

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Subcommittee on Transportation, Tourism, and Economic Development

BILL: PCS/CS/SB 1646 (747054)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development), Commerce and Tourism Committee, and Senator Latvala

SUBJECT: Economic Development

DATE: February 11, 2016 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Askey</u>	<u>McKay</u>	<u>CM</u>	Fav/CS
2.	<u>Gusky</u>	<u>Miller</u>	<u>ATD</u>	Recommend: Fav/CS
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 1646 makes several changes to the state’s economic development programs to increase accountability and efficiency.

Related to economic development incentives programs generally, the bill:

- Revises definitions of “cumulative capital investment,” “economic benefit,” and “average private sector wage in the area” across the state’s economic development incentive programs.
- Regarding incentive contracts, the bill:
 - Limits incentive contract terms to 10 years,
 - Requires contracts to embody the written descriptions provided to the Legislature,
 - Requires contracts to include provisions requiring the capital investment made for the project remain in the state for the duration of the contract, and
 - Requires the Department of Economic Opportunity (DEO) to provide notice of executed contracts to the Legislature.
- Requires incentive reports to include information on jobs created and retained that provide health benefits.

Related to the Quick Action Closing Fund Program, the bill:

- Renames the Quick Action Closing Fund as the “Florida Enterprise Fund.”
- Lowers the required economic benefits (return on investment) from 5 to 1, to 2.5 to 1.

- Requires that projects create at least 10 jobs.
- Requires local financial support of at least 20 percent of the award.
- Prohibits payment before performance conditions are met.

Related to the Qualified Defense and Space Contractors Tax Refund Program, the bill:

- Extends the program to 2018.
- Allows businesses to receive refunds for activity in 2014 if the business failed to timely submit information and meets other conditions.

Related to the Qualified Target Industry Tax Refund Program, the bill:

- Clarifies that payments are not refunds of taxes, but that the taxes paid serve as limitations on the amount of incentive payments a business may receive.
- Expands the definition of “target industry business” to include a college, university or professional school that only offers baccalaureate or higher degrees that address health care workforce demands, under certain circumstances.

Related to the Quick Response Training Program and CareerSource Florida, Inc. (CareerSource), the bill:

- Authorizes CareerSource to execute contracts that obligate reimbursement payments for up to \$30 million for any given 24-month period.
- Provides that an educational institution providing administrative assistance or receiving QRT grant funding *may* be included as a party to a grant agreement, making the fiscal agent’s role permissive instead of mandatory.
- Includes the president of CareerSource as a member of EFI’s board of directors.

Related to the sports industry in Florida, the bill:

- Moves the Florida Sports Foundation from Enterprise Florida, Inc., (EFI) to the Department of Economic Opportunity (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 Legislature from the project approval process under the Sports Development Program; projects, including projects recommended for approval by the DEO in the 2015-2016 fiscal year, would be certified and approved by the DEO.
- Repeals expired provisions related to an International Game Fish Association World Center facility.

Related to the state’s entertainment industry, the bill:

- Moves the DEO Office of Film and Entertainment (OFE) to EFI, and renaming it the Division of Film and Entertainment (division).
- Creates the Entertainment Action Fund, from which approved production companies may receive funds from the program for qualified expenditures in the state.
- Changes the repeal date of the entertainment industry financial incentive program to April 1, 2016, and prohibiting program tax credits from being certified after that date. Tax

credits certified before April 1, 2016, may be awarded on or after April 1, 2016, if certain requirements are met. Tax credits will not be awarded after June 30, 2017.

- Revises the entertainment industry sales tax exemption certificate program to prohibit backdating of tax exemption certificates.
- Prohibits a production company from benefiting from both the Entertainment Action Fund and the sales tax exemption certificate program for the same production.

Other provisions of the bill include:

- Permitting a qualified job-training organization to participate in a self-insurance fund;
- Allowing local governments to adopt a flexible and quicker approval process for the development of nonresidential projects, including office and industrial parks; and
- Allowing local governments to provide economic development ad valorem tax exemptions to datacenters that are replacing or refreshing equipment.

The transfer of funds currently held in escrow by Enterprise Florida, Inc., to the Quick Action Closing Fund Escrow Account within the Economic Development Trust Fund will have an indeterminate, but positive, fiscal impact on the State Economic Enhancement and Development Trust Fund. The DEO's certification of three applicants for annual distributions under the Sports Development Program during Fiscal Year 2015-2016 will have a recurring negative fiscal impact to the General Revenue Fund of up to \$7 million per year. The bill does not provide a specific appropriation for the Entertainment Action Fund program; however, the bill does include the program as an incentive program authorized for funding from the Florida Enterprise Account, subject to appropriation. The extension of the Qualified Defense Contractor and Space Flight Business Tax Refund (QDSC) program to allow the DEO to certify applications through June 30, 2018, will have a negative impact to state revenues. Funds to make payments for this refund program are appropriated in the General Appropriations Act each year. The bill will have an indeterminate, but positive, fiscal impact to businesses that are certified to participate in the QDSC program. The bill will have an indeterminate, but expected to be minimal, impact to the DEO and EFI; any additional costs are expected to be absorbed within existing resources. See Section V.

The bill provides an effective date of July 1, 2016, except as otherwise provided for in the bill and except for the effective date section, which takes effect upon becoming law.

II. Present Situation:

For the purposes of this bill analysis, the Present Situation will be addressed in the Effect of Proposed Changes section below.

III. Effect of Proposed Changes:

Economic Development Incentive Programs

Current Situation

Florida has a number of incentive programs intended to promote economic development in the state. These programs are collectively referred to as the economic development "toolkit" and come in a variety of forms including tax refunds, tax credits, tax exemptions, and cash grants.

The Qualified Target Industry Business Tax Refund (QTI) program is designed to attract high wage jobs in targeted industries to the state.¹ The target industries are identified by the Department of Economic Opportunity (DEO) using such criteria as future growth, stability, high wages, market and resource independence, industrial base diversification, and positive economic impact. Approved QTI projects have contractual performance measures with specific milestones to be verified prior to payment of any tax refunds. This incentive requires 20 percent of the award to come from the local government. QTI businesses are eligible for tax refunds in the amount of eligible taxes that were paid by the business. The program is funded through a specific annual appropriation.²

The Qualified Defense Contractor and Space Flight Business Tax Refund (QDSC) program is designed to attract high wage jobs in the space and defense industries.³ As with the QTI refund, 20 percent of the award comes from the local government. As with other programs, the QDSC tax refunds are awarded after contractual performance-based milestones are met and verified by the state. The program is funded through a specific annual appropriation. Currently, an applicant cannot be certified as qualified after June 30, 2014, but any agreements in effect after that date continue in accordance with their terms.

The QTI and QDSC programs share a \$35 million cap on tax refund payments, per fiscal year.

The Capital Investment Tax Credit (CITC) is designed to attract and grow capital-intensive industries in Florida.⁴ Eligible projects must be in designated high-impact portions of certain sectors, determined by the DEO, including clean energy, biomedical technology, financial services, information or silicon technology, or transportation equipment manufacturing. Corporate headquarters facilities are also eligible. The DEO reported that \$21.5 million in tax credits were claimed in 2014.⁵ The annual credit can be provided for up to 20 years against corporate income tax liability.

To apply for the CITC, a business must meet cumulative capital investment requirements, among other criteria. For the purposes of the CITC tax credit “cumulative capital investment” is defined as the total capital investment in land, buildings, and equipment made in connection with a qualifying project during the period from the beginning of construction of the project to the commencement of operations.

The High Impact Performance Incentive (HIPI)⁶ grant program is designed to spur capital investment and job creation in the same high-impact sectors as for the CITC tax credit. The cash grant is reserved for major facilities operating in designated portions of high-impact sectors. The program has an annual cap of \$30 million for scheduled performance grant payments. This program authorizes the recapture of funds if a business fails to meet its contractual performance

¹ Section 288.106, F.S.

² Section 288.095, F.S.

³ Section 288.1045, F.S.

⁴ Section 220.191, F.S.

⁵ Department of Economic Opportunity, *DEO: 2015 Incentives Report*, December 30, 2015, (on file with the Commerce and Tourism Committee).

⁶ Section 288.108, F.S.

requirements. Currently, the DEO “certifies” a qualified high impact business for program participation.

The Quick Action Closing (QAC) Fund grant program is designed to be a competitive “deal closing” tool for negotiations where the state’s other incentives are not enough to incentivize a business to remain, locate, or expand in the state.⁷ Under current law, in order to be eligible for QAC funds a project must meet five criteria:

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

A waiver of eligibility requirements can be considered if certain criteria are met.⁸

A QAC project must have a performance based contract requiring specific scheduled milestones and annual compliance requirements. The program authorizes sanctions and penalties for failure to perform. The DEO reports that \$44.2 million in grant incentives was approved in Fiscal Year 2014-15.⁹

The Innovation Incentive Program (IIP) is designed to empower the state to compete effectively for research and development, innovation business, or alternative and renewable energy projects.¹⁰ The state makes long-term investments in industry clusters critical to the state’s future economic diversification. The projects have contractual performance measures and milestones that must be achieved before grant payment. The contracts also include a reinvestment provision, requiring recipients to pay a portion of earned royalty revenues back to the state for investment in existing state trust funds. A 1 to 1 local match is also required, and the project must ultimately result in a cumulative break-even economic benefit within a 20-year period. The DEO reports that as of 2015, for the life of the program nine companies have been awarded funds of \$455.7 million.¹¹

The Office of Economic Development and Research (EDR) and the Office of Program Policy Analysis and Government Accountability (OPPAGA) are required to provide a detailed analysis of state economic development programs according to a recurring schedule established in law.¹² The EDR must evaluate and determine the economic benefits, as defined in s. 288.005(1), F.S., of each program over the previous 3 years. For the purposes of EDR’s analysis, the calculation of economic benefits is the same as the state’s return on investment.

⁷ Section 288.1088, F.S.

⁸ Section 288.1088(3)(a), F.S.

⁹ *Supra* note 5, at 18.

¹⁰ Section 288.1089, F.S.

¹¹ *Supra* note 5, at 27.

¹² Section 288.0001, F.S.

Effect of Proposed Changes

Qualified Target Industry Tax Refund Program

Section 13 amends s. 288.106, F.S., to clarify that the QTI “tax refund” program is not a repayment of taxes, but that taxes paid operate as a limitation on the incentive payments a business can receive. The bill deletes obsolete provisions relating to economic recovery extensions that expired in 2012 and special incentives for “disproportionally affected counties” that expired in 2014.

The definition of “target industry business” is expanded in the bill to include any business within NAICS code 611310 (college, university or professional school) that only offers baccalaureate or higher degrees that address health care workforce demand if the local governing body and EFI make a determination that the community where the business may locate has conditions affecting the fiscal and economic viability of the local community or area.

The bill replaces language authorizing a “local financial support exemption option” with local financial support waiver provisions that will apply consistently across the economic development incentive programs, as applicable. Generally, a business may not receive more than 80 percent of its total tax refunds that are authorized under the program from state funds. The DEO may grant to a local government a waiver that reduces the required amount of local financial support by ten percent or eliminates the required support for a designated rural area of opportunity (RAO). To be eligible to receive a waiver that reduces or eliminates the required amount of local financial support, a local government must provide the DEO with:

- A resolution adopted by the governing body of the county or municipality where the project will be located requesting that the applicant’s project be waived from the local financial support requirement; and
- A statement prepared by a certified public accountant which describes the financial constraints preventing the local government from providing the required local financial support. However, a fiscally constrained county does not need to provide this statement.

Qualified Defense and Space Contractor Tax Refund Program

Section 12 amends s. 288.1045, F.S., to extend the expiration date for applicants to become certified as qualified to participate in the program to June 30, 2018. The bill also amends that section to allow a business that does not submit documentation requested by the DEO and as required by the agreement to claim an approved refund if:

- The business submits the documentation to the DEO;
- The business provides a written statement to the DEO detailing the extenuating circumstances that resulted in the failure to timely submit documentation required by the agreement;
- Funds appropriated for the program remain available;
- The business was scheduled to submit information to the DEO between January 1, 2014, and December 31, 2104; and
- The business has met all other requirements in the agreement.

The bill replaces language authorizing a “local financial support exemption option” with local financial support waiver provisions as described above for the QTI Tax Refund Program.

High-Impact Performance Incentive (HIPI) Program

Section 14 amends s. 288.108, F.S., to require that HIPI projects have an economic benefit ratio of at least 1 to 1. The bill also removes the current certification process and creates the following approval process for HIPI projects:

- The DEO's executive director shall recommend that a HIPI project be approved or denied to the Governor.
- The Governor may approve a HIPI performance grant award of less than \$2 million without consulting the Legislature. The Governor must provide a written description and evaluation of the approved project to the President of the Senate and the Speaker of the House of Representatives (the presiding officers) within one business day after approval.
- For a HIPI performance grant award of \$2 million or more, the Governor must provide a written description and evaluation of the project to the presiding officers at least 14 days before approving the project. If either of the presiding officers timely advises the Governor, in writing, that his or her planned or proposed action exceeds the delegated authority of the Governor or is contrary to legislative policy or intent, the Governor must direct the DEO to immediately suspend any planned or proposed action.
- The DEO must provide a written description of an amendment, modification, or extension of an executed HIPI agreement that results in a 0.5-point or greater reduction in the project's economic benefit ratio to the presiding officers within one business day after approval.
- An amendment, modification, or extension may not be made to an executed HIPI agreement if:
 - Such action would reduce the project's economic benefits ratio to less than 1 to 1.
 - The award of state funds outlined in the agreement has not been reduced by a proportionate amount.
- Upon the Governor's approval, the DEO will certify the applicant as a high-impact business and enter into a performance grant agreement with the business pursuant to s. 288.061, F.S. The agreement shall require the business to submit proof of performance within a specified time period, not to exceed 90 days, from the required performance date.

Florida Enterprise Program (formerly QAC)

Section 15 amends s. 288.1088, F.S., to rename the "Quick Action Closing Fund" as the "Florida Enterprise Program." The bill amends eligibility criteria to require projects to have a positive economic benefit ratio of at least 2.5 to 1 and create at least 10 new jobs. The bill provides an exception to the requirement that a project pay an average annual wage of at least 125 percent of the average private sector wage in the area for projects located in a designated RAO. For projects located in a RAO, the average annual wage must be at least 100 percent, rather than 125 percent, of the average private sector wage in the area.

The bill provides the same approval process for Florida Enterprise Program projects as for the HIPI Program. The DEO must provide a written description and evaluation of an amendment, a modification, or an extension of an executed contract that results in a 0.5-point or greater reduction in the project's economic benefit ratio to the presiding officers within one business day after approval. An amendment, modification, or extension may not be made to an executed Florida Enterprise Program agreement if:

- Such action would reduce the project's economic benefits ratio to less than 2.5 to 1.

- The award of state funds outlined in the agreement has not been reduced by a proportionate amount.

The bill also requires that local support include a resolution adopted by the governing board of the county or municipality in which the project is located. The resolution must include a commitment of local financial support similar to current law requirements for the QTI and QDSC programs. The bill defines “local financial support” as funding from local sources, public or private, which is paid to the Economic Development Trust Fund and which is equal to 20 percent of the Florida Enterprise Program grant award to the business. The state share of the award cannot be more than 80 percent. The bill provides that the local financial support requirement can be waived in the same manner provided for the QTI and QDSC tax refund programs, as described above.

Local financial support can include any tax abatement granted to a business or the appraised market value of municipal or county land conveyed or provided at a discount to the business. The DEO is prohibited from entering into a contract with a business if the local financial support resolution is not passed within 90 days after the Governor has approved the project. The bill prohibits a business from providing over 5 percent of the local financial support, and prohibits funds appropriated from the General Revenue Fund or any state trust fund from being used for local financial support.

Prior to payment under the Florida Enterprise Program, a business must meet and report on contract performance criteria. The bill expands the list of performance criteria that must be included in a Florida Enterprise Program contract to include the amount of local financial support that will be annually available and will be paid into the Economic Development Trust Fund. The bill prohibits payment to a business unless the required local financial support is paid into the Economic Development Trust Fund.

Innovation Incentive Program

Section 16 amends s. 288.1089, F.S., relating to the Innovation Incentive Program, to:

- Require a local government that requests a waiver that reduces or eliminates the one-to-one match to provide the DEO with a statement prepared by a Florida certified public accountant that describes the financial constraints preventing the local government from meeting the local financial support requirement. However, a fiscally constrained county does not need to provide this statement.
- Provide the same approval process for Innovation Incentive Program projects as for the Florida Enterprise Program and the HIPI Program projects.
- Require, upon the Governor’s approval, the DEO to enter into an agreement with the business pursuant to s. 288.061, F.S. The agreement shall require the business to submit proof of performance within a specified time period, not to exceed 90 days, from the required performance date.

The DEO must provide a written description and evaluation of an amendment, a modification, or an extension of an executed contract that results in a 0.5-point or greater reduction in the project’s economic benefit ratio to the presiding officers within one business day after approval. An amendment, modification, or extension may not be made to an executed Innovation Incentive Program agreement if:

- Such action would reduce the project’s economic benefits ratio to less than 1 to 1.
- The award of state funds outlined in the agreement has not been reduced by a proportionate amount.

Sections 5 and 9 amend ss. 288.0001 and 288.076, F.S., respectively, to make conforming changes related to the name change of the QAC program to the Florida Enterprise Program.

Section 5 also amends s. 288.0001, F.S., to add a report on the retention of Major League Baseball (MLB) spring training baseball franchises under s. 288.11631, F.S., to the list of reports included in the economic development programs evaluation schedule beginning January 1, 2018, and every 3 years thereafter.¹³ The section also replaces a reference to “VISIT Florida” with the “Florida Tourism Industry Marketing Corporation.”

Economic Development Trust Fund

Current Situation

Under current law, funds transferred from local governments for the purposes of the local financial support requirements of the QDSC and the QTI programs are deposited in the Economic Development Incentives Account within the Economic Development Trust Fund. Economic Development Incentives Account funds can only be used to pay tax refunds and make other payments authorized for the QDSC, QTI, and Brownfield Redevelopment Tax Refund programs.¹⁴

Effect of Proposed Changes

Section 10 amends s. 288.095, F.S., to:

- Allow local financial support associated with the Florida Enterprise Program (formerly QAC) be deposited in the Economic Development Incentives Account; and
- Create the Florida Enterprise Fund Account and the Quick Action Closing Fund Escrow Account within the Economic Development Trust Fund.

For each of the three accounts in the Economic Development Trust Fund, the bill provides that any balance in the account at the end of a fiscal year remains in the account and is available for carrying out the purposes of the account.

Florida Enterprise Fund Account

The Florida Enterprise Fund Account consists of moneys deposited in the account for purposes of the following incentives programs:

- Local Government Matching Grant Program (s. 288.0659, F.S.);
- QDSC Tax Refund Program (s. 288.1045, F.S.);
- QTI Tax Refund Program (s. 288.106, F.S.);
- Brownfield Redevelopment Bonus Program (s. 288.107, F.S.);
- HIPI Grant Program (s. 288.108, F.S.);

¹³ Section 288.0001, F.S.

¹⁴ Section 288.095, F.S.

- Florida Enterprise (formerly QAC) Program (s. 288.1088, F.S.);
- Innovation Incentive Program (s. 288.1089); and
- Entertainment Action Fund (s. 288-1256).

For each of the incentive programs listed above, the bill requires the DEO to provide the Legislature with: a list of potential claims for payment by January 2 of each year; and a list of actual claims for payment by March 1 of each year.

Funds in the Florida Enterprise Fund Account may only be expended pursuant to legislative appropriation or an approved budget amendment. The bill provides that notwithstanding s. 17.61(3)(c), F.S., the DEO must transfer interest earnings from the account to the State Economic Development (SEED) Trust Fund on a quarterly basis.

Quick Action Closing Fund Escrow Account

The Quick Action Closing Fund Escrow Account consists of moneys transferred from EFI which were held in an escrow account on June 30, 2016, for approved QAC contracts or agreements and moneys for Florida Enterprise Program contract or agreements approved on or after July 1, 2016. Moneys in the account must be managed and invested to generate the maximum amount of interest earnings, consistent with the requirement that the moneys be available to make payments. The bill provides that notwithstanding s. 17.61(3)(c), F.S., the DEO must transfer interest earnings from the account to the State Economic Development (SEED) Trust Fund on a quarterly basis.

Moneys in the account are appropriated to make payments for projects authorized under s. 288.1088, F.S., after certain conditions have been met or to make any required transfers, including transfers of interest earnings. The bill also requires the DEO to make quarterly determinations of whether moneys in the account are associated with an agreement or contract that has been terminated, that has otherwise expired, or for which a business has not met required performance conditions. Any such funds must be returned to the SEED Trust Fund within 10 days after the determination.

Section 11 of the bill requires EFI to transfer any funds held in an escrow account for approved QAC agreements or contracts on June 30, 2016, to the DEO by July 10, 2016, for deposit in the Quick Action Closing Fund Escrow Account within the Economic Development Trust Fund.

Incentive Contract Administration and Evaluation

Current Situation

The DEO is generally responsible for overseeing the incentive application and certification approval process, and for incentive agreement and contract management.

The DEO evaluates each incentive application to determine the economic benefits of the proposed award of state incentives proposed for the project. Currently, “economic benefits” are defined as the direct, indirect, and induced gains in state revenues as a percentage of the state’s investment. The state’s investment includes state grants, tax exemptions, tax refunds, tax credits

and other state incentives.¹⁵ The Office of Economic and Demographic Research (EDR) establishes the methodology and model used to calculate the economic benefits. An amended definition of “economic benefits” may be developed by the EDR.¹⁶

The DEO must approve or deny an incentive application and issue a certification letter within 10 business days of application *submission*.¹⁷

The DEO is responsible for entering into incentive contracts or agreements with businesses and overseeing the performance of those contracts. Currently, incentive contracts must specify the following:

- 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.
- Contracts may also include representations, warranties and other covenants.¹⁸

Current law does not require incentive contracts to specify the duration of the contract nor require any capital investment made by the business to remain in the state for the duration of the contract. In addition, current law does not specifically allow for QAC and HIPI agreements to be amended. However, under certain circumstances an IIP award agreement can be amended.

Effect of Proposed Changes

Section 6 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. The bill makes conforming changes to reflect the new definition in the:

- Capital Investment Tax Credit program (**Section 4**);¹⁹
- Research and Development Tax Credit program (**Section 39**);²⁰
- Qualified Defense Contractor and Space Flight Business Tax Refund program (**Section 12**);²¹
- Qualified Target Industry Tax Refund program (**Section 13**);²²
- Florida Enterprise Program, formerly the Quick Action Closing Fund, program (**Section 15**);²³ and
- Innovation Incentive Program (**Section 16**)²⁴.

¹⁵ Section 288.005, F.S.

¹⁶ Section 288.061, F.S.

¹⁷ With the exception of the QAC and the IIP.

¹⁸ Section 288.061, F.S.

¹⁹ Section 220.191, F.S.

²⁰ Section 220.196, F.S.

²¹ Section 288.1045, F.S.

²² Section 288.106, F.S.

²³ Section 288.1088, F.S.

²⁴ Section 288.1089, F.S.

The bill revises several definitions to effectively standardize the requirement that no public funds can be counted when determining the economic benefit or return on investment of an incentive project, specifically:

- **Section 4** amends s. 220.191, F.S., related to the CITC tax credit, to clarify that the definition of “cumulative capital investment” is the total capital investment in land, buildings, and equipment made by, *or on behalf of*, the qualifying business in connection with a qualifying project during the period from the beginning construction of the project or the commencement of operations. The amended definition clarifies that the term does not include funds granted to or spent on behalf of the qualifying business by the state, a local government, or other governmental entity; funds appropriated in the General Appropriations Act (GAA); or funds otherwise provided to the qualifying business by a state agency, local government, or other governmental entity.
- **Section 14** amends s. 288.108, F.S., related to the HIPI program, to clarify that the term “cumulative investment” does not include funds granted to or spent on behalf of the qualifying business by the state, a local government, or other governmental entity; funds appropriated in the GAA; or funds otherwise provided to the qualifying business by a state agency, local government, or other governmental entity.
- **Sections 6 and 9** amends ss. 288.005(3) and 288.076(1)(e), F.S., respectively, related to definitions and return on investment reporting, to clarify that the “state investment” includes all state funds spent or foregone to benefit a business, including state funds appropriated to public and private entities, in addition to state grants, tax exemptions, tax refunds, tax credits, and any other source of state funds reasonably known to the DEO at the time of the approval

Section 8 significantly amends s. 288.061, F.S., related to the economic development incentive application process to include provisions relating to the evaluation and approval processes, and contract requirements. The bill:

- Directs the DEO to prescribe an application form that must be used for all incentives and specifies the information that must be included.
- Requires the DEO to review and evaluate each incentive application for the economic benefits of the proposed incentive award for the project before the project is approved and each time an agreement or contract is amended, modified, or extended by the department.
- Codifies the DEO’s due diligence process by specifying what information must be reviewed during the evaluation process.
- Clarifies that the DEO has 10 business days from receiving a *complete* application, rather than a *submitted* application, to approve or deny the application and issue a certification letter for all incentives with the exception of the HIPI, Florida Enterprise Program (formerly QAC), and Innovation Incentive programs.
- Requires the DEO to recommend approval or deny a complete incentive application for the HIPI, Florida Enterprise Program (formerly QAC), and Innovation Incentive programs within 7 business days; requires recommendations for approval to include:
 - Total amount of the incentive award;
 - Anticipated project performance conditions, including but not limited to, net new employment in the state, average salary, and total capital investment incurred by the business;
 - Baseline of current service and a measure of enhanced capability;
 - Methodology for validating performance;

- Schedule of performance grant payments; and
- Sanctions for failure to meet performance conditions, including any clawback provisions.
- Prescribes the information that must be included in an incentive agreement or contract, including a requirement that the business use the state job bank (EmployFlorida Marketplace) to advertise job openings created as a result of the incentive.
- Provides that the DEO may only make an incentive payment to a business after the DEO has verified the business has met the required project performance conditions and only in the year the payment is scheduled to be paid pursuant to the agreement or contract.
- Prohibits the DEO from transferring any funds appropriated by the Legislature for incentive programs outside of the state treasury except to make a payment to a business as scheduled in an agreement or contract or as expressly provided in the General Appropriations Act.

Section 8 further amends s. 288.061, F.S., to:

- Require the EDR's amended definition of "economic benefits," to include all state funds spent or forgone to benefit the business, including state funds appropriated to public and private entities, to the extent that those funds are reasonably known by the DEO at the time of approval. The bill also directs the EDR to include guidelines for the appropriate application of the DEO's internal model.
- Require the DEO to consider all cumulative capital investment for the purpose of evaluating an incentive application. However, the DEO is prohibited from attributing state funds to the capital investment made by the business when calculating the economic benefit of an award.
- Prohibit the DEO from entering into economic development incentive agreements or contracts that exceed 10 years. However, the bill provides that the DEO may enter into successive agreements or contracts for a project to extend the first 10-year term, contingent upon the successful completion of the previous agreement or contract. Agreements and contracts for the CITC tax credit and IIP projects are not subject to the restriction on the 10 year term.
- Specify that contracts and agreements that require the business to make a capital investment must also require that such investment remain in the state for the duration of the agreement or contract. The bill exempts investments made in transportation-related assets specifically used for the purpose of transporting goods and employees from the requirement.
- Require the DEO to provide a notice, including an updated description and evaluation, to the Legislature upon final execution of each incentive contract or agreement. The bill requires HIPI, FEF (formerly QAC), and IIP contracts to embody the information included in the written description and evaluation presented to the Legislature.

Currently, the DEO and Enterprise Florida, Inc. (EFI) are required to report information pertaining to each incentive program on the DEO's incentive portal (an online listing of all incentive contracts with specified information) and EFI's annual incentive report. **Sections 9 and 31** amend ss. 288.076 and 288.907, F.S., respectively, to require that DEO's incentives portal and EFI's annual incentives report include data on the number of jobs created and retained and the number of jobs created and retained that provide health benefits. Section 288.076, F.S., is further amended to require the DEO to publish a summary document for all active contracts that includes scheduled performance and payment information. The DEO is required to publish any amendment, modification, or extension to a contract or agreement with 48 hours of approval

(information may be redacted prior to publication to protect against the disclosure of any confidential information).

Quick Response Training Program and CareerSource Florida, Inc. (CareerSource)

Current Situation

The 1993 Legislature established the Quick Response Training (QRT) Program to meet the workforce needs of existing, new, and expanding industries. The program provides grant funding for customized, skill-based training designed to meet the special requirements of businesses in Florida's qualified target industries. Industry associations from the target industry list may apply for consortium grants to serve multiple businesses in the same industry sector. The program is state funded and provides grants to qualifying businesses to train their new full-time employees. For the purpose of employee retention, grants are also provided to companies that are considering leaving the state. All grant applications are given equal consideration and are processed on a first-come, first-served basis. Each grant lasts no more than 24 months. Grant recipients pay for pre-approved direct training-related costs, including instructor wages, curriculum development, and textbooks and manuals. Grant recipients are reimbursed for a portion of the expenses upon submission of required documentation.²⁵

Program funds are allocated to a local fiscal agent, which can be a career center, community college, or state university. The fiscal agents manage grant contracts between CareerSource and grant recipients. There are 30 fiscal agents to assist local businesses in the application, reporting, and reimbursement processes; fiscal agents may keep up to 5% of the grant award amount for performing these tasks. The majority of fiscal agents are community colleges, while a few are local school boards and state universities (e.g., the Hillsborough County School Board, the University of North Florida).²⁶

Recipients may provide the grant-funded training via a company employee, independent training vendor, or local fiscal agent. Although the program originally intended for fiscal agents to be the primary training providers, relatively few grant recipients use them for that purpose. Instead, most grant recipients use in-house employees or independent vendors to provide the training.²⁷

Contract terms for QRT grants range from 12 to 24 months. Companies can start training as soon as they receive an approval date, and training must be completed by the contract end date. CSF reimburses QRT recipients on a cost per-hour basis, at a maximum rate of \$30 per hour for 12 to 15 hours of training, per trainee. QRT recipients must submit a one-page monthly status report even if no training occurs. In addition, once a company has completed some training, it sends forms for reimbursement to the fiscal agent, who in turn forwards forms to CSF. Businesses receiving QRT grants have 60 days after the contract end date to submit closeout paper work for their grant. QRT recipients submit two final reports: an end of contract report and a post-training

²⁵ See *Florida Economic Development Program Evaluations – Year 3*, Report No. 15-11, Office of Program Policy Analysis and Gov't Accountability, Florida Legislature, (November 2015) at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1511rpt.pdf> at 39 (last accessed February 13, 2015) (hereinafter OPPAGA Report 15-11).

²⁶ *Supra* note 25 at 40.

²⁷ *Id.*

evaluation, which asks the business to assess various training outcomes and rate aspects of the grant application and reporting processes.²⁸

CareerSource is a not-for-profit corporation that serves as Florida’s state-level workforce investment board.²⁹ CareerSource is responsible for developing and implementing a 5-year plan for the statewide workforce system and collaborates with the DEO, local workforce development boards (formerly known as regional workforce boards), and one-stop career centers to ensure that the workforce services provided are consistent with state and local plans. CareerSource also provides state-level policy, planning, performance evaluation, and oversight of the delivery of workforce services.³⁰ Currently, the chairperson of the board of directors of CareerSource is a member of EFI’s board of directors.³¹

Effect of Proposed Changes

Section 7 amends s. 288.047, F.S., relating to the Quick Response Training Program, to specifically authorize CareerSource to enter into grant agreements, but the total amount of obligations for payment may not exceed \$30 million for any 24-month period. The total amount of reimbursements approved for payment may not exceed the amount appropriated for that purpose in a fiscal year. The DEO may only transfer funds appropriated for the Quick Response Training Program to CareerSource as needed to make reimbursement payments.

The bill also:

- Prioritizes funding for QRT grant awards to businesses and industries in rural areas of opportunity and other rural areas, in distressed inner-city areas, in brownfield areas, or that seek to significantly upgrade employee skills or avoid a significant layoff;
- Provides that an educational institution providing administrative assistance or receiving QRT grant funding *may* be included as a party to a grant agreement, making the fiscal agent’s role permissive instead of mandatory;
- Clarifies that matching contributions that are actually received during the fiscal year may be counted toward EFI’s private sector support requirement;
- Clarifies that CareerSource shall administer the QRT Program in conjunction with the DEO, rather than the Department of Education and EFI; and
- Includes the president of CareerSource as a member of EFI’s board of directors (**Section 30**).

Qualified Job Training Organizations / Self-Insurance Funds

Current Situation

Qualified Job Training Organizations

A “qualified job training organization” is an organization that meets all of the following criteria:

- Is accredited by the Commission for Accreditation of Rehabilitation Facilities.
- Collects Florida state sales tax.
- Operates statewide and has more than 100 locations within the state.

²⁸ *Supra* note 25 at 41.

²⁹ Section 445.004(5)(a), F.S. Prior to 2014, CareerSource Florida, Inc., was known as Workforce Florida, Inc.

³⁰ Section 445.003(2), F.S., and *see* s. 445.004, F.S.

³¹ Section 288.901(5)(a)5., F.S.

- Is exempt from income taxation under s. 501(c)(3) or (4) of the Internal Revenue Code of 1986, as amended.
- Specializes in the retail sale of donated items.
- Provides job training and employment services to individuals who have workplace disadvantages and disabilities.
- Uses a majority of its revenues for job training and placement programs that create jobs and foster economic development.³²

Regulation of Self-Insurance Funds

The Office of Insurance Regulation (OIR) regulates the activities of insurers and other risk-bearing entities.³³ As an alternative to traditional insurance from a licensed insurance company, the Legislature has created various self-insurance funds to cover specific liabilities for specific groups or purposes.³⁴ The self-insurance funds may be classified as a commercial self-insurance fund, which may cover commercial property, casualty risk, or surety insurance liabilities;³⁵ a group self-insurance fund, which may cover worker's compensation liabilities;³⁶ or a specific purpose self-insurance fund that is created to address the needs of a specific group, e.g. local governments or not for profit corporations. While the types of insurance provided and membership eligibility requirements vary among the different types of self-insurance funds, all members of self-insurance funds share the common characteristic that they agree by virtue of their membership in a self-insurance fund to assume the risk of loss among themselves, rather than transferring the risk in its entirety to an insurance company.³⁷ Therefore, members generally see a lower annual cost for insurance in a self-insurance fund, but have a risk of higher assessment or cost in the case of a loss experienced either by themselves or a fellow member.

Not For Profit Self-Insurance Funds

Section 624.4625, F.S., governs not for profit self-insurance funds, and provides that two or more not for profit corporations³⁸ located in Florida and organized under Florida law may form a self-insurance fund with the purpose of pooling and spreading the property and casualty liabilities between its group members. The operating fund must:

- Have at least \$5 million in annual normal premiums;
- Use a qualified actuary to determine an actuarially-sound rate, level of reserves, and loss adjustment expenses and submit annual certifications thereof to the OIR;

³² Section 288.1097, F.S.

³³ Section 20.121(3)(a)1., F.S.

³⁴ See ss. 624.460-624.488, F.S.

³⁵ Section 624.462, F.S.

³⁶ Section 624.4621, F.S.

³⁷ The Commercial Self-Insurance Fund Act (ss. 624.460-624.488, F.S.), authorizes certain groups and associations to form a commercial self-insurance fund, subject to the approval of OIR. Under s. 624.4621, F.S., two or more employers may pool their workers' compensation liabilities and form a self-insurance fund for workers' compensation purposes, referred to as a group self-insurance fund. Such funds must comply with administrative rules adopted by the Financial Services Commission. Pursuant to s. 624.4622, F.S., any two local governments may enter into interlocal agreements to create a self-insurance fund for securing the payment of benefits under the workers' compensation law. Under s. 624.4623, F.S., any two or more independent non-profit colleges or universities may form a self-insurance fund for the purpose of pooling and spreading liabilities of its group members in any property or casualty risk or surety insurance or securing the payment of benefits under the workers' compensation law.

³⁸ Section 617.01401, F.S., defines the term, "corporation not for profit" to mean a corporation no part of the income or profit of which is distributable to its members, directors, or officers, except as otherwise provided under this chapter.

- Maintain excess insurance coverage and reserve evaluation;
- Submit to the OIR an annual audited fiscal year-end financial statement performed by an independent CPA;
- Have a governing body that consists of officers of its member not for profit corporations, which must submit an annual certification that the fund meets all statutory operating requirements;
- Be operated by Florida-licensed personnel who have at least 5 years' experience with commercial self-insurance funds or domestic insurers; and
- Use contracts that clearly delineate the fund's members' liabilities and obligations.

The members of a corporation not for profit self-insurance fund must receive at least 75 percent of their revenues from government funding.³⁹

A corporation not for profit self-insurance fund may not participate in or be covered by any guaranty association established under ch. 631, F.S. Additionally, these funds are neither subject to rules and regulations promulgated by the Financial Services Commission under s. 624.4621, F.S., nor required to file any report with the Department of Financial Services under s. 440.38(2)(b), F.S.⁴⁰

Florida Insurance Trust

The Florida Insurance Trust (FIT) is the only corporation not for profit self-insurance fund operating in Florida.⁴¹ Created in 2007, the FIT provides property, general liability, professional liability, employment practice liability, workers compensation, health insurance, and commercial automobile coverage to its members. According to representatives of the FIT, 9,000 not for profit social service entities are eligible for FIT membership under current law, but only 175 are currently members.⁴²

The FIT must ensure that all members are eligible pursuant to s. 624.4625, F.S. Potential members are required to submit a notarized certification, signed by the members' corporate officer, which states that at least 75 percent of its funding comes from governmental sources as required under s. 624.4625, F.S. Each member must submit a Form 990 for review and, if necessary, audited financial statements to confirm compliance with eligibility requirements.⁴³ Recently, the FIT noted during an OIR inquiry into eligibility of the FIT's members that four entities did not meet statutory eligibility requirements because they received less than 75 percent of their funding from government sources.⁴⁴ The FIT represents that these accounts have been nonrenewed. Based on the results of its inquiry, the OIR does not object to the FIT's eligibility review process.

³⁹ Section 624.4625(1)(b), F.S.

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⁴¹ Florida Insurance Trust, *SB 830: Regulation of Not For Profit Self-Insurance Funds* (March 30, 2015) (on file with the Senate Commerce and Tourism Committee).

⁴² Florida Insurance Trust, *Florida Insurance Trust Current Membership Overview* (February 27, 2015) (on file with the Senate Commerce and Tourism Committee).

⁴³ Office of Insurance Regulation letter to the Florida Insurance Trust (July 25, 2014) (on file with the Senate Banking and Insurance Committee).

⁴⁴ *Id.*

In the event premiums fail to cover a loss, the trustees of the FIT, or an agency or court of competent jurisdiction, may assess members of the FIT for payment of the obligations of the FIT as necessary based proportionately on premiums earned from each member. If one or more members fail to pay the assessment, the other members are proportionately liable for an additional assessment.

Section 501(c)(3) Tax Exempt and Publicly Supported Organizations

Corporations not for profit, defined in s. 617.01401, F.S., as corporations that do not distribute any part of their income or profit to members, directors, or officers, are distinct from tax exempt organizations, and more specifically, publicly supported organizations.

To be tax-exempt under section 501(c)(3) of the Internal Revenue Code, an organization must be organized and operated exclusively for exempt purposes⁴⁵ set forth in section 501(c)(3), and none of its earnings may inure to any private shareholder or individual.⁴⁶ Only limited exceptions to this requirement for section 501(c)(3) organizations exist. Generally, exempt organizations described in section 501(c)(3) must file their annual information returns on Form 990 or 990-EZ, unless excepted from filing and must also complete Schedule A. Schedule A is used to report and substantiate information about an organization's public charity status and public support.

A publicly supported organization is a tax exempt organization that meets one of the following requirements:

- The organization receives a substantial part of its support in the form of contributions from publicly supported organizations, governmental units, or the general public; or
- The organization receives one-third or less of its support from gross investment income and more than one-third of its support from contributions, membership fees, and gross receipts from activities related to its exempt functions.⁴⁷

Effect of Proposed Changes

Section 17 of the bill amends s. 288.1097, F.S., relating to qualified job training organizations, to provide that, notwithstanding s. 624.4625(1)(b), F.S.,⁴⁸ a qualified job training organization that

⁴⁵ The exempt purposes set forth in section 501(c)(3) are charitable, religious, educational, scientific, literary, testing for public safety, fostering national or international amateur sports competition, and preventing cruelty to children or animals. The term *charitable* is used in its generally accepted legal sense and includes relief of the poor, the distressed, or the underprivileged; advancement of religion; advancement of education or science; erecting or maintaining public buildings, monuments, or works; lessening the burdens of government; lessening neighborhood tensions; eliminating prejudice and discrimination; defending human and civil rights secured by law; and combating community deterioration and juvenile delinquency. See [http://www.irs.gov/Charities-&-Non-Profits/Charitable-Organizations/Exempt-Purposes-Internal-Revenue-Code-Section-501\(c\)\(3\)](http://www.irs.gov/Charities-&-Non-Profits/Charitable-Organizations/Exempt-Purposes-Internal-Revenue-Code-Section-501(c)(3)) (last accessed April 9, 2015).

⁴⁶ See Internal Revenue Service, *Frequently Asked Questions about Applying for Tax Exemption* accessible at: <http://www.irs.gov/Charities-&-Non-Profits/Frequently-Asked-Questions-About-Applying-for-Tax-Exemption> (last accessed April 9, 2015).

⁴⁷ Internal Revenue Service, *Publicly Supported Charities*, (March 31, 2015) available at <http://www.irs.gov/Charities-%26-Non-Profits/Charitable-Organizations/Publicly-Supported-Charities>, (last accessed April 9, 2015).

⁴⁸ Section 624.4625(1)(b), F.S., requires that each participating member must receive at least 75 percent of its revenues from local, state, or federal governmental sources or a combination of such sources.

has been certified is eligible to participate in a self-insurance fund authorized by s. 624.4625, F.S.

Florida Sports Foundation

Current Situation

The Florida Sports Foundation (FSF) was a direct-support organization of the Office of Tourism Trade and Economic Development, prior to the governmental reorganization that created the DEO and restructured EFI.⁴⁹ The FSF serves as the official sports promotion and development organization for the state and currently is housed within EFI as the Division of Sports Industry Development. The FSF's 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.

Effect of Proposed Changes

Section 21 revives, reenacts, and amends s. 288.1229, F.S., to house the FSF within the DEO. The DEO is directed to contract with the FSF by July 1, 2016.

The bill specifies that the foundation's board of directors must consist of 20 members appointed by the Governor, which include:

- 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 Florida's Sports Commissions;
- A member representing the boating and fishing industries in Florida;
- A member representing the golf 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 repeals or transfers all duties and responsibilities related to the sports industry from EFI. These repeals include the requirement for an individual with sports marketing expertise to serve on the EFI board of directors, requiring EFI to market the state for sports, and requiring a Division of Sports Industry Development within EFI (**Sections 40, 30, 42, 32, amending ss. 288.11621, 288.901, 288.9015, and 299.92, F.S., respectively**). Further, the bill amends s. 20.60, F.S., the statute which creates the DEO, to reflect DEO's responsibilities with respect to the FSF (**Section 1**).

⁴⁹ Chapter 2011-142, L.O.F.

Section 35 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 are:

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

Section 35 also removes the requirement that the FSF use proceeds from the Florida Professional Sports Team license plate to promote and develop education programs in state schools.

Sports Development Program

Current Situation

In 2014, the Legislature created the Sports Development Program which authorizes distributions of state sales and use tax revenue to fund professional sports franchise facilities, up to an annual cap of \$13 million for all certified applicants. Applicants must be evaluated and recommended by the Department of Economic Opportunity (DEO) and distributions must be approved by the Legislature. Distributed funds may be used for the construction or improvement of a professional sports facility. The maximum annual distribution for a single facility is \$3 million, and distributions can be made for up to 30 years for a potential maximum amount of \$90 million per certified applicant.

Effect of Proposed Changes

Section 18 amends s. 288.11625, F.S., relating to the Sports Development Program, to remove the Legislature from the approval process. The DEO is required to evaluate applications, rank the applicants, and certify an applicant and its request for funding unless such certification would result in the total amount distributed exceeding \$13 million in any fiscal year. The request for funding must be certified as an annual distribution amount, and the DEO must notify the Department of Revenue of the initial certification and distribution amount. This section is effective upon becoming law.

Section 19 provides that the amendments made to s. 288.11625, F.S., apply to applications received, evaluated, and recommended for approval by the DEO in the 2015-2016 fiscal year. The DEO reviewed three applications for funding under the Sports Development Program, determined that each application satisfied the statutory criteria for the program, and on February 1, 2016, transmitted the applications to the Legislature for further consideration.⁵⁰ The three applicants and the proposed annual distribution for each entity are: the City of Jacksonville (for the Jacksonville Jaguars) – \$ 1 million; Daytona International Speedway, LLC - \$3 million; and South Florida Stadium LLC (for the Miami Dolphins) - \$3 million.⁵¹

⁵⁰ Letter from Cissy Proctor, Executive Director of the Department of Economic Opportunity to President Andy Gardiner, Florida Senate and Speaker Steve Crisafulli, Florida House of Representatives (February 1, 2016)(on file with the Senate Appropriations Subcommittee on Transportation, Tourism and Economic Development).

⁵¹ Id.

Office of Film and Entertainment

Current Situation

The Office of Film and Entertainment (OFE) within the DEO develops, markets, promotes, and provides services to Florida's entertainment industry, including serving as a liaison between the industry and government entities and facilitating access to filming locations.⁵² The Commissioner of Film and Entertainment is selected through a national search and must meet certain qualifications. The OFE is assisted by the Florida Film and Entertainment Advisory Council (council), which is composed of 17 members, of which seven members are appointed by the Governor, and five members each are appointed by the President of the Senate and the Speaker of the House of Representatives.⁵³

The OFE gathers statistical information related to the state's entertainment industry; provides information and services to businesses, communities, organizations, and individuals engaged in entertainment industry activities; administers field offices outside the state; and coordinates with regional offices maintained by counties and regions of the state. The OFE is also required to develop a 5-year strategic plan to guide its activities, which is updated on an annual basis and aligns with the DEO's Strategic Plan for Economic Development. The OFE's mission is to build, support, and market the entertainment industry in Florida.

Effect of Proposed Changes

Section 23 renumbers and amends s. 288.1251, F.S., as s. 288.913, F.S., to rename the OFE as the Division of Film and Entertainment (division) and house it within EFI. The bill clarifies and revises the responsibilities of the division and requirements for the 5-year plan.

EFI's board of directors is required to annually review and approve the 5-year plan developed by the division. The bill requires the president of EFI to appoint a film and entertainment commissioner, who is subject to confirmation by the Senate. The commissioner is required to have a record of high-level involvement in production deals and contact with industry decision makers, among other criteria.

Section 25 renumbers and amends s. 288.1253, F.S., related to travel and entertainment expenses incurred by employees of the division, as s. 288.915, F.S. Additionally, the bill prohibits the division and its employees and representatives from accepting any complimentary travel, accommodations, meeting space, meals, equipment, transportation, or other goods and services from any entity, or employee, designee, or representative of such entity, which has received, applied to receive, or anticipates to receive, any funds from the Entertainment Action Fund created under s. 288.1256, F.S. Failure to abide by this prohibition is subject to the penalties provided for in s. 112.317, F.S.

Section 24 renumbers and amends s. 288.1552, F.S., as s. 288.914, F.S., to conform to changes made by the bill. Additionally, the bill reduces the number of members on the advisory council

⁵² Section 288.1251, F.S. See also OFE website, available at <http://www.filminflorida.com/about/vm.asp> (last visited January 21, 2016).

⁵³ Section 288.1252, F.S.

from 17 to 11, with five members appointed by the Governor and three members each appointed by the President of the Senate and the Speaker of the House of Representatives. Current members may serve out the remainder of their terms, but upon vacancy or the conclusion of a term, members must be appointed in accordance with the section. The bill provides that the advisory council will review the administration of programs related to the strategic plan, make recommendations on state agency or local government actions that may have an impact on the entertainment industry, advise on the promulgation of rules related to the entertainment industry, and appear on its own behalf before boards, commissions, departments, or other government agencies.

Entertainment Action Fund

Effect of Proposed Changes

The bill creates s. 288.1256, F.S., as the Entertainment Action Fund (**Section 28**) and provides that the fund is created within the DEO in order to:

- Respond to extraordinary opportunities;
- Compete effectively to attract and retain production companies; and
- Provide favorable conditions for the growth of the entertainment industry in the state.

Production companies may submit applications to the division to receive funds. The division must set application periods and accept applications for at least 3 months of a period. There may be multiple application periods in a single fiscal year depending on the availability of funds. The DEO is directed to prescribe an application form with specific required information to aid in the review and evaluation of project criteria.

The division reviews and evaluates applications to identify competitive projects for approval. The evaluation criteria, listed in order of priority, are:

- The number of state residents to be employed in full and part-time positions related to the project and the average wages paid, with preference given to a project expected to pay higher than the statewide average wage;
- The amount of qualified, and unqualified, expenditures to be made in the state;
- Planned or executed contracts with production facilities or soundstages in the state and the percentage of principal photography or production activity that will occur at each location;
- The amount of capital investment, especially fixed capital, made directly by the production company in this state related to the project and the amount of any other capital investment to be made in this state related to the project;
- The duration of the project in this state;
- The amount and duration of principal photography or production activity that will occur in an underutilized county;
- The extent to which the state will be promoted by the production company;
- The employment of students enrolled full-time in an entertainment-related course of study at an in-state higher education institution or graduates from such an institution within 12 months after graduation;
- Plans to work with entertainment-related courses of study at in-state higher education institutions;
- Local support and any local financial commitment for the project;

- The project is about this state or shows this state in a positive light;
- A review of the production company's past activities in this state or other states;
- A production company's number of productions already made and overall commitment to the state;
- Expected contributions to the state's economy; and
- The effect of any award on the viability of a project and the possibility of the project being undertaken in the state.

A production must have financing in place in order to qualify for an award. Any award cannot constitute more than 30 percent of qualified expenditures in the state and cannot be used for wages paid to nonresidents. No program requirements may be waived.

Similar to the proposed approval process for the HIPI, the Florida Enterprise Program, and the Innovation Incentive Program, as described above, the division and the DEO must make a recommendation to the Governor to approve or deny a project within 7 days of reviewing a complete application. Recommendations must include the performance conditions required to obtain any funds. The Governor may approve an award of less than \$2 million without consulting the Legislature. The Governor must provide a written description and evaluation of the approved project to the presiding officers within one business day after approval. For a project recommended for approval for an award of \$2 million or more, the Governor must provide a written description and evaluation of the project to the presiding officers at least 14 days before approving the award. If either of the presiding officers timely advises the Governor, in writing, that his or her planned or proposed action exceeds the delegated authority of the Governor or is contrary to legislative policy or intent, the Governor must direct the DEO to immediately suspend any planned or proposed action. A written description and evaluation of an amendment, modification, or extension of an executed agreement must be provided to the presiding officers within one business day after approval. An amendment, modification, or extension of an executed agreement may not be made if the award of state funds outlined in the agreement has not been reduced by a proportionate amount.

Upon approval, the DEO and the production company must enter into an agreement pursuant to s. 288.061, F.S., that also specifies;

- The performance conditions the production company must meet to obtain payment of moneys from the fund. Performance conditions must include the criteria considered in the review and evaluation of the application and must relate to activity that occurs in this state.
- That the DEO may review and verify a production company's records to ascertain compliance.
- That fund payments are contingent upon sufficient appropriation of funds by the Legislature.

Once the Governor has approved a project, agreements must be signed by all parties within 90 days and the production must start within 1 year. Production companies cannot receive an award from the fund and benefit from sales tax exemptions in s. 288.1258, F.S., for the same production.

The DEO cannot approve awards in excess of the amount, if any, appropriated in a fiscal year. For the first 6 months, the DEO will set aside 50 percent of any amount appropriated to the

program to be used for awarding applications received on or after January 1st of each fiscal year. The DEO cannot accept applications or conditionally commit awards in a period where there has been no appropriation. The bill provides for the reimbursement of costs and penalties associated with fraudulent claims.

The DEO must validate contractor performance and include such findings in an annual report required to be submitted on November 1st of each year.

This program expires on July 1, 2026. Agreements in existence on that date continue in accordance with their terms.

The bill does not provide a specific appropriation for the Entertainment Action Fund program; however, the bill does include the program as an incentive program authorized for funding from the Florida Enterprise Fund Account, subject to appropriation.

Other Entertainment Industry Incentive Programs

Current Situation

In 2003, the Legislature created the Entertainment Industry Financial Incentive Program,⁵⁴ which is a 6-year program that began July 1, 2010, and sunsets June 30, 2016. The program provides tax credits for qualified expenditures related to filming and production activities in Florida. These tax credits may be applied against the corporate income tax or sales and use taxes. Additionally these tax credits may be transferred or sold one time.⁵⁵

Over the 6 year period, a total of \$296 million in tax credits were authorized. Annual limitations for tax credits were set at:

- \$53.5 million in Fiscal Year 2010-11;
- \$74.5 million in Fiscal Year 2011-12; and
- \$42 million in each Fiscal Year 2012-13, 2013-14, 2014-15, and 2015-16.⁵⁶

The OFE reports that all of the tax credits authorized for the 6-year period have been certified (*allocated to certified productions*).⁵⁷

Entertainment industry qualified production companies are eligible for several exemptions from taxes under ch. 212, F.S. A qualified production company can obtain a certificate to avoid paying tax at the point of sale, rather than claiming a refund after paying the tax.⁵⁸ Qualified production companies are exempt from paying sales tax for the following:

⁵⁴ Section 288.1254, F.S. See ch. 2003-81, L.O.F. In 2010, the incentive program was changed from a cash reimbursement type program to the current form. See ch. 2010-147, L.O.F.

⁵⁵ Also, tax credits may be relinquished to the Department of Revenue for 90 percent of the amount of the relinquished tax credit.

⁵⁶ Section 288.1254(7), F.S. In 2012, an additional year was added to the program. See s. 15, ch. 2012-32, L.O.F.

⁵⁷ Office of Economic and Demographic Research, The Florida Legislature, *Return on Investment for the Entertainment Industry Incentive Programs* (January, 2015).

⁵⁸ Section 288.1258, F.S. See also Department of Revenue, Film in Florida Sales Tax Exemption, available at http://dor.myflorida.com/dor/taxes/film_in_florida.html (last visited January 21, 2016).

- *Lease or rental of real property* that is used as an integral part of an activity or service performed directly in connection with the production of a qualified motion picture (the term “activity or service” includes photography, casting, location scouting, and designing sets).⁵⁹
- *Fabrication labor* when a producer uses his or her own equipment and personnel to produce a qualified motion picture.⁶⁰
- *Purchase or lease of motion picture and video equipment and sound recording equipment* used in Florida for motion picture or television production or for the production of master tapes or master records.⁶¹
- *Sale, lease, storage, or use of blank master tapes, records, films, and video tapes.*⁶²

The OFE reviews and approves applications for the exemptions and the Department of Revenue (DOR) issues certificates of exemption to the production companies.

Effect of Proposed Changes

Section 27 amends s. 288.1254, F.S., the entertainment industry financial incentive program, to change the repeal date of the program from July 1, 2016 to April 1, 2016. The bill prohibits tax credits from being certified on or after April 1, 2016, and directs the Department of Revenue to deny any credit claimed on a tax return if the credit was certified on or after that date. Amendments to this section are effective upon becoming law.

Tax credits certified before April 1, 2016 may be awarded on or after April 1, 2016 if specified requirements are met, including:

- A qualified production must facilitate the submittal of all required information to the DEO by August 1, 2016. The deadline cannot be waived. A qualified production that does not meet this requirement will not be awarded tax credits.
- The DEO must complete the review of the accountant’s submittal, report the final verified amount of actual qualified expenditures, and determine and approve the final tax credit award amount to each certified applicant based on the final verified amount of actual qualified expenditures by June 30, 2017. Tax credits will not be awarded to any qualified production if the determination and approval is not made by June 30, 2017, and the deadline cannot be waived.

The bill requires the DEO to publish a report on its website by May 30, 2016, providing the number of:

- Certified productions that submitted data substantiating each qualified expenditure;
- Certified productions currently under review by independent certified public accountants;
- Compliance audits submitted by the accountants and currently under review by the DEO; and
- Final tax credit award determinations and approvals made by the DEO.

The DEO must update the report on its website by September 1, 2016, and December 30, 2016.

⁵⁹ Section 212.031(1)(a)9., F.S.

⁶⁰ Section 212.06(1)(b), F.S., provides a definition of the term “qualified motion picture” for purposes of ch. 212, F.S.

⁶¹ Section 212.08(5)(f), F.S.

⁶² Section 212.08(12), F.S.

Section 29 amends s. 288.1258, F.S., to clarify that the sales tax exemption certificate exempts purchases made on or after the date that a completed application is filed with the DOR. The bill provides that production companies that receive a sales tax exemption certificate under s. 288.1258, F.S., may not also receive benefits from the newly created Entertainment Action Fund under s. 288.1256, F.S. The bill clarifies the renewal and reporting processes for the 1-year and 90-day certificates.

Additionally, the bill amends cross references in the definition of “entertainment industry” in s. 288.125, F.S., (**Section 22**) and in s. 477.0135, F.S. (**Section 43**).

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)⁶³ and the Defense Infrastructure Grant Program (DIG).⁶⁴

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 Office of Tourism, Trade, and Economic Development (OTTED) *could require* a match by the county or local community grant applicants.⁶⁵ 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.⁶⁶ This apparent conflict 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, and the 30 percent match requirement is appropriate for the DRG program, not the DIG program.

Effect of Proposed Changes

Section 33 of 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.

⁶³ Section 288.980(4), F.S.

⁶⁴ Section 288.980(5), F.S.

⁶⁵ Chapter 2004-230, L.O.F.

⁶⁶ This 30 percent match requirement has remained in law since 2004, and is currently codified at s. 288.980(3)(c)2., F.S.

Miscellaneous Changes

Section 2 amends s. 177.031(18), F.S., the definition of “subdivision” for purposes of Part I (Platting) of ch. 177, F.S., relating to Land Boundaries, to provide that the term includes nonresidential divisions of land unless a governing body adopts an ordinance that authorizes nonresidential land divisions for unplatted lands.

Current law requires platting when land is divided into three or more lots, parcels, or tracts, which can be a time consuming and expensive process. For nonresidential projects, including office and industrial parks, the platting requirement can be difficult because acreage and site configuration needs can vary greatly depending on the end users. The platting requirement makes the property owner project what future end users will need with respect to lot sizes and configuration. In order to plat, the infrastructure must either already be in place or bonded. If the property owner’s projections for the acreage and configuration needs are inaccurate, it is likely that redesigns and reconstruction of infrastructure may be needed as well as replatting.

The change in the “subdivision” definition will allow local governments to adopt a flexible and quicker approval process for the development of nonresidential projects, including office and industrial parks.

Section 3 amends s. 196.1995(5), F.S., relating to economic development ad valorem tax exemptions. That subsection authorizes county and municipal governing authorities to, by ordinance and following a referendum, provide an ad valorem tax exemption for up to 100 percent of the assessed value of: all improvements to real property made by, or for the use of, a new business; and of all tangible personal property of the new business. Any such exemption remains in effect for up to 10 years.

The bill amends s. 196.1995(5), F.S., to provide that: “Replacement or refreshment of datacenter equipment for a datacenter shall be considered to be part of a new business for a data center that qualifies for this exemption”. This exemption shall remain in effect for “up to 20 years for a qualifying datacenter.”

Section 34 amends s. 288.9377, F.S., relating the evaluation of microfinance programs. The state has two separate microfinance programs, the Microfinance Loan Program⁶⁷ and the Microfinance Guarantee Program.⁶⁸ The loan program is designed to make short-term, fixed-rate microloans for business management training, business development training, and technical assistance to entrepreneurs and newly established or growing small businesses for startup costs, working capital, and the acquisition of materials, supplies, furniture, fixtures, and equipment. The intent of the program is to enable entrepreneurs and small businesses to access private financing after completing the program. The guarantee program is intended to stimulate access to credit for entrepreneurs and small businesses by providing targeted guarantees to their loans. These programs are currently not included in the list of economic development programs that must be analyzed by EDR and OPPAGA.

⁶⁷ Section 288.9934, F.S.

⁶⁸ Section 288.9935, F.S.

The bill amends s. 288.9937, F.S., to require OPPAGA, in addition to EDR, to evaluate the Microfinance Loan Program and the Microfinance Guarantee Program. Because multiple reports (e.g., the EDR and OPPAGA reports described above) are due January 1, 2018, the bill changes the submission date for these reports to January 15, 2018. This report is not included in the recurring review cycle and s. 288.9937, F.S., expires January 31, 2018.

The bill repeals the following obsolete provisions:

- Provision in the CITC program allowing a waiver between July 1, 2011, and June 30, 2014, under certain circumstances (**Section 4**).
- Provision in the Sports Development program allowing an application for state funding for new facilities or projects commenced before July 1, 2014 (**Section 18**, amending s. 288.11625, F.S.).
- The International Game Fish Association World Center, as all distributions to the International Game Fish Association have been made (**Sections 38, 56, and 20, amending ss. 212.20(6)(d)6.d., s. 288.0001(2)(b)4., and 288.1169, F.S., respectively**).

Additionally the bill makes clarifying, conforming, or technical changes in s. 288.076, F.S., related to the return on investment reporting for economic development programs (**Section 9**); s. 288.1089, F.S., related to the Innovation Incentive Program (**Section 16**); s. 288.11625, F.S., related to the sports development program (**Section 18**); and s. 288.11631, F.S., related to the retention of MLB spring training baseball franchises program (**Section 41**).

Effective Date

The bill provides an effective date of July 1, 2016, except as otherwise expressly provided for in the bill, as described above, and except for the effective date section, which takes effect upon becoming law (**Section 45**).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The extension of the Qualified Defense Contractor and Space Flight tax refund program to allow the Department of Economic Opportunity (DEO) to certify applications through June

30, 2018, will have a negative impact to state revenues. Funds to make payments for this refund program are appropriated in the General Appropriations Act each year.

B. Private Sector Impact:

The bill will have an indeterminate, but positive, fiscal impact to:

- Businesses that are certified to participate in the Qualified Defense Contractor and Space Flight tax refund program;
- Businesses that are replacing or refreshing datacenter equipment that receive an ad valorem tax exemption for up to 20 years (to the extent that the exemption is authorized by the local government granted authority to authorize exemption in a referendum);
- Qualified job-training organizations that are eligible to participate in a self-insurance fund;
- Developers of nonresidential projects, including office and industrial parks, that may benefit from a more flexible and a quicker approval process;
- Private colleges, universities and professional schools offering higher education degrees that address health care workforce demands that may be eligible to participate in the Qualified Target Industry Program Tax Refund Program; and
- Entities receiving annual distributions under the Sports Development Program⁶⁹.

C. Government Sector Impact:

The bill creates two accounts in the Economic Development Trust Fund:

- The Florida Enterprise Fund Account is created to hold funds to make payments for incentives contracts under the Local Government Distressed Area Matching Grant Program, the Qualified Defense Contractor and Space Flight Business Tax Refund Program, the Qualified Target Industry Program, the Brownfield Redevelopment Bonus Refunds Program, the High-Impact Performance Incentive Grant Program, the Innovation Incentive Program, the Florida Enterprise Program, and the Entertainment Action Fund Program.
- The Quick Action Closing Funds Escrow Account is created to hold and invest the funds that are escrowed to make payments for contracts under the former Quick Action Closing Fund Program and the Florida Enterprise Program.

The transfer of funds currently held in escrow by Enterprise Florida, Inc., to the Quick Action Closing Fund Escrow Account within the Economic Development Trust Fund will have an indeterminate, but positive, impact on the State Economic Enhancement and Development (SEED) Trust Fund. The bill requires the DEO to transfer interest earnings in the Florida Enterprise Fund and the Quick Action Closing Fund Escrow accounts to the SEED Trust Fund on a quarterly basis.

⁶⁹ The three applicants and the proposed annual distribution for each entity are: the City of Jacksonville (for the Jacksonville Jaguars) – \$ 1 million; Daytona International Speedway, LLC - \$3 million; and South Florida Stadium LLC (for the Miami Dolphins) - \$3 million.

The DEO's certification of the three applicants for annual distributions under the Sports Development Program during Fiscal Year 2015-2016 may have a negative fiscal impact to the General Revenue Fund of up to \$7 million per year.

The bill does not provide a specific appropriation for the Entertainment Action Fund program; however, the Entertainment Action Fund program is authorized to receive funding from the Florida Enterprise Account, subject to appropriation.

The bill will have an indeterminate, but positive, fiscal impact to public colleges, universities, and professional schools offering higher education degrees that address health care workforce demands that may be eligible to participate in the Qualified Target Industry Program Tax Refund Program.

The bill will have an indeterminate, but expected to be minimal, fiscal impact to the DEO and Enterprise Florida, Inc.; any additional costs are expected to be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The term "datacenter" is not defined in ch. 196, F.S., relating to property tax exemptions.

The Department of Economic Opportunity is authorized to adopt rules to prescribe a form for economic development and other changes made in s. 288.061, F.S.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.60, 177.031, 189.033, 196.012, 196.1995, 212.20, 220.191, 220.196, 288.0001, 288.005, 288.047, 288.061, 288.076, 288.095, 288.1045, 288.106, 288.108, 288.1088, 288.1089, 288.1097, 288.11621, 288.11625, 288.11631, 288.125, 288.1254, 288.1258, 288.901, 288.9015, 288.907, 288.92, 288.9937, 288.980, 320.08058, and 477.0135.

This bill revives, re-enacts, and amends section 288.1229 of the Florida Statutes.

This bill substantially amends and renumbers the following sections of the Florida Statutes: 288.1251 as 288.913, 288.1252 as 288.914, and 288.1253 as 288.915.

This bill creates section 288.1256 of the Florida Statutes.

This bill repeals section 288.1169 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**Recommended CS by Transportation, Tourism, and Economic Development on February 11, 2016:**

- Revises the definition of the term “subdivision” to include nonresidential divisions of land unless local ordinances allow nonresidential land divisions of unplatted lands.
- Specifies that replacement or refreshment of datacenter equipment for a datacenter must be considered part of a new business for a datacenter that qualifies for locally authorized ad valorem tax exemptions for new businesses, and provides that the exemption may be effective for up to 20 years.
- Clarifies provisions of the Quick Response Training Program administered by CareerSource Florida and authorizes CareerSource to execute contracts that obligate reimbursement payments for up to \$30 million for any given 24-month period.
- Standardizes economic development incentive award provisions relating to the application process, the evaluation of applications and required contractual provisions.
- Renames the “Florida Enterprise Fund” program as the “Florida Enterprise Program”.
- Revises provisions related to the High-Impact Performance Incentive Grant Program, the Innovation Incentive Program, the Florida Enterprise Program, and the newly created Entertainment Action Fund Program to:
 - Require DEO to recommend approval or disapproval to the Governor and to provide specified information about the project.
 - Allow the Governor to approve a contract under \$2 million without consulting the Legislature, but requires notice to the Legislature.
 - Require a 14-day Legislative consultation period for any contract for \$2 million or more before the Governor approves the contract; if neither the President of the Senate nor the Speaker of the House of Representatives objects, then the Governor can approve the project.
 - Require DEO to give the Legislature notice of amendments.
 - Prohibit amendments that would result in the project having a return on investment (ROI) of less than the statutorily required amount and amendments that do not also proportionately reduce the award amount.
 - Require contracts to include provisions that set timelines on when a business must submit proof of performance to DEO to receive payment.
- Requires businesses receiving an incentive to use Employ Florida Marketplace to advertise new job openings being created by the project.
- Requires DEO to confirm performance under the incentive contract before making a payment for any program.
- Creates two accounts in the Economic Development Trust Fund:
 - The Florida Enterprise Fund Account is created to hold funds to make payments for incentives contracts under the Local Government Distressed Area Matching Grant Program, the Qualified Defense Contractor and Space Flight Business Tax Refund Program, the Qualified Target Industry Program, the Brownfield Redevelopment Bonus Refunds Program, the High-Impact Performance Incentive

- Grant Program, the Innovation Incentive Program, the Florida Enterprise Program, and the Entertainment Action Fund Program.
- The Quick Action Closing Funds Escrow Account is created to hold and invest the funds that are escrowed to make payments for contracts under the Florida Enterprise Program; funds currently being held in escrow outside the state treasury for projects under the former Quick Action Closing Fund Program must be transferred to this account.
 - Any balance in either of these accounts at the end of a fiscal year remains in the account and is available for carrying out the purposes of that account.
 - Revises provisions related to DEO's incentive portal to require DEO to
 - Publish a summary document for active projects and to publish for each project a schedule of the performance required and payments.
 - Update portal information when contracts are amended, and
 - Report on amendments in the Annual Incentives Report.
 - Revises the Florida Enterprise Program, the Qualified Defense and Space Contractors Program, the Qualified Target Industry Program, and the Innovation Incentive Program to provide for a waiver or elimination of the local financial support provisions. A "waiver" reduces the required local financial support from 20 percent to 10 percent of the incentive and "elimination" of the local financial support is limited to Rural Areas of Opportunity (RAO).
 - Provides that for Florida Enterprise Program projects located in a RAO, the average annual wage must be at least 100 percent, rather than 125 percent, of the average private sector wage in the area
 - Allows colleges, universities and professional schools offering higher education degrees that address health care workforce demand to be eligible for the Qualified Target Industry Program if EFI and the local community determine that there will be certain economic benefits from the business locating in the community.
 - Requires an ROI of at least 2.5 to 1 for Florida Enterprise Program projects; and an ROI of at least 1 to 1 for High-Impact Performance Incentive Grant Program projects.
 - Permits a qualified job-training organization that has been certified by the state to participate in a self-insurance fund, notwithstanding certain requirements.
 - Removes the Legislature from the project approval process under the Sports Development Program; projects, including projects recommended for approval by DEO in the 2015-2016 fiscal year, would be certified and approved by DEO.
 - Allows entertainment industry tax credits that were certified for a qualified production by the DEO's Office of Film and Entertainment prior to April 1, 2016, to be awarded through the 2016-2017 fiscal year; the final tax credit award amount for each certified applicant must be verified and approved no later than June 30, 2017.
 - Requires DEO to publish a comprehensive report providing information on the entertainment industry tax credit program.
 - Requires the president of CareerSource to serve on the EFI board.

- Requires an appointed member of the EFI board to be an expert in rural economic development.
- Corrects and conforms cross-references and reporting provisions; and repeals obsolete provisions.

CS by Commerce and Tourism on January 25, 2016:

- The CS renames the Quick Action Closing Fund as the “Florida Enterprise Fund,” and makes the following changes to the fund:
 - Lowers the required return on investment (ROI) from 5 to 1, to 3 to 1.
 - Requires that projects create at least 10 jobs.
 - Requires that 20 percent of the award comes from local financial support.
- The bill requires that all state funds used to benefit a business be included in the ROI for calculating projects’ economic benefits.
- For all incentive programs, the bill:
 - Clarifies that when calculating projects’ economic benefits a business’s capital investment does not include any public funds;
 - Requires capital investment made by a business to remain in the state for the duration of the incentives contract;
 - Limits the duration of contracts to 10 years; and
 - Requires the DEO to provide a notice to the Legislature of executed contracts.
- The bill extends certification for the QDSC program to June 30, 2018 and allows for late filings in 2014 to be claimed under certain conditions. The bill clarifies that the “tax refund” program is not a repayment of taxes but taxes paid operate as a limitation on the incentive award amount.
- The bill requires that the incentive project reports by the DEO, and the annual incentives report by EFI, include data on the number of jobs created and retained and the number of jobs created and retained that provide health benefits.
- The bill updates the board requirements for the Florida Sports Foundation to reflect their current board. The bill also removes the requirement that the foundation use proceeds from the Florida Professional Sports Team license plate to promote and develop education programs in state schools.

B. Amendments:

None.