO must be provided to the Legislature in writing. This notice will be given 3-business days before the changes, and 10 days for changes that result in reducing the projected economic benefits by 0.50 or more or below any statutorily required level for receipt of funds. Any such changes must also include a proportionate reduction in the award amount. As with the original contract approval process, the chair or vice-chair of the LBC, the Senate President, or the Speaker of the House of Representatives may object to the changes in writing. If there is an objection, the Governor and the DEO will suspend all actions until the LBC or the Legislature make a determination on the project.

### **The Qualified Defense Contractor and Space Flight Business Tax Refund**

**Section 5** amends the Qualified Defense Contractor and Space Flight Business Tax Refund Program.<sup>16</sup> The bill amends the term “average wage in the area” to be the “average private sector wage in the area” and amends the definition to be an average of all private sector wages and

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<sup>16</sup> Section 288.1045, F.S.

salaries in the county or standard metropolitan area where the business is located. Current law defines the term as the average of all wages and salaries in the state, county, or metropolitan area where the business is located.

Additionally, the bill also amends the extension granted by the DEO for applicants applying for the QDSC tax refund to submit performance information. The bill limits the extension to up to 60 days, up from 30 days in current law.

The bill allows applicants to be certified as qualified for this program until June 30, 2020. Under current law, no applicants may be certified as qualified after June 30, 2014, but tax refund agreements in existence on that date may continue in accordance with their terms.

### **The Qualified Target Industry Tax Refund**

**Section 6** makes changes to the Tax Refund Program for Qualified Target Industry Businesses (QTI). The bill amends the definition for “average annual private sector wage in the area” to exclude the statewide private sector wage, it must be the average private sector wages and salaries in the county or standard metropolitan area where the business is located. The bill allows an applicant exercising the local financial support exemption option to be eligible for 100 percent of the total funds allowed under the program. Under current law, an applicant exercising the local financial support exemption option is not eligible for more than 80 percent of the total tax refunds allowed under the program. The bill clarifies the application and approval process for the program<sup>17</sup> including that in order to qualify, the created jobs must have an average annual wage at least 115 percent of the average private sector wage in the area where the business is located. Current law allows the statewide private sector wage to be used in place of the average private sector wage in the area where the business is located.

The bill also makes changes to the annual claim of the tax refund.<sup>18</sup> Under current law, additional tax refund payments are available to applicants for each job created with a higher annual average wage than the minimum requirement of 115 percent. These “bonuses” are awarded at 150 percent of the average private sector wage (an additional \$1,000 tax refund per job) and at 200 percent of the average private sector wage (an additional \$2,000 tax refund per job). A prorated tax refund, with a 5 percent penalty, can be awarded if the business achieves 80 percent of its projected employment in the tax refund agreement and at least 90 percent of the average wage paid by the business specified in the tax agreement as long as it is not less than 115 percent of the average private sector wage in the area at the time of certification. The law requires that in order to claim the bonus, businesses must still meet the 90 percent mark for the prorated tax refund. The bill creates an additional requirement that the businesses must still meet 90 percent of the annual average wage, but that the annual average wage cannot be lower than 135 percent of the annual private sector wage for the 150 percent of the average private sector wage bonus, and it cannot be lower than 180 percent of the average private sector wage for the 200 percent of the average private sector wage bonus.

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<sup>17</sup> Section 288.106(4), F.S.

<sup>18</sup> Section 288.106(6), F.S.

The bill also amends the extension granted by the DEO for applicants applying for the QTI tax refund to submit performance information. The bill limits the extension to up to 60 days, up from 30 days in current law.

### **The Brownfield Redevelopment Bonus Refunds**

**Section 7** of the bill amends the Brownfield Redevelopment Bonus Refunds.<sup>19</sup> The bill clarifies the term “eligible business” and the term “fixed capital investment” when used as a criteria for participation in the refund. The bill prohibits an eligible business from including state funds used for capital investment as part of the \$2 million minimum fixed capital investment the business must make in order to receive bonus refunds.

### **The Quick Action Closing Fund**

**Section 8** amends the Quick Action Closing (QAC) Fund.<sup>20</sup> The bill lowers the required economic benefit ratio for a project to qualify to 4 to 1, down from 5 to 1 under current law. The bill amends the term “area wide or statewide private sector average wage” to be “average private sector wage” and defines it as the average of all private sector wages in the county or standard metropolitan area in which the project is located.

The bill amends the process and requirements of any waivers of criteria granted to projects. Under current law, in order to be eligible for QAC funds a project must:

- Be in an industry as referenced in s. 288.106, F.S., (the QTI Tax Refund program);
- 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 of the area-wide or statewide private sector average wage; and
- Be supported by the local community in which the project is to be located.

If the local government and EFI request a waiver, it must be submitted to the DEO in writing with an explanation of why the request is justified. The DEO, if approving the request, must state it in writing with an explanation for the approval. The bill prohibits the department from waiving more than two of the criteria. The bill clarifies that when considering a waiver, the DEO determines the existence of extraordinary circumstances. The bill prohibits criteria from being waived if the project’s economic benefit ratio would be below 2 to 1, or the average annual wage would be below 100 percent of the average private sector wage in the area. Additionally, the bill prohibits waiver of the criteria that the incentive be an inducement to the project’s retention, location, or expansion in this state.

The bill clarifies that when the DEO is evaluating QAC proposals, the minimum and maximum number of full-time equivalent jobs created by the facility should be used for evaluation purposes.

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<sup>19</sup> Section 288.107, F.S.

<sup>20</sup> Section 288.1088, F.S.

The bill strikes requirements related to the approval process for QAC applications. This reflects the changes made by the bill in s. 288.061, F.S., (see bill section 4 above).

The bill specifies additional conditions for payments from the QAC Fund. No payments may be made to the business until the scheduled goals have been achieved. The bill requires additional items to be in the contract, including the minimum and maximum amount of funds that may be awarded and the minimum and maximum number of jobs that will be created.

### **The Innovation Incentive Program**

**Section 9** amends the Innovation Incentive Program.<sup>21</sup> The term “average private sector wage” is amended to be “average private sector wage in the area” and now restricts the definition to the average of all private sector wages in the county or standard metropolitan area where the project is located. Under current law the definition could be the statewide average wage in the private sector.

Currently, the Governor must consult with the Legislature before approving an award, and may not release funds until approval by the LBC. The bill requires the Governor to approve or deny the award consistent with the new approval thresholds established in s. 288.061, F.S., by section 4 of the bill.

### **The President of Enterprise Florida, Inc.**

**Section 10** amends s. 288.905, F.S., concerning the President of Enterprise Florida, Inc., (EFI). The bill requires that the president, appointed by the Board of Directors of EFI, will be subject to Senate confirmation. The bill prohibits a former president of EFI, for a period of 2 years after vacating the office, from receiving compensation for representing certain entities before the legislative or executive branch of the state’s government. This prohibition applies only if the entity applied for, received, or negotiated with EFI for the receipt of state funds, regardless of whether or not any state funds were received.

**Section 11** provides that the changes made in section 10 of the bill only apply to EFI presidents appointed, or reappointed, on or after July 1, 2015.

### **Reporting and Miscellaneous Changes**

**Section 2** requires the EDR and the OPPAGA to include in their evaluations of economic development programs required in s. 288.0001, F.S., an analysis of the state’s retention of Major League Baseball spring training franchises with the analysis of the Sports Development program.<sup>22</sup> These evaluations will be done by January 1, 2018, and every 3 years thereafter.

**Section 12** changes the evaluation of the Microfinance Loan Program and Microfinance Guarantee Program in s. 288.9937, F.S., to give new duties to the OPPAGA. The bill also divides the analytical duties between the OPPAGA and the EDR, with the OPPAGA responsible

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<sup>21</sup> Section 288.1089, F.S.

<sup>22</sup> This program provides state funding for the acquisition, construction, reconstruction, or renovation of a facility for a new or retained professional sports franchise. See ss. 288.1162 and 288.11625, F.S.

for identifying inefficiencies in the programs and making recommendations for changes, and the EDR responsible for evaluating economic benefits, job creation, changes in personal income, and any impact on the state's gross domestic product from direct, indirect, or induced effects of the state's investment.

The bill changes the submission date of these reports from January 1, 2018 to January 15, 2018.

**Section 13** provides an effective date of July 1, 2015.

#### **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:

None.

B. Private Sector Impact:

The fiscal impact of the SB 1214 on the private sector is indeterminate.

C. Government Sector Impact:

Under the bill, the extension of the Qualified Defense Contractor and Space Flight tax refund program to allow the Department of Economic Opportunity (DEO) to certify applications through June 30, 2020, will have an impact to state revenues. The Revenue Estimating Impact Conference has not yet reviewed the bill.

The provisions of the bill that revise the Qualified Targeted Industry Business Tax Refund Program may increase state tax refunds awarded to businesses. Specifically these provisions permit businesses in brownfield or rural areas to receive 100 percent of the total tax refunds allowed if the local financial support is waived; and permit businesses to receive a prorated award if certain wage requirements are met. The impact is dependent on the use of these incentives and is indeterminate.

The DEO has indicated that it has sufficient resources to administratively implement the bill.<sup>23</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 220.191, 288.0001, 288.005, 288.061, 288.1045, 288.106, 288.107, 288.1088, 288.1089, 288.905, and 288.9937

**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.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>23</sup> Conversation with Bill Wilson, Legislative and Cabinet Affairs, Department of Economic Opportunity (DEO) (Mar. 2, 2015).