

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1325 Economic Development

SPONSOR(S): Transportation & Economic Development Appropriations Subcommittee; Boyd

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Economic Development Appropriations Subcommittee	11 Y, 1 N, As CS	Proctor	Davis
2) Finance & Tax Committee			

SUMMARY ANALYSIS

Economic development is the state and local communities, in partnership, improving their investment climate and business environment to enhance competitiveness, retain jobs, create jobs and improve incomes. The state undertakes economic development through a number of grant, loan, tax refund, and tax credit programs; some are contained in statute under ss. 220.191, 288.106, 288.107, 288.108, 288.1088, and 288.1089, F.S. The bill modifies economic development definitions, processes, and administration. Specifically, the bill:

- requires “cumulative capital investment” to be considered as part of the evaluation of incentive applications and clarifies that such capital investment does not include state or local government funds;
- clarifies that the model used to determine a project’s “economic benefits” as developed by the Office of Economic and Demographic Research (EDR) must include all state funds spent to benefit a business;
- sanctions a business receiving a state incentive award that relocates an incentivized project outside the state within 3 years of receiving their last incentive payment or benefit, or the end of their maintenance period, whichever occurs last;
- modifies allowable waivers for performance-based cash incentive programs;
- modifies the approval and amendment process for performance-based cash incentive programs;
- renames the Quick Action Closing Fund (QAC) program the Florida Enterprise Fund program;
- establishes a job creation component for the QAC program;
- modifies the economic benefit requirement of the QAC program to 3 to 1;
- modifies the QAC program to allow for the carry forward of any unexpended funds;
- modifies the Qualified Target Industry Tax Refund program to indicate that payments received are incentive payments and not tax refund payments;
- reauthorizes the Qualified Defense Contractor and Space Flight Business Tax Refund program;
- exempts a military base representative from filing a statement of financial interest solely due to their service on a local land planning or zoning board;
- exempts small businesses with 12 or less employees from concurrency/impact fees for three years;
- repeals the International Game Fish Association World Center facility statute;
- requires one member of the Enterprise Florida, Inc. board of directors to have expertise in the field of rural economic development;
- creates the Innovation Florida Initiative program;
- provides that the full board of directors of the Florida Development Finance Corporation may ratify or reject previous actions if taken by an incomplete board of directors;
- provides that the Florida Development Finance Corporation may utilize communication media technology for meetings and electronic signatures;
- requires OPPAGA and EDR to evaluate the impact of the state’s investment in the Microfinance Loan and Microfinance Guarantee Programs;
- moves the Florida Sports Foundation from Enterprise Florida, Inc., to the Department of Economic Opportunity; and
- removes the 30 percent match requirement for grants awarded under the Defense Infrastructure Grant Program.

On January 29, 2016, the Revenue Estimating Conference estimated the bill would have an indeterminate negative fiscal impact to the state. See fiscal comments.

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

FULL ANALYSIS

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1325a.TEDAS

DATE: 2/18/2016

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

ECONOMIC DEVELOPMENT INCENTIVES

Economic development is the state and local communities, in partnership, improving their investment climate and business environment to enhance competitiveness, retain jobs, create jobs and improve incomes. The state undertakes economic development through a number of grant, loan, tax refund, and tax credit programs; some are contained in statute under ss. 220.191, 288.106, 288.107, 288.108, 288.1088, and 288.1089, F.S.

Enterprise Florida, Inc., (EFI) is the state's point of contact for businesses seeking relocation, expansion, or job retention opportunities. As part of the early project development process, EFI promotes the value of doing business in the state. When a business is contemplating an expansion or relocation, EFI evaluates the competitive nature of the project in order to determine if incentives are needed and, if so, the appropriate programs for which the project might qualify. A strong commitment by the local community can also help define the level of commitment on behalf of the state.¹

During the project evaluation process, the needs of the project are identified and an incentive package is developed. It is during this stage that the Department of Economic Opportunity (DEO) analyzes the risk profile of the company involved, the particular project, and the recommended incentive package prepared by EFI to ensure it is in the best interest of the state. Once the incentive package is finalized, DEO and/or the other appropriate state bodies issue the formal approvals.²

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

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

Present Situation

Qualified Target Industry Tax Refund Program (QTI)

- The Qualified Target Industry Tax Refund Program was established to serve to attract new high quality, high wage jobs for Floridians.³
- Tax refunds are made to qualifying, pre-approved businesses creating new jobs within Florida's target industries.
- All QTI projects include a performance-based contract with the state, which outlines specific milestones that must be achieved and verified by the state prior to payment of refunds.
- Local Financial Support: Twenty percent of the award must come from the local city or county government.⁴

¹ Florida Department of Economic Opportunity, *2014 Annual Incentives Report*, pg. 3, (Dec. 30, 2014).

² *Id.*

³ See s. 288.061(1), F.S.

Prior to June 30, 2014, DEO was authorized to reduce this requirement by one-half for a qualified target industry business located in the counties of Bay, Escambia, Franklin, Gadsden, Gulf, Jefferson, Leon, Okaloosa, Santa Rosa, Wakulla or Walton. The reduction in local match was determined by DEO and based on a determination that the project facilitates economic development, growth, or new employment within the previously referenced counties, and was in the best interest of the state.⁵

- **Economic Recovery Extension:** For the period of January 2, 2009, through June 30, 2012, a qualified target industry business could submit a request to DEO for an economic recovery extension. The request was required to provide quantitative evidence that negative economic conditions in the business's industry, the effects of a named hurricane or tropical storm, or specific acts of terrorism have affected the business and prevented it from complying with the terms and conditions of its incentive agreement with the state. An approved economic recovery extension allowed DEO to prorate a business's tax refund and renegotiate the terms of the incentive agreement. Additionally, DEO was authorized to extend the duration of the incentive agreement up to two years.⁶
- **Job and Wage Requirements:** A project must propose to create at least 10 new jobs, or in the case of a business expansion, must result in a net increase in employment of at least 10 percent at that business. The jobs proposed to be created or retained must pay an average annual wage of at least 115% of the average private sector wage in the area where the business is located, or the statewide private sector average wage.
- The amount of the refund is based on the average wages paid by the business, number of jobs created, and where in the state the eligible business chooses to locate or expand. The minimum tax refund is \$3,000 per employee, and the maximum amount is \$11,000 per employee over the term of the incentive agreement. Jobs created in rural communities and enterprise zones, as well as those paying higher annual average wages, are eligible for more incentives.

Qualified Defense Contractor and Space Flight Tax Refund

- The Qualified Defense Contractor and Space Flight (QDCS) tax refund program was established to attract new high quality, high wage jobs for Floridians in the defense and space industries.⁷
- Tax refunds are made to qualifying, pre-approved businesses bidding on new competitive contracts or consolidating existing defense or space contracts.⁸
- **Local Community Support:** This incentive is a partnership between the state and local community - 20 percent of the award comes from the local city or county government.⁹
- All QDCS tax refund program projects include a performance-based contract with the state, which outlines specific milestones that must be achieved and verified by DEO prior to payment of refunds.¹⁰
- **Jobs and Wages:** The program requires that jobs created by a QDCS tax refund program project have an average annual wage of at least 115% of the average private sector wage in the area where the business is located, or the statewide private sector average wage.
- The amount of the tax refund is based on the average wages paid by the business, number of jobs created, and where in the state the eligible business chooses to locate or expand. The

⁴ See s. 288.106(1)(j), F.S.

⁵ Section 288.106(4)(f), F.S.

⁶ Section 288.106(5)(b), F.S.

⁷ See s. 288.1045, F.S.

⁸ See s. 288.1045(2), F.S.

⁹ Section 288.1045(1)(j), F.S.

¹⁰ Section 288.1045(4), F.S. See *supra* note 1 at 9.

minimum tax refund is \$3,000 per employee, and the maximum amount is \$8,000 per employee over the term of the incentive agreement.¹¹

- Since the QDCS tax refund program's inception 33 Qualified Defense Contractor and Space Flight tax refund program applications have been approved. Of those 33 approved applications 5 remain active. In Fiscal Year 2013-2014, \$3,208,000 in QDCS tax refund program incentives were awarded.¹² Approved applicants may receive up to 25 percent of their total tax refund, not to exceed \$2.5 million, in any given fiscal year.¹³
- Applicants may no longer be certified as eligible for the QDCS tax refund program as of June 30, 2014.¹⁴

Quick Action Closing Fund

- The Legislature created the QAC in 1999 as a discretionary "deal closing" tool in highly competitive negotiations where the state's traditional incentives are not enough to compel a business to relocate, initiate, or expand a project in Florida. The program was created in reaction to the announcement that the space shuttle program was being discontinued by NASA with expected job losses that would negatively impact families, companies, the state and regional economies.¹⁵
- Jobs and Wages: To be eligible to receive a QAC award, an applicant must be a business that operates within a targeted industry,¹⁶ must propose a project that has a positive return on investment (ROI) of at least five to one,¹⁷ must be induced by the award to locate or expand within the state¹⁸ and must pay an average annual wage of at least 125 percent of the average private sector average.¹⁹
- Local Community Support: The project must be supported by the local community in which the project will be located.²⁰
- DEO and EFI jointly review applications²¹ and determine the eligibility of each project. Waivers of eligibility criteria may be granted based on extraordinary circumstances,²² in order to mitigate the impact of the conclusion of the space shuttle program,²³ or if the project would significantly benefit the local or regional economy in a rural area of opportunity.²⁴
- DEO is required to evaluate proposals for high-impact business facilities based on the following criteria:²⁵
 - a description of the type of facility or infrastructure, its operations, and the product or service associated with the facility;²⁶
 - the number of full-time equivalent jobs that will be created by the facility and the total estimated average annual wages of those jobs;²⁷
 - the cumulative amount of capital investment to be made in the facility;²⁸

¹¹ Section 288.1045(2)(b), F.S.

¹² *See supra* note 1 at 11.

¹³ Section 288.1045(2)(b), F.S.

¹⁴ Section 288.1045(7), F.S.

¹⁵ *See s.* 288.1088(1)(b), F.S.

¹⁶ As identified by s. 288.106(2)(q), F.S.

¹⁷ Section 288.1088(2)(b), F.S.

¹⁸ Section 288.1088(2)(c), F.S.

¹⁹ Section 288.1088(2)(d), F.S.

²⁰ Section 288.1088(2)(e), F.S.

²¹ *See s.* 288.061, F.S.

²² Section 288.1088(3)(a)1., F.S.

²³ Section 288.1088(3)(a)2., F.S.

²⁴ Section 288.1088(3)(a)3., F.S.

²⁵ Privately developed rural infrastructure projects are evaluated on the types of business activities and jobs stimulated by the state's investment, not for the number of jobs created or average annual wages. S. 288.1088(3)(b)2., F.S.

²⁶ Section 288.1088(3)(b)1., F.S.

²⁷ Section 288.1088(3)(b)2., F.S.

- a statement of any special impacts the facility is expected to stimulate in a particular business sector in the state or region or in the state's universities or colleges;²⁹
 - a statement of the role the award will play in the decision of the company to locate or expand in the state; and³⁰
 - a report evaluating the quality and value of the company submitting the proposal.³¹
- Performance-Based Approval Process
 - Within seven business days of evaluating a project, DEO must recommend to the Governor that a project be approved or disapproved for an award. Approved projects may be awarded as follows:³²
 - The Governor is authorized to award projects less than \$2 million without Legislative approval.
 - For project awards between \$2 million and \$5 million, the Governor must provide a written description and evaluation of a project award to the chair and vice chair of the Legislative Budget Commission (LBC) at least 10 days prior to giving final approval for a project award.
 - Project awards over \$5 million must be approved by the LBC prior to funds being released.
 - Following approval, DEO is required to enter into a contract with the business which specifies the conditions for payment of funds.³³
 - The contract must include the total amount of funds awarded, the performance conditions for the project,³⁴ a baseline of current service with a measure of enhanced capability following the project, methodology for measuring performance, the schedule of payments, and sanctions for failure to meet performance conditions.³⁵

Innovation Incentive Program

- The Innovation Incentive Program was established to provide financial resources so that the state can “respond expeditiously to extraordinary economic opportunities and to compete effectively for high-value research and development, innovation business, and alternative and renewal energy projects.”³⁶
- To be eligible for consideration to receive an Innovation Incentive Program award, an innovation business, a research and development entity, or an alternative and renewable energy company must submit a written application to DEO before making a decision to locate new operations in the state or expand an existing operation in the state.³⁷
- Jobs and Wages: To qualify for review by DEO, the applicant must establish that the jobs created by the project must pay an estimated annual wage of at least 130 percent of the average private sector wage.³⁸
- Waiver of Wage Requirement: DEO is authorized to waive the average wage requirement at the request of Enterprise Florida, Inc., for a project located in a rural area, a brownfield area, or an

²⁸ Section 288.1088(3)(b)3., F.S.

²⁹ Section 288.1088(3)(b)4., F.S.

³⁰ Section 288.1088(3)(b)5., F.S.

³¹ Section 288.1088(3)(b)6., F.S.

³² Section 288.1088(3)(c), F.S.

³³ Section 288.1088(3)(d), F.S.

³⁴ Performance conditions include net new employment in the state, average salary, and total capital investment. *See s. 288.1088(3)(d), F.S.*

³⁵ Section 288.1088(3)(d), F.S.

³⁶ Section 288.1089(1), F.S.

³⁷ Section 288.1089(3), F.S.

³⁸ Section 288.1089(4)(a), F.S.

enterprise zone, when the merits of the individual project or the specific circumstances in the community in relationship to the project warrant such action.³⁹

- Research and development projects must provide the state at least a break-even return-on-investment (ROI) within a 20-year period.⁴⁰
- Local Support: A one-to-one match from the local community. The match requirement may be reduced or waived in rural areas of opportunity or reduced in rural areas, brownfield areas, and enterprise zones.⁴¹
- Performance-Based Approval Process
 - DEO must make a recommendation to the Governor to approve or deny an Innovation Incentive Program award.
 - If the project is recommended, DEO must include in their recommendation proposed performance conditions that the applicant must meet in order to obtain incentive funds and any other conditions that are required to be met before the receipt of any incentive funds.
 - The Governor must:
 - Approve or deny the award based on the valuation and recommendation received from DEO; and
 - Consult with the President of the Senate and the Speaker of the House of Representatives prior to approving an award. The funds may not be released until the award has been reviewed and approved by the LBC.
- Upon approval, DEO and the award recipient must enter into an agreement that specifies the amount of the award, the performance conditions and measures, and a schedule of payments and sanctions for failure to comply with performance conditions, including clawback provisions.⁴² Agreements signed on or after July 1, 2009, must also include, among other things, provisions related to job creation, reinvestment of royalty revenues, reporting requirements, and a process for amending the agreement.⁴³

High-Impact Sector Performance Incentive

- The High-Impact Sector Performance Incentive⁴⁴ is a grant reserved for major facilities operating in designated portions of high-impact sectors including clean energy, life sciences, financial services, information technology, silicon technology, transportation equipment manufacturing, or a corporate headquarters facility.
- This performance-based cash award is paid in two equal installments, one upon commencement of operations and the other upon commencement of full operations.⁴⁵
- An “eligible high-impact business” is a business in one of the high-impact sectors identified by EFI, and certified by DEO, which is making a cumulative investment in the state of at least \$50 million and creating at least 50 new full-time equivalent jobs, or a research and development facility making a cumulative investment of at least \$25 million and creating at least 25 new full-time equivalent jobs. Such investment and employment must be achieved in a period not to exceed 3 years after the date the business is certified as a qualified high-impact business.⁴⁶

³⁹ *Id.*

⁴⁰ Section 288.1089(4)(b), F.S.

⁴¹ Section 288.1089(4)(b)4., F.S.

⁴² Section 288.1089(8)(a), F.S.

⁴³ Section 288.1089(8)(b), F.S.

⁴⁴ Ch. 97-278, L.O.F.

⁴⁵ *See supra* note 1 at 10.

⁴⁶ Section 288.108(2)(c), F.S.

- DEO reviews an application⁴⁷ received from an eligible business for consideration as a qualified high-impact business before the business has made a decision to locate or expand a facility in this state. The business must provide the following information:
 - A complete description of the type of facility, business operations, and product or service associated with the project.
 - The number of full-time equivalent jobs that will be created by the project and the average annual wage of those jobs.
 - The cumulative amount of investment to be dedicated to this project within 3 years.
 - A statement concerning any special impacts the facility is expected to stimulate in the sector, the state, or regional economy and in state universities and community colleges.
 - A statement concerning the role the grant will play in the decision of the applicant business to locate or expand in this state.
 - Any additional information requested by the department.⁴⁸
- In negotiating the amount of a High-Impact Sector Performance Incentive award, DEO must consider the following guidelines in conjunction with other relevant applicant impact and cost information and analysis.⁴⁹
 - A qualified high-impact business making a cumulative investment of \$50 million and creating 50 jobs may be eligible for a total grant between \$500,000 and \$1 million.
 - A qualified high-impact business making a cumulative investment of \$100 million and creating 100 jobs may be eligible for a total grant between \$1 million and \$2 million.
 - A qualified high-impact business making a cumulative investment of \$800 million and creating 800 jobs may be eligible for a total grant between \$10 million and \$12 million.
 - A qualified high-impact business engaged in research and development making a cumulative investment of \$25 million and creating 25 jobs may be eligible for a total grant between \$700,000 and \$1 million.
 - A qualified high-impact business engaged in research and development making a cumulative investment of \$75 million and creating 75 jobs may be eligible for a total grant between \$2 million and \$3 million.
 - A qualified high-impact business engaged in research and development making a cumulative investment of \$150 million and creating 150 jobs may be eligible for a total grant between \$3.5 million and \$4.5 million.
- The total amount of active performance grants scheduled for payment by DEO in any single fiscal year may not exceed the lesser of \$30 million or the amount appropriated by the Legislature for that fiscal year for qualified high-impact business performance grants.⁵⁰
- Within 10 business days after DEO receives the submitted High-Impact Sector Performance Incentive application, the executive director of DEO must approve or disapprove the application and issue a letter of certification which includes a justification of that decision, unless the business requests an extension of that time.⁵¹
- DEO has the authority to grant awards to qualifying High-Impact Sector Performance Incentive projects without approval by the Governor or LBC.⁵²
- Performance-Based Award

⁴⁷ In accordance with Section 288.061, F.S.

⁴⁸ Section 288.108(5), F.S.

⁴⁹ Section 288.108(3)(b), F.S.

⁵⁰ Section 288.108(4)(a), F.S.

⁵¹ See s. 288.108(5), F.S.; and s.288.061(3), F.S.

⁵² See s. 288.108(3-5), F.S.

- Upon approval, DEO and the award recipient must enter into an agreement which specifies the conditions for payment of the qualified high-impact business performance grant.
- The agreement includes the total amount of the qualified high-impact business facility performance grant award, the performance conditions that must be met to obtain the award, including the employment, average salary, investment, the methodology for determining if the conditions have been met, and the schedule of performance grant payments.⁵³

Incentive Application Process

Economic Benefits and Cumulative Capital Investment

Current law requires DEO to review and evaluate each economic development incentive application for the economic benefits of the proposed award of state incentives. The Office of Economic and Demographic Research (EDR) is required to establish the methodology and model used to calculate those economic benefits.⁵⁴

Economic benefits mean the direct, indirect, and induced gains in state revenues as a percentage of the state's investment.⁵⁵ State investment means any state grants, tax exemptions, tax refunds, tax credits, or other state incentives provided to a business under a program administered by DEO, including the capital investment tax credit.⁵⁶ The cumulative capital investment means the total capital investment in land, buildings, and equipment made in connection with a qualifying project from the beginning of construction of the project to the commencement of operations.⁵⁷

The current methodology and model developed by EDR, which only represents state investments directly under the control of EFI or DEO⁵⁸, is used across all economic development incentive programs required by law to be evaluated for economic benefits.⁵⁹

Employ Florida Marketplace

The Employ Florida Marketplace⁶⁰ is an automated job-matching or job bank system, implemented by CareerSource Florida, Inc., (formerly Workforce Florida, Inc.), which is accessible to employers, job seekers, and others via the Internet.

Receiving more than 9 million hits per day, EmployFlorida.com also offers labor market statistics, access to training grant information and contact information for any of the state's Regional Workforce Boards and CareerSource Centers. Throughout the life cycle of the Employ Florida Marketplace, nearly 6.5 million individuals have registered in the system, posting more than 4 million resumes and receiving more than 181 million services to assist them with either re-entering the workforce or finding better employment opportunities. In addition, over 200,000 employers have registered in the Employ Florida Marketplace, posting over 2.1 million job openings and receiving nearly 9.7 million employer services.⁶¹

Terms of Incentive Agreement

⁵³ Section 288.108(5)(c), F.S.

⁵⁴ Section 288.061(2), F.S.

⁵⁵ Section 200.005(1), F.S.

⁵⁶ Section 288.076(1)(e), F.S.

⁵⁷ Section 220.191(1)(b), F.S.

⁵⁸ 2013 Review of the Department of Economic Opportunity's Legacy Economic Impact Model (on file with the House Transportation & Economic Development Appropriations Subcommittee).

⁵⁹ See s. 288.0001, F.S. The Innovation Incentive Program is not required to be evaluated for economic benefits. Innovation Incentive Program projects are required to have a cumulative break-even economic benefit within a 20-year period except for certain exceptions. See s. 288.1089(4)(b)(3), F.S.

⁶⁰ Employ Florida Marketplace; available at: www.employflorida.com (last visited Feb. 12, 2015).

⁶¹ *Id.*

Following approval of an incentive package, DEO executes an incentive agreement or contract between the business⁶² and the state. The contract or agreement with the applicant must specify the total amount of the award, the performance conditions that must be met to obtain the award, the schedule for payment, and sanctions that would apply for failure to meet performance conditions. DEO may enter into one agreement covering all of the state incentives that are being provided to the applicant.⁶³ The law does not dictate the length of term for incentive agreements between a business and the state, the usage of escrow accounts for the holding of funds for future performance payments, or whether the contract or agreement must reflect the performance requirements approved in a submitted incentive package.

Incentive Agreement Amendments

Under current law, contracts or agreements executed for the Qualified Defense and Space Contractor Refund Program, QTI, and the Innovation Incentive Program may be amended under certain circumstances.

Effect of Proposed Changes

Waivers (QAC)

The bill amends the QAC program to prohibit DEO from granting a waiver for any of the QAC program eligibility requirements, with the exception of the local financial support requirement. Any waiving of the local financial support requirement will not impact the amount of state support.

Average Wage

The bill amends s. 288.005, F.S., to include a definition for “average private sector wage in the area,” effectively standardizing use of the term for economic development programs. The term is defined to mean the statewide average wage in the private sector or the average of all private sector wages in the county or standard metropolitan area in which the project is located, as determined by the DEO.

Local Financial Support (Qualified Defense Contractor and Space Flight tax refund program, QTI, High-Impact Sector Performance Incentive , QAC, Innovation Incentive Program)

The bill amends the Qualified Defense Contractor and Space Flight tax refund program and QTI to create uniform local financial support requirements and waivers across these incentive programs and activities, and provides for a more clear definition of support from local communities for the QAC, and High-Impact Sector Performance Incentive.

Qualified Defense Contractor and Space Flight tax refund program and QTI program

The bill authorizes DEO upon the request of a local government to:

- Reduce the required local financial support amount from 20% to 10%; or
- Eliminate the required local financial support amount for a project located within a rural area of opportunity (RAO).

The bill requires a local government that requests a waiver to provide DEO with a resolution adopted by the governing body of the local government notifying DEO of its request, as well as a statement by a state-certified public accountant that describes the financial constraints preventing the local government from providing the required local financial support amount.

⁶² In some instances local governments may enter into a contract with DEO for a project.

⁶³ Section 288.061(3)(a), F.S.

The bill provides that a qualified applicant may not receive more than 80% of the total tax refunds approved by DEO from state funds.

High-Impact Sector Performance Incentive and QAC (Performance-Based Grant Incentives)

The bill defines “support by the local community” (QAC) and “local financial support” (High-Impact Sector Performance Incentive) as financial, in-kind, or other quantifiable contributions from local sources that, combined, equal 20% or more of the total investment in the project by state and local sources.

The bill authorizes DEO upon the request of a local government to:

- Reduce the required local financial support amount from 20% to 10%; or
- Eliminate the required local financial support amount for a project located within a RAO.

The bill requires a local government that requests a waiver to provide DEO with a resolution adopted by the governing body of the local government notifying DEO of its request, as well as a statement by a state-certified public accountant that describes the financial constraints preventing the local government from providing the required local financial support amount.

Innovation Incentive Program (Performance-Based Grant Incentive)

A local government that requests a waiver reducing or eliminating the one-to-one match requirement of the program must provide DEO with a written statement, prepared by a state-certified public accountant describing the financial constraints preventing the local government from providing the required local financial support amount.

Performance-Based Grant Approval Process (High-Impact Sector Performance Incentive, QAC, Innovation Incentive Program)

High-Impact Sector Performance Incentive and Innovation Incentive Program

The bill creates a new, uniform approval process for High-Impact Sector Performance Incentive and Innovation Incentive Program as follows:

Within seven business days after the executive director of DEO approves or disapproves an incentive application, DEO must forward the recommendation to the Governor for approval or disapproval. The recommendation must include:

- the total proposed award amount;
- the award’s performance conditions;⁶⁴
- a baseline of current service and a measure of enhanced capability;
- the methodology used for validating performance;
- a schedule of payments; and
- sanctions for failure to meet performance conditions.

For projects less than \$2 million:

- The Governor is authorized to approve the award. However, a written description and evaluation of the project must be provided to the President of the Senate (President), and the Speaker of the House of Representatives (Speaker) within one business day after approval.

⁶⁴ Such performance conditions must include, but are not limited to, net new employment in the state, average salary, and total capital investment incurred by the business.

For projects from \$2 million to \$7.5 million:

- The Governor must provide a written description and evaluation of the project to the chairman and vice chairman of the LBC, the President, and the Speaker at least 14 days prior to granting approval. If the President or the Speaker advise the Executive Office of the Governor (EOG) in writing that the award exceeds the authority of the EOG or is contrary to legislative policy or intent, the EOG shall instruct DEO to change its action on the project.

For projects greater than \$7.5 million, or projects \$5 million or greater and needing a waiver:

- The Governor shall provide the LBC a written description and evaluation of the project recommended for approval. The Legislative Budget Commission must approve such an award before final approval by the Governor.

Quick Action Closing Fund

The bill modifies the approval process for the QAC program as follows:

For projects less than \$2 million:

- The Governor is authorized to approve the award. However, a written description and evaluation of the project must be provided to the President and the Speaker within one business day after approval.

For projects \$2 million and more:

- The Governor must provide a written description and evaluation of the project to the President and the Speaker at least 14 days prior to granting approval. If the President or the Speaker advise the EOG in writing that the award exceeds the authority of the EOG or is contrary to legislative policy or intent, the EOG shall instruct DEO to change its action on the project.

QTI

The bill amends QTI to remove provisions related to economic recovery extensions and local financial support reductions for certain counties. These provisions have expired.

The bill amends QTI to indicate that any payments received are incentive payments and not tax refund payments.

Quick Action Closing Fund

The bill renames the QAC the Florida Enterprise Fund.

The bill amends the QAC to provide that in order for a business to be eligible for a QAC award, the business must create at least 10 new jobs.

The bill amends the required economic benefit ratio to at least 3 to 1, rather than 5 to 1.

The bill amends the QAC to allow for the carry forward of any unexpended funds.

Qualified Defense Contractor and Space Flight Business Tax Refund Program

Reauthorization

The bill amends the Qualified Defense Contractor and Space Flight tax refund program to allow DEO to certify eligible applicants under the Qualified Defense Contractor and Space Flight tax refund program until June 30, 2018.

Filing Extension

The bill amends the Qualified Defense Contractor and Space Flight tax refund program to allow a business that timely submitted a tax refund claim between January 1, 2014, and December 31, 2014, that resulted in DEO withholding a tax refund due to the failure of the business to submit requested supporting documentation, may still receive the tax refund if:

- the business submits the requested documentation to DEO;
- the business provides a written statement to DEO explaining the circumstances that resulted in the business's failure to timely submit the documentation;
- funds appropriated for the Qualified Defense Contractor and Space Flight tax refund program are available;
- the business was scheduled, by the terms of the agreement, to submit information to the department between January 1, 2014, and December 31, 2014; and
- the business has satisfied all other requirements of the agreement.

Tax Payment Verification

The bill amends the Qualified Defense Contractor and Space Flight tax refund program to remove the requirement that copies of all receipts pertaining to the payment of taxes be submitted for review and instead directs DEO to verify payment of taxes for which a refund is sought.

Incentive Application Process

Incentive Application

The bill provides that beginning January 1, 2017, the following information must be included in an incentive application being submitted to DEO:

- federal employee ID number;
- reemployment assistance account number;
- state sales tax registration number;
- project location;
- applicant's signature;
- anticipated commencement date;
- description of the business activity to be conducted including applicable NAICS code(s); and
- attestation verifying that the information provided is true and correct.

Incentive Application Evaluation

The bill amends the incentive application evaluation process to provide for the following:

- a financial analysis of the company including information regarding liens and 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 the related auditor management letter;
- a review of any other audits that are 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 DEO.

Economic Benefit

The bill amends the definition of economic benefits and the incentive application process to specify that all state funds spent or forwent to benefit a business must be considered the state's investment for the purposes of establishing the economic benefits of a project.

EDR is directed to establish guidelines for the appropriate use of the economic benefits model used to determine economic benefits. EDR may also develop an amended definition of “economic benefits,” for the purposes of creating the model and methodology used for the economic benefits model that includes all state funds spent or forwent to benefit a business.

Cumulative Capital Investment

The bill amends the capital investment tax credit, the incentive application process, and the return on investment reporting requirements to limit the definition of “cumulative capital investment,” to the total capital investment made by or on behalf of a business in conjunction with a qualifying project that does not include appropriated funds from the General Appropriations Act or any funds provided by a state agency or local government. Additionally, “cumulative capital investment” must be considered as part of the evaluation process involving economic development incentive applications.

Employ Florida Marketplace

The bill amends the incentive application process to require that all vacant jobs created as a result of an executed state incentive agreement be posted on the state’s job bank system, Employ Florida Marketplace.

Approval Period

The bill amends the incentive application process to provide that DEO has 7 days after the director makes a recommendation to present an application to the Governor for approval or disapproval.

Term and Content of Incentive Agreements

The bill amends the incentive application process to prohibit DEO from entering into incentive agreements with businesses for terms longer than 10 years. However, the department may enter into a successive agreement or contract for a specific project to extend the initial 10 year term, if each successive contract or agreement is contingent upon the successful completion of the previous contract or agreement and meets all requirements of the applicable economic development program being utilized as if it was a stand-alone project. The restriction on the term of the agreement or contract does not apply if the contract or agreement is for a project receiving an Innovation Incentive Program award or a Capital Investment Tax Credit.

The bill amends the incentive application process to indicate any initial agreement between DEO and a business must contain any performance criteria approved during the legislative consultation period. Otherwise, funds may not be expended by DEO on the agreement. In addition, the bill provides that any capital investment component must remain in the state for the duration of the agreement, except an investment made in transportation related assets specifically used for the purpose of transporting goods or employees.

Incentive Agreement Amendments

The bill amends the incentive application process for the Qualified Defense Contractor and Space Flight Business Tax Refund Program, QTI, Brownfield Tax Refund Program, High-Impact Sector Performance Incentive, QAC, and Innovation Incentive Program to require DEO to evaluate the projected economic benefits of a project prior to awarding a contract and reevaluate the projected economic benefits of a project each time an amendment, modification, or extension is made to a contract. Should a reevaluation result in the reduction of a project’s projected economic benefits, DEO is precluded from executing a contract amendment or modification unless the state incentives outlined in the original contract are reduced by an amount proportionate to the reduction in the projected economic benefits.

An amendment, modification, or extension may not result in a 0.5-point or greater reduction in the economic-benefit ratio of the project, may not result in the waiver of any program requirement, and is subject to a 14-day legislative consultation. If the chair or vice chair of the LBC, the President, or the Speaker timely advises the EOG in writing that the amendment, modification, or extension exceeds the

delegated authority of the EOG or is contrary to legislative policy or intent, the EOG must void the amendment, modification, or extension and instruct the department to immediately change action or proposed action.

The department must include in its annual report information pertaining to each incentive contract extension and each contract amendment or modification that alters a performance condition that a project must meet to obtain incentive funds.

Rural Areas Definition (Qualified Defense Contractor and Space Flight tax refund program, Innovation Incentive Program, QAC, and QTI)

The bill amends the Qualified Defense Contractor and Space Flight tax refund program, QTI, QAC, and Innovation Incentive Program to replace various definitions of rural areas with “rural area of opportunity” as defined within s. 288.0656, F.S.⁶⁵

3-Year Residency Clawback

The bill creates a new section of statute providing that DEO must include a 3 year residency requirement in its contract with any business who receives an economic development program award through the Capital Investment Tax Credit, Qualified Defense Contractor and Space Flight Business tax refund program, QTI, Brownfield Tax Refund Program, High-Impact Sector Performance Incentive, QAC, and Innovation Incentive Program. Such incentive contracts must include specific financial sanctions for businesses that relocate the project outside of the state, for which they received the award, within 3 years after receipt of the final program payment or tax credit, or the end of any contractual maintenance period.

SPORTS DEVELOPMENT

Present Situation

Enterprise Florida, Inc., and Sports Development in Florida

Florida law bestows the responsibility on Enterprise Florida, Inc., to assist and market professional and amateur sports teams and sporting events in Florida and requires EFI to create a division to carry out such responsibility.⁶⁶

Florida Sports Foundation

Prior to 2011, Florida law provided that the Office of Tourism, Trade, and Economic Development (OTTED) could authorize a “direct support organization” to assist the office in the following:

- the promotion and development of the sports industry and related industries for the purpose of improving the economic presence of these industries in Florida;
- the promotion of amateur athletic participation for the citizens of Florida and the promotion of Florida as a host for national and international amateur athletic competitions for the purpose of encouraging and increasing the direct and ancillary economic benefits of amateur athletic events and competitions; and
- the retention of professional sports franchises, including the spring training operations of Major League Baseball.⁶⁷

The direct-support organization that ultimately fulfilled such role was the Florida Sports Foundation (FSF). In 2011, when Florida lawmakers reorganized certain governmental agencies to create the

⁶⁵“Rural area of opportunity” means a rural community, or a region composed of rural communities, designated by the Governor, which has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact. Section 288.0656(2)(d), F.S.

⁶⁶ Sections 288.901 and 288.9015, F.S.

⁶⁷ Section 288.1229, F.S. (2010).

Department of Economic Opportunity (which, among other responsibilities, took over the operations of OTTED), the statute providing for the abovementioned direct support organization (s. 288.1229, F.S.) was repealed.⁶⁸ However, despite that repeal, the FSF lived on as a division of EFI and continued as the official sports promotion and development organization for the state.

The FSF is currently housed within EFI and serves as EFI's Division of Sports Industry Development. True to its original statutory purpose, the FSF's stated mission is to:

- assist communities in the state with securing, hosting and retaining, sporting events that generate economic impact and sports-tourism for the state;
- provide Floridians opportunities to participate in the Sunshine State Games and Florida Senior Games;
- serve as the state's leading source for sports-tourism research and information;
- assist in the promotion of targeted leisure sport industries in the state; and
- assist national and state governing bodies to promote amateur sports development through the Sunshine State Games and hosting events in the state.

Sunshine State Games and Florida Senior Games

Two events that the FSF administers annually, which are both considered the FSF's flagship events, are the Sunshine State Games and the Florida Senior Games.

The Florida Legislature established the Sunshine State games in 1980 to provide Florida's citizens an Olympic-style sports festival. The Sunshine State Games is now the nation's oldest State Games and is Florida's largest and longest standing multi-sport festival. The Sunshine State Games offers competitions for over 30 different sports or games.

The Florida Senior Games came about in 1992 after a legislatively-created task force determined that local interest in senior games throughout Florida warranted a state-wide event. The first Florida Senior Games State Championships were held in Bradenton, Florida. Currently, the Florida Senior Games offers competitions for 24 different sports or games.

Florida Sports Specialty License Plates

Florida law authorizes the Legislature to create "specialty" license plates that are available to any owner or lessee of a motor vehicle willing to pay an annual fee of typically \$25. The collected fees are distributed by the Department of Highway Safety and Motor Vehicles (DMSMV) to statutorily designated organizations in support of a particular cause or charity. With respect to specialty license plates related to sports, the DHSMV distributes collected fees to Enterprise Florida, which in turn administers the fees as statutorily directed. Currently, such sports-related specialty license plates include the following:

- the Florida United States Olympic Committee license plate;
- Florida Professional Sports Team license plates;
- the Florida Golf license plate;
- the Florida NASCAR license plate; and
- the Florida Tennis license plate.

Effect of Proposed Changes

The bill makes numerous changes to Florida law related to sports development.

- The bill repeals the requirement for an individual with sports marketing expertise to serve on the EFI board of directors, the requirement that EFI market the state for sports, and the requirement that EFI have a Division of Sports Industry Development.

- The bill revives s. 288.1229, F.S., which was repealed in 2011.
- The bill expressly names the Florida Sports Foundation (FSF) as the direct support organization responsible for the promotion and development of sports-related industries and amateur athletics.
- The bill moves the FSF from EFI to DEO and requires the FSF to enter into an operating contract with DEO by July 1, 2016.
- The bill requires the FSF to assist DEO and the Florida Grapefruit League Association to develop a strategic comprehensive plan.
- The bill requires that the FSF be governed by a 20-member board of directors, including the following:
 - ten members representing Florida major league franchises of Major League Baseball, National Basketball Association, National Football League, Arena Football League, National Hockey League, and Major League Soccer teams domiciled in this state;
 - a member representing the Florida Sports Commission;
 - a member representing the boating and fishing industries in Florida;
 - a member representing the golfing industry in Florida;
 - a member representing Major League Baseball spring training;
 - a member representing the auto racing industry in Florida; and
 - five members at-large.
- The bill codifies the FSF's competition known as the "Florida Senior Games," which is operated and structured in the same way as the "Florida Senior Games." The bill also deletes the Florida residency requirement for participants of the Sunshine State Games.
- The bill transfers responsibilities and distributions related to sports-related specialty license plates in s. 320.08058, F.S., from EFI to the FSF. The affected specialty license plates include the following:
 - the Florida United States Olympic Committee license plate;
 - Florida Professional Sports Team license plates;
 - the Florida Golf license plate;
 - the Florida NASCAR license plate; and
 - the Florida Tennis license plate.
- The bill also removes the requirement that the FSF use proceeds from the Florida Professional Sports Team license plates to promote and develop education programs in state schools.

DEFENSE GRANT PROGRAMS

Present Situation

Section 288.980, F.S., establishes grant programs designed to aid defense-dependent communities throughout the state, administered by Enterprise Florida, Inc., (EFI) and the Department of Economic Opportunity (DEO). Among these programs are the Florida Defense Reinvestment Grant Program (DRG)⁶⁹ and the Defense Infrastructure Grant Program (DIG).⁷⁰

The DIG program competitively funds local infrastructure projects deemed to have a positive impact on the military value of installations within the state. Authorized DIG projects include, but are not limited to, those relating to encroachment, transportation and access, utilities, communications, housing, environment, and security.

In 2004, the Legislature created the DIG program in s. 288.980(4), F.S, with a provision that the now-defunct OTTED could require a match by the county or local community grant applicants.⁷¹ However, s. 288.980(2)(c)2., F.S., was added in 2004 to provide that OTTED must require, with one exception that a grant applicant agree to match at least 30 percent of any grant awarded.⁷² This apparent conflict

⁶⁹ Section 288.980(4), F.S.

⁷⁰ Section 288.980(5), F.S.

⁷¹ Chapter 2004-230, L.O.F.

⁷² This 30 percent match requirement has remained in law since 2004, and is currently codified at s. 288.980(3)(c)2., F.S.

between the required grant match for DRG projects and permissive grant match for DIG projects has existed since 2004. According to EFI, in administering the two programs, the DEO and EFI require the 30 percent match for DRG projects only.

Effect of Proposed Changes

The bill amends s. 288.980, F.S., to remove the 30 percent match requirement for grants awarded under the Defense Infrastructure Grant Program. The bill clarifies that the 30 percent match requirement applies only to the Defense Reinvestment Grant Program for applicants that are defense-dependent counties and cities, and local economic development councils located in those communities.

FINANCIAL INTEREST STATEMENT FILING

Present Situation

Section 112.3145, F.S., requires local officers to file an annual financial disclosure with the Florida Commission on Ethics.⁷³ The definition of a “local officer” includes an appointed member of:

- A planning or zoning board, board of adjustment, board of appeals, or other board having power over modifying land planning or zoning within the political subdivision, except for:
 - Citizen advisory committees, technical coordinating committees, and “such other groups who only have the power to make recommendations to planning or zoning boards.”⁷⁴
- Any other local government board if required to file the statement of financial interests by the appointing authority or the enabling legislation, ordinance, or resolution creating the board.⁷⁵

Similar to state officers and specified state employees, a local officer whom fails to file the financial disclosure is automatically fined \$25 per day.⁷⁶ Although there was 99 percent overall compliance with the annual reporting requirement in 2014,⁷⁷ 288 individuals were assessed fines, 43 of whom served on a local planning, zoning or adjustment board.⁷⁸

A maximum cap of \$1,500 exists for failure to file financial disclosure statements.⁷⁹ Of the 288 individuals assessed fines for the most recent available reporting timeframe, 82 had reached the maximum fine amount of \$1,500.⁸⁰ Prior to 2014, the Commission on Ethics could not initiate an investigation into alleged violations of the financial disclosure laws, without having first received a written complaint.⁸¹ However, chapter 2014-183, L.O.F., required the Commission to initiate an investigation and conduct a public hearing to determine whether a person has willfully failed to file the financial disclosure, if the individual accrues the maximum \$1,500 fine, even if the fine has been paid. The Commission must enter an order recommending the officer or employee be removed from office or employment if it determines the failure to file was willful.

The Legislature established s. 163.3175, F.S., to encourage compatible land use between local governments and military installations, to help prevent incompatible encroachment, and to facilitate the continued presence of military installations in this state. In an effort to encourage cooperation between

⁷³ Section 112.3145(2)(b), F.S. Within 30 days of appointment, local officers must file a financial disclosure, and this filing is deemed to satisfy the annual disclosure requirement. Subsequently, they must file no later than July 1 of each year, and within 60 days after leaving their public position.

⁷⁴ Section 112.3145(1)(a)2.d., F.S.

⁷⁵ Section 112.3145(1)(a)2.f., F.S.

⁷⁶ Section 112.3145(7)(f), F.S. The Commission on Ethics is required to treat an amended financial disclosure as the original filing if the amendment is filed by September 1. Section 112.3145(7)(c), F.S.

⁷⁷ State of Florida Commission on Ethics, *Annual Report to the Florida Legislature for Calendar Year 2014*, at 17.

⁷⁸ Florida Commission on Ethics, Search for Financial Disclosure Filers, available at <http://public.ethics.state.fl.us/search.cfm>

⁷⁹ Section 112.3145(7)(f), F.S.

⁸⁰ Florida Commission on Ethics, Search for Financial Disclosure Filers, available at <http://public.ethics.state.fl.us/search.cfm>

⁸¹ Section 112.324(1), F.S.

local governments and the military and facilitate the exchange of information, local governments are required “to include” a representative of a military installation within its jurisdiction as an *ex officio*, nonvoting member of the affected local government land planning or zoning board.⁸² Recently, the Commission on Ethics has received appeals which depend on whether such an *ex officio*, nonvoting member of a local government land planning or zoning board who serves under s. 163.3175(7), F.S., meets the definition of a “local officer” and is required to file the annual financial disclosure.⁸³

Effect of Proposed Changes

The bill amends s. 163.3175, F.S. to exclude the representative of a military installation from being required to file a statement of financial interest solely due to his or her service on a local land planning or zoning board.

CONCURRENCY, PROPORTIONATE SHARE, AND IMPACT FEES

Present Situation

Transportation Concurrency and Proportionate Share

Concurrency requires public facilities and services to be available “concurrent” with the impacts of new development. Under Florida law, concurrency for sanitary sewer, solid waste, drainage, and potable water is required,⁸⁴ and concurrency for transportation, schools, and parks and recreation is optional.⁸⁵ However, if a local government decides to implement concurrency for one of the optional facilities, it must do so according to state law.⁸⁶

A local government that implements transportation concurrency must define what constitutes an adequate level of service (LOS) for its transportation system, adopt a plan and improvement program to achieve and maintain adequate LOS standards, and measure whether the service needs of a new development exceed existing capacity of the transportation system.⁸⁷ Unless and until LOS standards are met, a local government may not issue a development permit without an applicable exception.⁸⁸

If adequate transportation facilities are not currently available to support the impacts of a proposed development (i.e., if LOS standards are not currently met), the local government may require the developer to contribute his or her “proportionate share.” Proportionate share is a tool local governments use to require developers to contribute to or build facilities necessary to offset a new development’s impacts to ensure LOS standards are met.⁸⁹

The state provides requirements that local governments must follow when implementing proportionate share, including specific formulas local governments must use when calculating proportionate share and criteria for when developers have satisfied proportionate share.⁹⁰

Impact Fees

Local governments and certain special districts may use their constitutional or statutory home rule powers to enact “impact fees.”⁹¹ Impact fees are total or partial payments charged to cover the cost of

⁸² Section 163.3175(8), F.S.

⁸³ In re MARION COOK, Florida Commission on Ethics, Financial Disclosure Appeal No. FD 13-110, *available at* <http://www.ethics.state.fl.us/Documents/Ethics/MeetingAgendas/April15%20Materials/FD13-110%20In%20re%20COOK.pdf>

⁸⁴ Section 163.3180(1), F.S.

⁸⁵ Section 163.3180, F.S.

⁸⁶ Section 163.3180(1), F.S.

⁸⁷ Section 163.3180(5), F.S.

⁸⁸ *E.g.* s. 163.3180(5)(h)1.b., F.S., which exempts public transit facilities from concurrency.

⁸⁹ Section 163.3180(5)(h), F.S.

⁹⁰ *Id.*

⁹¹ *See* s. 163.31801, F.S.

additional infrastructure necessary as a result of new development. As local governments tailor impact fees to meet the infrastructure needs of new growth, impact fee calculations vary from jurisdiction to jurisdiction and from fee to fee. Impact fees also vary extensively depending on local costs, capacity needs, resources, and a local government's determination to charge the full cost of a fee's earmarked purposes.

The Legislature has found that impact fees are an important source of revenue for local governments to use in funding the infrastructure necessitated by growth.⁹² However, due to the growth of impact fee collections and local governments' reliance on impact fees, the Legislature imposes minimum standards local governments must comply with when adopting impact fees.⁹³

At a minimum, a county, municipality, or special district that adopts an impact fee must abide by the following statutory requirements:

- require that the calculation of the impact fee be based on the most recent and localized data;
- provide for accounting and reporting of impact fee collections and expenditures;
- limit administrative charges for the collection of impact fees to actual costs; and
- require that notice be provided no less than 90 days before the effective date of an ordinance or resolution imposing a new or increased impact fee.⁹⁴

In addition to the Legislature's requirements, Florida courts have held that impact fees must meet the "dual rational nexus test."⁹⁵ That is, there must be (1) a reasonable connection between the need for infrastructure improvements and the population growth generated by new development and (2) a reasonable connection between the expenditure of fees collected and the benefit to the development from those expenditures.⁹⁶ Fifty-eight Florida jurisdictions had impact fees in place as of the 2012 National Impact Fee Survey.⁹⁷

Effect of Proposed Changes

The bill creates a three year window exempting certain new developments from satisfying transportation concurrency requirements and contributing to its corresponding proportionate share. The bill also exempts certain new developments from paying impact fees associated with the mitigation of transportation impacts.

The exemption window will apply to any new business development beginning on or after July 1, 2016, and before July 1, 2019. The exemption does not apply to business developments that consist of more than 6,000 square feet or new business developments that will include a business that employs more than 12 full-time employees. In addition, to maintain the exemption, a new business development must receive a certificate of occupancy on or before July 1, 2020. If the business development does not receive its certificate of occupancy on or before July 1, 2020, the government body may impose the appropriate concurrency requirements, proportionate share contribution, and impact fees that it would have imposed but for the exemption.

The exemption window will not apply to a new development in a local government's jurisdiction where such local government, by majority vote of its governing body, revokes the exemption. The exemption window will also not apply if the exemption results in a reduction of previously pledged revenue of a local government authority for currently outstanding bonds or notes or to a local government with a

⁹² Section 163.31801, F.S.

⁹³ *Id.*

⁹⁴ Section 163.31801(3), F.S.

⁹⁵ See *Hollywood, Inc. v. Broward County*, 431 So. 2d 606, 611-12 (Fla. 4th DCA 1983); *St. Johns County v. N.E. Fla. Builders Assoc.*, 583 So. 2d 635 (Fla. 1991).

⁹⁶ *Id.*

⁹⁷ The 2012 National Impact Fee Survey is available at www.impactfees.com/publications%20pdf/2012_survey.pdf (last visited Feb. 15, 2015).

mobility fee-based funding system in place on or before January 1, 2016. Finally, a new business developer may elect to not have the exemption applied.

INTERNATIONAL GAME FISH ASSOCIATION WORLD CENTER

Present Situation

The International Game Fish Association (IGFA) is a nonprofit organization founded in 1939 that focuses on the conservation of game fish and the promotion of responsible and ethical angling practices. The association is currently headquartered in Dania Beach, Florida.⁹⁸

In 1996, the Florida Legislature created a funding program for the IGFA to build and maintain its “World Center” facility in Florida.⁹⁹ The program required the IGFA to apply for and receive certification from the Department of Economic Opportunity, which the IGFA accomplished in February, 2000.¹⁰⁰

Florida law required the following for certification:

- the IGFA World Center must be the only fishing museum, hall of fame, and international administrative headquarters in the U.S. recognized by the IGFA, and that one or more private sector entities have committed to donate to the IGFA land upon which the facility will operate;¹⁰¹
- IGFA is a nonprofit Florida corporation that has contracted to construct and operate the facility;¹⁰²
- the municipality or county (if located in an unincorporated area) in which the facility is located has passed a resolution that states the facility serves a public purpose;¹⁰³
- there are existing projections that the facility and co-located privately-owned facilities will attract an attendance of more than 1.8 million annually;¹⁰⁴
- there is an independent analysis which demonstrates that the amount of sales tax generated by sales at the facility will at least equal \$1 million annually;¹⁰⁵
- there are existing projections that the project will attract more than 300,000 out-of-state visitors annually;¹⁰⁶
- the applicant has submitted an agreement to provide \$500,000 annually in national and international media promotion of the facility during the period of time that it receives state funds;¹⁰⁷
- documentation exists that demonstrates the applicant has provided, or is capable of providing, more than one-half of the cost related to the improvements and the development of the facility;¹⁰⁸ and
- the application for certification is signed by senior officials of the IFGA and is notarized according to state law.¹⁰⁹

In addition, Florida law required the World Center to be recertified every 10 years by demonstrating that it was open, continued to be the only international administrative headquarters, fishing museum, and hall of fame in the country recognized by the IGFA, and was meeting at least one of the minimum

⁹⁸ International Game Fish Association website at <https://igfa.org/About/Headquarters%20and%20Operations>. Last visited January 14, 2016.

⁹⁹ Chapter 96-415, s. 2, L.O.F.

¹⁰⁰ Office of Program Policy Analysis and Government Accountability, *Florida Economic Development Program Evaluations – Year 2, Report No. 15-01*, pg. 52. Jan. 1, 2015.

¹⁰¹ Section 288.1169(2)(a), F.S.

¹⁰² Section 288.1169(2)(b), F.S.

¹⁰³ Section 288.1169(2)(c), F.S.

¹⁰⁴ Section 288.1169(2)(d), F.S.

¹⁰⁵ Section 288.1169(2)(e), F.S.

¹⁰⁶ Section 288.1169(2)(f), F.S.

¹⁰⁷ Section 288.1169(2)(g), F.S.

¹⁰⁸ Section 288.1169(2)(h), F.S.

¹⁰⁹ Section 288.1169(2)(i), F.S.

projections established at the time of original certification: 300,000 annual visitors or \$1 million in annual sales tax revenue.¹¹⁰

Upon the granting of certification, the Department of Revenue distributed a lump sum payment of \$999,996 to the IGFA and \$83,333 per month thereafter for up to 168 months (for a total of \$13,999,944).¹¹¹

The state made its last disbursement to the facility in February 2014,¹¹² and on March 19, 2015, the IGFA announced that it would be moving its World Facility to Springfield, Missouri.¹¹³

Effect of Proposed Changes

The bill repeals s. 288.1169, F.S., which authorizes the International Game Fish Association World Center facility program as well as s. 212.20(6)(d)6.d., F.S., which authorized the monthly payments for the program.

OFFICE OF PROGRAM POLICY ANALYSIS AND GOVERNMENT ACCOUNTABILITY EVALUATION OF ECONOMIC DEVELOPMENT PROGRAMS

Present Situation

In 2013,¹¹⁴ the Legislature passed a law to require the Office of Economic and Demographic Research (EDR) and the Office of Program Policy Analysis and Government Accountability (OPPAGA) to evaluate and analyze Florida's economic development programs according to the following schedule.¹¹⁵

- By January 1, 2014, and every three years, thereafter, EDR and OPPAGA must analyze:
 - the capital investment tax credit established under s. 220.191, F.S.;
 - the qualified target industry tax refund established under s. 288.106, F.S.;
 - the brownfield redevelopment bonus refund established under s. 288.107, F.S.;
 - high-impact business performance grants established under s. 288.108, F.S.;
 - the QAC established under s. 288.1088, F.S.;
 - the Innovation Incentive Program established under s. 288.1089, F.S.;
 - Enterprise Zone Program incentives established under ss. 212.08(5) and (15), 212.096, 220.181, and 220.182, F.S.; and
 - the New Markets Development Program established under ss. 299.991-288.9922, F.S.¹¹⁶
- By January 1, 2015, and every three years thereafter, EDR and OPPAGA must analyze:
 - the entertainment industry financial incentive program established under s. 288.1254, F.S.;
 - the entertainment industry sales tax exemption program established under s. 288.1258, F.S.;
 - VISIT Florida and its programs established or funded under ss. 288.122, 288.1226, 288.12265, and 288.124, F.S.; and
 - the Florida Sports Foundation and related programs established under ss. 288.1162, 288.11621, 288.1166, 288.1167, 288.1168, 288.1169, and 288.1171, F.S.¹¹⁷

¹¹⁰ *Id.* The facility reported an average of \$3.8 million in annual sales tax revenues generated from 2000 through 2010 and received recertification in 2011. Office of Program Policy Analysis and Government Accountability, *Florida Economic Development Program Evaluations – Year 2, Report No. 15-01*, pg. 52. Jan. 1, 2015.

¹¹¹ Section 212.20(6)(d)6.d., F.S.

¹¹² Office of Program Policy Analysis and Government Accountability, *Florida Economic Development Program Evaluations – Year 2, Report No. 15-01*, pg. 52. Jan. 1, 2015.

¹¹³ “Fishing Hall of Fame and Museum ditching Dania Beach for Missouri,” by Brian Bandell. Orlando Business Journal, March 19, 2015. Available at <http://www.bizjournals.com/southflorida/news/2015/03/19/fishing-hall-of-fame-and-museum-ditching-dania-for.html>. Last visited January 14, 2016. See also IGFA notice at <https://igfa.org/Conserve/Museum>. Last visited January 14, 2016.

¹¹⁴ Chapter 2013-39, s. 1, L.O.F.

¹¹⁵ Section 288.0001, F.S.

¹¹⁶ Section 288.0001(2)(a), F.S.

¹¹⁷ Section 288.0001(2)(b), F.S.

- By January 1, 2016, and every three years thereafter, EDR and OPPAGA must analyze:
 - the qualified defense contractor and space flight business tax refund program established under s. 288.1045, F.S.;
 - the tax exemption for semiconductor, defense, or space technology sales established under s. 212.08(5)(j), F.S.;
 - the Military Base Protection Program established under s. 288.980, F.S.;
 - the Manufacturing and Spaceport Investment Incentive Program formerly established under s. 288.1083, F.S.;
 - the Quick Response Training Program established under s. 288.047, F.S.;
 - the Incumbent Worker Training Program established under s. 445.003., F.S.; and
 - international trade and business development programs established or funded under s. 288.826, F.S.¹¹⁸
- By January 1, 2019, and every three years thereafter, EDR and OPPAGA must analyze the grant and entrepreneur initiative programs established under s. 295.22(3)(d) and (e), F.S.¹¹⁹
- Beginning January 1, 2018, and every three years thereafter, EDR and OPPAGA must analyze the Sports Development Program established under s. 288.11625, F.S.¹²⁰

For each analysis, EDR must determine the program’s “economic benefits” for the previous three years.¹²¹ As defined in Florida law, “economic benefits” means the “direct, indirect, and induced gains in state revenues as a percentage of the state’s investment.”¹²² EDR must also include an evaluation of the number of jobs created, the increase or decrease in personal income, and the impact on state gross domestic product from the direct, indirect, and induced effects of the state’s investment in the program.¹²³

For each analysis, OPPAGA must evaluate the program’s effectiveness and value to Florida taxpayers over the previous three years. Each analysis must also include recommendations on each program for consideration by the Florida Legislature.¹²⁴

Major League Baseball Spring Training Retention Program

Section 288.11631, F.S., authorizes local governments that partner with a spring training baseball franchise to apply for certification from DEO to receive state distributions for the purpose of renovating or constructing a spring training baseball facility.¹²⁵

Certified applicants receive a distribution from state sales tax revenue of up to \$83,333 per month for 20 years for a facility used by a single spring training franchise facility or up to \$166,667 per month for 25 years for a facility used by more than one spring training franchise.¹²⁶ The amount of state incentive funding per certified applicant may not exceed \$20 million if the applicant’s facility is used by one franchise and \$50 million if the applicant’s facility is used by more than one franchise.¹²⁷

Effect of Proposed Changes

The bill adds the Retention of Major League Baseball spring training baseball franchises program authorized by s. 288.11631, F.S., to the list of programs scheduled to be reviewed by OPPAGA and EDR beginning January 1, 2018, and every 3 years thereafter.

ENTERPRISE FLORIDA BOARD OF DIRECTORS

¹¹⁸ Section 288.0001(2)(c), F.S.

¹¹⁹ Section 288.0001(2)(d), F.S.

¹²⁰ Section 288.0001(2)(e), F.S.

¹²¹ Section 288.0001(3), F.S.

¹²² Section 288.005(1), F.S.

¹²³ Section 288.0001(3), F.S.

¹²⁴ Section 288.0001(4), F.S.

¹²⁵ Section 288.11631(1)-(2), F.S.

¹²⁶ Section 212.20(6)(d)6.e., F.S.

¹²⁷ Section 288.11631(2)(c), F.S.

Present Situation

Board Organization

The board of directors of EFI is comprised of 19 members: seven from the public sector and 12 from the private sector.¹²⁸ The seven members of the board from the public sector include the following:

- the Governor or the Governor's designee;
- the Commissioner of Education or his or her designee;
- the Chief Financial Officer or his or her designee;
- the Attorney General or his or her designee;
- the Commissioner of Agriculture or his or her designee;
- the chairperson of the board of directors for CareerSource Florida, Inc.; and
- the Secretary of State or his or her designee.

Of the twelve members from the private sector, the Governor appoints six¹²⁹ and the President of the Senate and Speaker of the Florida House of Representatives each appoint three. Such members are appointed to 4-year terms and must include at least one director for each of the following areas of expertise:¹³⁰

- international business;
- tourism marketing;
- the space or aerospace industry;
- managing or financing a minority-owned business;
- manufacturing;
- finance and accounting; and
- sports marketing.

In addition, the President of the Senate must appoint a member of the Senate and the Speaker of the House must appoint a member of the House of Representatives, both of which serve as ex officio members.¹³¹

The board must meet at least four times each year, upon the call of the chairperson, at the request of the vice chairperson, or at the request of a majority of the membership. A majority of the total number of current voting members constitutes a quorum.¹³²

Board Powers

Florida law directs the board of directors to “integrate its efforts in business recruitment and expansion, job creation, marketing the state for tourism and sports, and promoting economic opportunities for minority-owned businesses and promoting economic opportunities for rural and distressed urban communities with those of the department, to create an aggressive, agile, and collaborative effort to reinvigorate the state’s economy.”¹³³ To that end, Florida law authorizes the Board to:

- secure funding for its programs and activities from federal, state, local, and private sources and from fees charged for services and published materials;
- solicit, receive, hold, invest, and administer any grant, payment, or gift of funds or property and make expenditures;
- make and enter into contracts and other instruments necessary or convenient with its powers and functions;

¹²⁸ Section 288.901(5), F.S. The board of directors may also appoint at-large members to the board from the private sector, each of whom may serve a term of up to three years. At-large members have the same powers and duties of the other members of the board. Section 288.901(6), F.S.

¹²⁹ Members appointed by the Governor are subject to Senate confirmation. Section 288.901(5)(a), F.S.

¹³⁰ Section 288.901(5)(b), F.S.

¹³¹ Section 288.901(7), F.S.

¹³² Section 288.901(8), F.S.

¹³³ Section 288.9015(1), F.S.

- elect or appoint officers, employees, and agents as required for its activities and for its divisions;
- carry forward any unexpended state appropriations into succeeding fiscal years;
- create and dissolve advisory councils, working groups, task forces, or other similar organizations, as necessary to carry out its mission;
- establish an executive committee consisting of the chairperson or a designee, the vice chairperson, and as many additional members of the board of directors as the board deems appropriate (with a minimum of five members);
- sue and be sued, and appear and defend all actions and proceedings;
- adopt, use, and alter a common corporate seal for EFI and its divisions;
- adopt, amend, and repeal bylaws;
- acquire, enjoy, use, and dispose of patents, copyrights, and trademarks and any licenses, royalties, and other rights or interests;
- use the state seal when appropriate for standard corporate identity applications; and
- procure insurance or require bond against any loss in connection with the property of EFI.¹³⁴

Effect of Proposed Changes

The bill amends s. 288.901, F.S, to require that at least one of the 12 private sector representatives on the EFI board possess expertise in the field of rural economic development.

INNOVATION FLORIDA INITIATIVE

Present Situation

Enterprising States Report

The United States Chamber of Commerce Foundation issues an annual *Enterprising States* report, which uses a performance set of 35 metrics to identify the top ten state performers in each of six economic development policy areas: economic performance; transportation and trade; innovation and entrepreneurship; business climate; talent pipeline; and high-tech performance.¹³⁵

In the 2015 report, the Chamber ranked Florida ninth in its innovation and entrepreneurship category.¹³⁶ To come to such conclusion, the report focused on the following indicators:

- academic research and development intensity;
- academic research and development growth;
- state research and development investment;
- new startup rate;
- high-tech share of all businesses; and
- the Kaufman Entrepreneurship Index.¹³⁷

Notably, Florida ranked in the top ten in both the new startup rate and Kaufman Entrepreneurship Index.¹³⁸

Florida's High-Tech Corridor

A significant part of Florida's efforts to promote economic innovation resides in Florida's "high-tech corridor." Florida's high-tech corridor is a region stretching across 23 counties known for its high tech clusters of businesses covering a myriad of industries including aerospace, agritechnology, modeling

¹³⁴ Section 288.9015(2), F.S.

¹³⁵ United States Chamber of Commerce Foundation, *Enterprising States 2015*, available at: <https://www.uschamberfoundation.org/enterprisingstates/>. Last visited January 16, 2015.

¹³⁶ *Id.*

¹³⁷ United States Chamber of Commerce Foundation, *Enterprising States*, 2015 Executive Summary, page 4. Available at: <https://www.uschamberfoundation.org/enterprisingstates/>. Last visited January 16, 2015.

¹³⁸ *Id.*

and simulation, optics and photonics, digital media, medical technologies, and others.¹³⁹ The region is connected by the High-Tech Corridor Council, which consists of representatives from three research universities, more than 20 local and regional economic development organizations, 14 community and state colleges, 12 regional workforce boards, and many industry groups.¹⁴⁰ Council members utilize their knowledge and resources to work together to expand Florida's high-tech footprint.

One of the Council's important initiatives is its Matching Grants Research Program, through which private donors match Council-member investments to leverage their research and development budgets with academic partnerships.¹⁴¹ Since the inception of the program in 1996, the Council has partnered with 350 companies on more than 1,350 research projects and invested nearly \$62 million, which the Council estimates has resulted in greater than a \$1.3 billion economic impact.¹⁴²

Florida Economic Gardening

In 2009, the Florida Legislature created the "Economic Gardening Technical Assistance Pilot Program" and "Economic Gardening Business Loan Pilot Program" to stimulate investment in Florida's economy by providing technical assistance and loans to expanding businesses in the state, respectively.¹⁴³

The technical assistance program provides an avenue through which eligible companies can receive counseling services, access to technology and information, marketing services and advice, business management support, and other similar services.¹⁴⁴ To carry out the program, the Department of Economic Opportunity (DEO) contracted with the University of Central Florida (UCF), which in turn established the Florida Economic Gardening Institute or "GrowFL."¹⁴⁵

To be eligible for assistance through GrowFL, a business must be a for-profit, privately held, investment-grade business that:

- employs at least 10 persons but not more than 50 persons;
- has maintained its principal place of business in the state for at least the previous two years;
- generates at least \$1 million but not more than \$25 million in annual revenue;
- qualifies for the tax refund program for qualified target industry businesses under s. 288.106, F.S.; and
- has increased both its number of full-time equivalent employees in this State and its gross revenues during three of the previous five years.¹⁴⁶

According to GrowFL, as of June 30, 2014, it had assisted companies representing over 14,000 direct jobs across the State. Further, GrowFL states that over Fiscal Years 2013 and 2014, the program's activities helped generate an estimated 3,545 net new direct, indirect and induced jobs, which in turn contributed over \$547 million to Florida's economy and generated an additional \$18.34 million in total state and local tax revenues.

The Economic Gardening Business Loan program is available to businesses that qualify under the technical assistance program. Under the program, 38 businesses have received 43 loans totaling \$7,875,000.¹⁴⁷ In addition, according to DEO, the loan program is responsible for 171 jobs created and 803 jobs retained in the State.¹⁴⁸

¹³⁹ The Florida High Tech Corridor Council Website at: <http://www.floridahightech.com/>. Last visited January 16, 2016.

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² *Id.*

¹⁴³ Sections 288.1081 and 288.1082, F.S.

¹⁴⁴ Section 288.1082(2), F.S.

¹⁴⁵ GrowFL website at <http://www.growfl.com/about/>. Last visited January 14, 2016.

¹⁴⁶ Section 288.1082(4), F.S.

¹⁴⁷ Department of Economic Opportunity 2013-2014 Annual Report, page 34. Available at <http://www.floridajobs.org/news-center/reports-and-legislative-presentations>. Last visited January 16, 2016.

¹⁴⁸ Department of Economic Opportunity 2014 Annual Incentives Report, page 34, December 30, 2014. Available at <http://www.floridajobs.org/news-center/reports-and-legislative-presentations>. Last visited January 16, 2016.

The loan program is set to expire on July 1, 2016, unless reviewed and reenacted by the Legislature.¹⁴⁹

The Florida Institute for the Commercialization of Public Research

The Florida Legislature created the Institute for the Commercialization of Public Research (Institute) in 2007 as a non-profit organization tasked with assisting innovation businesses, and public colleges, universities, or research institutes, or any other publicly supported organization in the State in the commercialization of products.¹⁵⁰ Specifically, Florida law directs the Institute to:

- maintain a centralized location to showcase companies and their technologies and products;
- develop an efficient process to inventory and publicize companies and products that have been accepted by the institute for commercialization;
- routinely communicate with private investors and venture capital organizations regarding the investment opportunities in its showcased companies;
- facilitate meetings between prospective investors and eligible organizations in the institute;
- hire full-time staff who understand relevant technologies needed to market companies to the angel investors and venture capital investment community; and
- develop cooperative relationships with publicly supported organizations all of which work together to provide resources or special knowledge that is likely to be helpful to institute companies.¹⁵¹

According to the Institute, its overall economic impact equaled \$168 million in Fiscal Year 2014-2015.¹⁵²

Effect of Proposed Changes

The bill amends s. 288.901, F.S., to direct EFI to "foster and encourage high-tech startup and second stage business development within the state."

The bill also establishes the "Innovation Florida Initiative" and declares as follows:

"The Legislature finds that successful high-technology startup and second-stage businesses are critical to the state's overall economic growth and such businesses play an outsized role in job creation. The Legislature also finds that Enterprise Florida, Inc., the state's economic development organization, is uniquely suited to foster and encourage more high-technology startup and second stage business development within the state. Therefore, the Legislature declares that it is the policy of the state to prioritize high-technology startup and second-stage business development within the state and directs Enterprise Florida, Inc., to develop the Innovation Florida Initiative to further such policy."

The Initiative requires DEO to develop a statewide strategic plan for fostering and encouraging high-tech startup and second stage businesses in coordination with various economic development entities throughout the state including EFI, the Institute, and GrowFL. In developing the strategic plan, the department must:

- evaluate best practices, examine the startup, entrepreneurship, and second-stage business programs of other states, and survey high-technology startups and second-stage businesses and support organizations, both within and outside the state;
- include actionable steps to provide technical support to local and regional economic development organizations to enhance high-tech startup and second stage business growth at the local and regional levels; and

¹⁴⁹ Section 288.1081(10), F.S.

¹⁵⁰ Section 288.9625(1), F.S.

¹⁵¹ Section 288.9625(8), F.S.

¹⁵² The Florida Institute for the Commercialization of Public Research, *2014-2015 Annual Report Summary*; available at:

<http://www.florida-institute.com/news/annual-report-summary-2014-2015>. Last visited January 16, 2016.

- evaluate the accessibility of the state's economic development incentive and loan programs to high-tech startups and second stage businesses.

The department must deliver the strategic plan to the Governor, President of the Senate, and the Speaker of the House of Representatives by January 1, 2017. The completed plan must also become part of the five year statewide strategic plan developed by the Division of Strategic Business Development required by s. 20.60, F.S.

In addition, the bill requires EFI to market the state's economic development activities related to the growth and development of high-tech startups and second stage businesses and provide information regarding its activities related to the development of such businesses in its annual report.

Finally, the bill defines "advanced technology products," "high-tech startup," and second stage business" to mean as follows:

- "Advanced technology products" means high-technology products produced by a business that employs a high proportion of scientists, engineers, and technicians.
- "High-tech startup" means a business unit that has been in operation for less than five years, employs fewer than 10 employees, and produces a high proportion of advanced technology products.

"Second-stage business" means a business unit that employs at least 10 but not more than 50 employees, generates at least \$1 million but not more than \$25 million in annual revenue, and produces a high proportion of advanced technology products.

FLORIDA DEVELOPMENT FINANCE CORPORATION

Present Situation

In 1993, the Florida Legislature created the Florida Development Finance Corporation (FDFC) as a state-authorized issuer of industrial revenue bonds, which are typically tax-exempt, private activity bonds.¹⁵³ In so doing, the Legislature's aim was to have the FDFC help foster the growth of manufacturing and other job-creating businesses in Florida by brokering private-activity bond financing through inter-local agreements with counties, municipalities, and other local political subdivisions. Over time, the Legislature expanded the FDFC's authority.¹⁵⁴

Currently, the FDFC's statutorily expressed purpose is to enhance economic activity and development throughout the State by assisting in the financing of certain projects and facilitating the commercial interaction and cooperation between public and private organizations.¹⁵⁵ To undertake such responsibility, s. 288.9605, F.S., grants FDFC many powers, some of which include the following:

- to enter into interlocal agreements with public agencies for the exercise of any power, privilege, or authority consistent with the purposes of FDFC's enacting law;
- to issue revenue bonds for the purpose of financing and refinancing any capital projects for approved applicants;
- to issue bond anticipation notes in connection with the issuance and sale of such revenue bonds;
- to invest funds held in reserve or sinking funds or any such funds not required for immediate disbursement in property or securities in such manner as the board determines, subject to the authorizing resolution on any bonds issued, and to terms established in an investment agreement; and

¹⁵³ Sections 25-34, Ch. 93-187, L.O.F. *See also* The Florida Senate *Issue Brief 2011-209*: "An Overview of the Economic Development Affiliates Administered by Enterprise Florida, Inc." October 2010. At 6.

¹⁵⁴ *Id.*

¹⁵⁵ *See* s. 288.9602, F.S.

- to borrow money and apply for and accept advances, loans, grants, contributions, and any other form of financial assistance from the Federal government or the state, county, or other public body or from any sources, public or private, pursuant to the purposes of FDFC's enacting law.

To carry out its purpose, FDFC primarily issues revenue bonds to qualified, financially sound, manufacturing and 501(c)(3) non-profit organizations.¹⁵⁶ 501(c)(3) organizations that have been financed with FDFC issued revenue bonds include charter and private schools, homes for the aged, daycare facilities, and recreation centers.¹⁵⁷

The FDFC has issued at least 65 bonds for 91 borrowers totaling over \$940,000,000 since 1997.¹⁵⁸

FDFC Board of Directors

The Governor appoints FDFC's five member board of directors, subject to Senate confirmation.¹⁵⁹ At least three of the board members must be bankers selected by the Governor from a list submitted by Enterprise Florida, Inc. (EFI), and one of the directors must be an economic development specialist.¹⁶⁰ Terms are for four years, and any vacancy occurring during a term is filled by the Governor for the remainder of that term. Board members receive no compensation but are entitled to per diem and travel expenses.¹⁶¹

Effect of Proposed Changes

The bill provides that any action taken by FDFC's full board of directors on or before March 31, 2015, to ratify or reject actions taken by a previous board while such previous board was incomplete due to director vacancies, has the same effect as if the ratifying or rejecting board took the original action.

The bill provides that the FDFC may conduct meetings remotely by utilizing conference telephone, video conference, or other communications technology. The board is required to hold a meeting in person if the board is aware of opposition to a bond issuance on the agenda or if the board receives a request to hold the meeting in person prior to 72 hours before the scheduled meeting.

The bill provides that FDFC documents, agreements, and instruments may be executed and delivered in accordance with and to the extent permitted by the Electronic Signature Act of 1996, Part I of chapter 688.

MICROFINANCE LOAN AND MICROFINANCE GUARANTEE PROGRAMS

Present Situation

In 2014, the Legislature found that the ability of entrepreneurs and small businesses to access capital is vital to the overall health and growth of this state's economy, but that access to capital is limited by the lack of available credit for entrepreneurs and small businesses in this state.¹⁶² Accordingly, Florida lawmakers passed the "Florida Microfinance Act"¹⁶³ and created the "Microfinance Loan Program"¹⁶⁴ and "Microfinance Guarantee Program".¹⁶⁵

¹⁵⁶ Information obtained from Enterprise Florida, Inc. website at: <http://www.enterpriseflorida.com/small-business/florida-development-finance-corporation/>. Last visited January 16, 2016..

¹⁵⁷ *Id.*

¹⁵⁸ E-mail from Bill Spivey, FDFC Vice President of Capital Programs. E-mail received on April 16, 2015. E-mail on file with House staff.

¹⁵⁹ Section 288.9604, F.S.

¹⁶⁰ *Id.*

¹⁶¹ *Id.*

¹⁶² Section 288.9931, F.S.

¹⁶³ Section 288.993, F.S.

¹⁶⁴ Section 288.9934, F.S.

¹⁶⁵ Section 288.9935, F.S.

Through the loan program, qualified businesses can receive short-term, fixed-rate microloans in conjunction with business management training, business development training, and technical assistance for startup costs, working capital, and the acquisition of materials, supplies, furniture, fixtures, and equipment.¹⁶⁶ To be eligible for a microloan, an applicant must, at a minimum, be an entrepreneur or small business that employs 25 or fewer people and generated average annual gross revenues of \$1.5 million or less per year for the preceding 2 years.¹⁶⁷ In addition, the following terms and restrictions apply:

- the amount of a microloan may not exceed \$50,000;
- a borrower may not receive more than \$75,000 per year in total microloans;
- a borrower may not receive more than two microloans per year and may not receive more than five microloans in any three-year period;
- the proceeds of the microloan may be used only for startup costs, working capital, and the acquisition of materials, supplies, furniture, fixtures, and equipment;
- the period of any microloan may not exceed one year;
- the interest rate may not exceed the prime rate published in the Wall Street Journal as of the date specified in the microloan, plus 1000 basis points;
- all microloans must be personally guaranteed;
- the borrower must participate in business management training, business development training, and technical assistance as determined by the loan administrator in the microloan agreement;
- the borrower shall provide such information as required by the loan administrator, including monthly job creation and financial data, in the manner prescribed by the loan administrator; and
- the loan administrator may collect fees for late payments which are consistent with standard business lending practices and may recover costs and fees incurred for any collection efforts necessitated by a borrower's default.¹⁶⁸

Through the guarantee program, qualified entrepreneurs and small businesses in this state can stimulate their access to credit by receiving targeted loan guarantees.¹⁶⁹ The guarantee program is administered by Enterprise Florida, Inc., which is limited to providing loan guarantees for loans between \$50,000 and \$250,000.¹⁷⁰ To be eligible to receive a loan guarantee under the guarantee program, a borrower must, at a minimum:

- be an entrepreneur or small business located in this state;
- employ 25 or fewer people;
- generate average annual gross revenues of \$1.5 million or less per year for the last 2 years; and
- meet any additional requirements established by Enterprise Florida, Inc.¹⁷¹

Florida law requires the Office of Economic and Demographic Research (EDR) to analyze, evaluate, and determine the economic benefits of the first three years of the Microfinance Loan Program and the Microfinance Guarantee Program.¹⁷² The analysis must also evaluate the number of jobs created, the increase or decrease in personal income, and the impact on state gross domestic product from the direct, indirect, and induced effects of the state's investment.¹⁷³ Finally, the analysis must identify any inefficiencies in the programs and provide recommendations for changes to the programs.¹⁷⁴ EDR shall submit a report with the findings of the analysis to the President of the Senate and the Speaker of the House of Representatives by January 1, 2018.¹⁷⁵

¹⁶⁶ Section 288.9934(1), F.S.

¹⁶⁷ Sections 288.9934(9) and 288.9932(5), F.S.

¹⁶⁸ Section 288.9934(8), F.S.

¹⁶⁹ Section 288.9935(1), F.S.

¹⁷⁰ Section 288.9935(4), F.S.

¹⁷¹ Section 288.9935(7), F.S.

¹⁷² Section 288.9937, F.S.

¹⁷³ *Id.*

¹⁷⁴ *Id.*

¹⁷⁵ *Id.*

Effect of Proposed Changes

The bill provides that both EDR and OPPAGA must each prepare and provide to the President of the Senate and the Speaker of the House of Representatives a report on the Microfinance Loan Program and Microfinance Guarantee Program and modifies the date of submittal from January 1, 2018, to January 15, 2018.

EDR's report must evaluate the number of jobs created, the increase or decrease in personal income, and the impact on state gross domestic product from the direct, indirect, and induced effects of the State's investment in the programs. OPPAGA's report must identify inefficiencies in the programs and provide recommendations for changes to the programs.

B. SECTION DIRECTORY:

- Section 1: Amends s. 163.3175, F.S., providing an exemption for a military base representative.
- Section 2: Amends s. 163.3180, F.S., exempting certain small businesses from concurrency fees for three years.
- Section 3: Amends s. 163.31801, F.S., exempting certain small businesses from impact fees for three years.
- Section 4: Amends s. 189.033, F.S., conforming cross reference.
- Section 5: Amends s. 196.012, F.S., conforming cross reference.
- Section 6: Amends s. 212.20, F.S., removing the International Game Fish Association World Center facility.
- Section 7: Amends s. 220.191, F.S., excluding certain funds from the definition of "cumulative capital investment."
- Section 8: Amends s. 220.196, F.S., conforming cross reference.
- Section 9: Amends s. 288.0001, F.S., providing for an analysis of the retention of Major League Baseball spring training baseball franchises.
- Section 10: Amends s. 288.005, F.S., including certain funds from the definition of "economic benefits" and establishing a uniform definition of "average private sector wage in the area."
- Section 11: Amends s. 288.061, F.S., relating to the economic development incentive application process.
- Section 12: Amends s. 288.076, F.S., relating to the return on investment reporting for economic development programs.
- Section 13: Creates s. 288.103, F.S., relating to financial sanctions of economic development incentive awards for projects relocating out of state.
- Section 14: Amends s. 288.1045, F.S., relating to the Qualified Defense Contractor and Space Flight Business tax refund program.
- Section 15: Amends s. 288.106, F.S., relating to the Qualified Target Industry tax refund program.
- Section 16: Amends s. 288.108, F.S., relating to the High Impact Performance Incentive.
- Section 17: Amends s. 288.1088, F.S., relating to the Quick Action Closing Fund.
- Section 18: Amends s. 288.1089, F.S., relating to the Innovation Incentive Program.
- Section 19: Amends s. 288.11621, F.S., relating to the Florida Sports Foundation.
- Section 20: Repealing s. 288.1169, F.S., relating to the International Game Fish Association World Center facility.
- Section 21: Amends s. 288.1229, F.S., relating to the Florida Sports Foundation.
- Section 22: Amends s. 288.901, F.S., relating to Enterprise Florida, Inc.
- Section 23: Amends s. 288.9015, F.S., relating to Enterprise Florida, Inc.
- Section 24: Creates s. 288.913, F.S., relating to the Innovation Florida Initiative.
- Section 25: Amends s. 288.92, F.S., relating to Enterprise Florida, Inc.
- Section 26: Amends s. 288.9604, F.S., relating to the Florida Development Finance Corporation.
- Section 27: Amends s. 288.9605, F.S., relating to the Florida Development Finance Corporation.
- Section 28: Amends s. 288.980, F.S., relating to military base retention grant programs.

- Section 29: Amends s. 288.9937, F.S., relating to the evaluation of programs by the Office of Economic and Demographic Research and the Office of Program Policy Analysis and Government Accountability.
- Section 30: Amends s. 288.11625, F.S., conforming cross reference.
- Section 31: Amends s. 288.11631, F.S., conforming cross reference.
- Section 32: Amends s. 320.08058, F.S., relating to the Florida United States Olympic Committee License Plates.
- Section 33: Reenacts s. 159.803, F.S., conforming cross reference.
- Section 34: Provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The fiscal impact to the state depends upon the use of the various economic development incentives and programs addressed in the bill. Should a business decide to locate or expand in the state based on the various incentives and programs, it may positively impact a variety of revenues generated from taxes and fees.

2. Expenditures:

The fiscal impact to the state depends upon the use of the various economic development incentives and programs addressed in the bill. Should a business decide to locate or expand in the state based on the various incentives and programs, it may negatively impact state expenditures based on anticipated appropriations for payments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

On January 29, 2016, the Revenue Estimating Conference estimated the bill would have an indeterminate negative fiscal impact to the state for proposed modifications to transportation concurrency and impact fees for a three-year period (i.e., July 1, 2016 through July 1, 2019) during which a county, municipality, or special district may not impose any new or existing impact fee or any new or existing fee associated with the mitigation of transportation impacts on new business development, unless authorized by the affirmative majority vote of the entity's governing body.

In addition, the fiscal impact on local governments depends upon the use of the various economic development incentives and programs addressed in the bill. Should a business decide to locate or expand in a community based on incentives it may positively impact a variety of revenues generated by local taxes and fees.

2. Expenditures:

The fiscal impact depends upon the use of the various economic development incentives and programs addressed in the bill. Should a business decide to locate or expand in a community based on the various incentives and programs it may negatively impact expenditures based on anticipated payments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The extension of the QDSC program may have an indeterminate negative fiscal impact to state and local governments to the extent an entity applies to participate in the program and qualifies for tax refund payments.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 16, 2016, the Transportation & Economic Development Appropriations Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment:

- Moves the Florida Sports Foundation from EFI to DEO.
 - Revises the membership of the governing board of the Florida Sports Foundation.
 - Deletes residency requirement for participants of the Sunshine State Games and the Florida Senior Games.
 - Conforms distributions from sports-related license plates to be made to the Florida Sports Foundation.
- Removes the 30 percent match requirement for grants awarded under the Defense Infrastructure Grant Program.
- Includes language to modify that any payments received under the QTI tax refund program are incentive payments and not tax refund payments.
- Includes language to allow for the carry forward of appropriations made for the QAC program.
- Modifies language pertaining to the FDFC to allow for the use of communications media technology and electronic signatures.
- Removes the provision that allowed for the sunset of economic development programs.
- Removes the provision that allowed for an applicant to the QAC program to request DEO use the statewide average wage in place of the county average wage for a project that will be located in an incorporated rural city having a population of 25,000 or less within a county having a population greater than 1 million at the request of the local government and EFI.
- Revised the definition of “average private sector wage in the area”.
- Revised the ROI for the QAC program to 3 to 1.
- Revised the job requirement for the QAC program to only require 10 net new jobs.
- Revised the approval process for economic development programs to no longer allow the chair and vice chair of the LBC to object to a project.
- Revised the 10 year residency requirement down to 3 years after a business receives their last incentive payment or benefit, or the end of their maintenance period, whichever occurs last.

- Changes the name of the Quick Action Closing Fund program to the Florida Enterprise Fund program.

The analysis is drafted to the committee substitute as approved by the Transportation & Economic Development Appropriations Subcommittee.