

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 7005    PCB CCS 17-01    Economic Programs  
**SPONSOR(S):** Appropriations Committee, Careers & Competition Subcommittee, Renner  
**TIED BILLS:**                    **IDEN./SIM. BILLS:**

| REFERENCE                                       | ACTION               | ANALYST | STAFF DIRECTOR or<br>BUDGET/POLICY CHIEF |
|---|----------------------|---------|--|
| Orig. Comm.: Careers & Competition Subcommittee | 10 Y, 5 N            | Willson | Anstead                                  |
| 1) Appropriations Committee                     | 18 Y, 12 N, As<br>CS | Proctor | Leznoff                                  |
| 2) Rules & Policy Committee                     | 15 Y, 3 N, As<br>CS  | Hamby   | Birtman                                  |

### SUMMARY ANALYSIS

The bill eliminates the following economic incentives and economic development programs or offices:

- Enterprise Florida, Inc. (EFI)
- Office of Film & Entertainment, and the Entertainment Industry Incentive and Tax Exemption Programs
- The Urban High-Crime Area Job Tax Credit Program
- The Capital Investment Tax Credit Program
- The Florida Small Business Development Center Network
- The Quick Response Training Program
- The Qualified Defense Contractor and Space Flight Business Tax Refund Program
- The Qualified Target Industry Tax Refund Program
- The Brownfield Redevelopment Bonus Tax Refund Program
- The High-Impact Business Performance Grant Program
- The Economic Gardening Business Loan and Technical Assistance Pilot Programs
- The Quick Action Closing Fund Program
- The Innovation Incentive Fund Program
- The Professional Sports Franchises, Spring Training Franchises, and Sports Development Programs
- The Florida Small Business Technology Growth Program
- The Florida Opportunity Fund
- The Institute for the Commercialization of Public Research
- The Florida Technology Seed Capital Fund
- The New Markets Development Program Act
- The Microfinance Guarantee Program
- The Economic Development Transportation Projects Program (Road Fund)
- The State Economic Enhancement and Development Trust Fund
- The Tourism Promotional Trust Fund
- The Florida International Trade and Promotion Trust Fund

However, the bill allows current certified participants in many of the programs to continue to participate in the programs in accordance with current contract provisions.

The bill provides that all duties, functions, records, pending issues, existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other public funds relating to the programs in EFI are transferred by a type two transfer to the Department of Economic Opportunity.

The bill was reviewed by the Revenue Estimating Conference on February 10, 2017, and it was determined that for Fiscal Year 2017-18 the bill will have a positive recurring impact to general revenue of \$231.7 million, a positive nonrecurring impact to general revenue of \$57.2 million, a net overall positive recurring revenue impact of \$45.1 million and nonrecurring revenue impact of \$75.7 million.

The bill provides an effective date of July 1, 2017.

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

**STORAGE NAME:** h7005c.RPC

**DATE:** 3/6/2017

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

Florida's economic development system is multi-faceted and includes public agencies, non-profit corporations, and private entities at the state, regional, and local level. The Legislature created some of these organizations, while others are units of local government or privately formed associations or alliances. Many of the organizations have similar missions (e.g., encouraging economic development and enhancing the state's business climate) and serve the same constituencies (e.g., in- and out-of-state businesses and the state's economic and workforce development communities). The most prominent of these organizations are Enterprise Florida, Inc. (EFI) and the Department of Economic Opportunity (DEO).<sup>1</sup>

To achieve their economic development missions, EFI and DEO perform numerous activities and collaborate via contracts. DEO serves as the contract manager for agreements with EFI, the Institute for the Commercialization of Public Research, the Florida Defense Support Task Force, the Florida Sports Foundation, Space Florida, and the Florida Tourism Industry Marketing Corporation (VISIT Florida).<sup>2</sup>

Prior to the creation of EFI, the Department of Commerce and Department of Labor and Employment Security were responsible for the state's economic development activities. In 1996, the Legislature created EFI as a public-private partnership to serve as the state's principal economic development marketing and promotion organization.<sup>3</sup>

To support the ongoing evolution of the state's economic development system, the 2011 Legislature created the Department of Economic Opportunity, transferring functions from the Agency for Workforce Innovation (AWI), Department of Community Affairs (DCA), and Governor's Office of Tourism, Trade, and Economic Development (OTTED) to the new agency.<sup>4</sup> AWI had performed functions related to workforce, unemployment compensation, and early learning services, while DCA was the state's land planning and community development agency. OTTED assisted the Governor in formulating economic development policies and strategies and administered the state's economic programs.<sup>5</sup>

##### **Department of Economic Opportunity**

Three core divisions carry out DEO's objectives and statutory responsibilities: Strategic Business Development, Community Development, and Workforce Services. These divisions help fulfill DEO's statutorily mandated responsibilities, which include:<sup>6</sup>

- ensuring that Florida's goals and policies relating to economic development, community planning and development, workforce development, and affordable housing are fully integrated with appropriate implementation strategies;
- recruiting new businesses to Florida and promoting the expansion of businesses by expediting permitting and location decisions, worker placement and training, and incentive awards;

---

<sup>1</sup> OPPAGA, Report No. 16-09, Agency Review-Enterprise Florida, Inc., and Department of Economic Opportunity, p.6 (December 2016)

<sup>2</sup> *Id.* s. 20.60(9)(b), F.S.

<sup>3</sup> *Id.* at 7.

<sup>4</sup> Chapter 2011-142, Laws of Fla. DEO began operations in October 2011.

<sup>5</sup> OPPAGA, Report No. 16-09, p.7

<sup>6</sup> OPPAGA, Report No. 16-09, p.24

- promoting viable, sustainable communities by providing technical assistance and guidance on growth and development issues, grants, and other assistance to local communities;
- coordinating with state agencies on the processing of state development approvals or permits to minimize the duplication of information provided by the applicant and the time before approval or disapproval; and
- managing the activities of public-private partnerships and state agencies in order to avoid duplication and promote coordinated and consistent implementation of various programs.<sup>7</sup>

DEO derives most of its funding from federal sources and transfers a significant portion to other entities. In Fiscal Year 2015-16, DEO's total budget was \$1.08 billion and the majority (\$679 million, 63%) of this funding was from federal sources. Most of DEO's total budget (\$816.4 million, 75%) was transferred to other entities. For example, \$283 million was transferred to fund local workforce boards, \$105 million supported housing programs administered by Florida Housing Finance Corporation, \$74 million went to VISIT Florida, and \$25 million went to EFI.<sup>8</sup> Between Fiscal Year 2012-13 and Fiscal Year 2015-16, EFI's legislative appropriation increased by 56.3% (\$9 million), while DEO's appropriation decreased by 16.4% (\$207.7 million).<sup>9</sup>

### **Enterprise Florida, Inc.**

EFI is a nonprofit corporation established by the Legislature to serve as the state's main economic development organization.<sup>10</sup> EFI is required to enter into a performance-based contract with DEO, which includes annual measurements of the performance of EFI.<sup>11</sup> EFI is governed by a board of directors chaired by the Governor.

As a public-private partnership, EFI is expected to obtain private sector support to help pay for its operational costs. According to state law, the agency's legislative appropriations must be matched with private sector support equal to at least 100% of state operational funding.<sup>12</sup> Under state law, private sector support includes:

- cash given directly to EFI for its operations, including contributions from at-large members of the board of directors;
- cash donations from organizations assisted by EFI's divisions;
- cash jointly raised by EFI, private local economic development organizations, a group of such organizations, or a statewide private business organization that supports collaborative projects;
- cash generated by fees charged for products or services of EFI and its divisions by sponsorship of events, missions, programs, and publications; and
- copayments, stock, warrants, royalties, or other private resources dedicated to Enterprise Florida or its divisions.

According to a recent report<sup>13</sup> published by the Office of Program Policy Analysis and Government Accountability (OPPAGA), state funding has always far exceeded private sector funding.<sup>14</sup> Specifically, private sector cash contributions during the review period<sup>15</sup> rarely exceeded \$2 million,

<sup>7</sup> s. 20.60(4)(b)(f), F.S.

<sup>8</sup> OPPAGA, Report No. 16-09, p.24.

<sup>9</sup> OPPAGA, Report No. 16-09, p.8.

<sup>10</sup> s. 288.901, F.S. Chapter 92-277, Laws of Fla., created EFI, while ch. 96-320, Laws of Fla, established EFI as a public-private partnership.

<sup>11</sup> Section. 20.60(1), F.S., requires DEO to "establish annual performance standards for Enterprise Florida, Inc., CareerSource Florida, Inc., the Florida Tourism Industry Marketing Corporation, and Space Florida and report annually on how these performance measures are being met".

<sup>12</sup> s. 288.904(2)(a), F.S.

<sup>13</sup> OPPAGA, Agency Review-Enterprise Florida, Inc., and Department of Economic Opportunity, Report No. 16-09 (December 2016).

<sup>14</sup> OPPAGA Report No. 16-09, p. 19.

<sup>15</sup> Review period was Fiscal Year 2012-2013 through Fiscal Year 2015-2016.

while state appropriations averaged about \$20 million per year. Funds from other private sources (e.g., event revenue, other income) averaged approximately \$2.7 million per year.

EFI works with businesses and economic development partners to determine whether projects are eligible for state economic development incentives. A project must be vetted by EFI and EFI must determine that incentives are necessary to secure a deal in order for an incentive package to be developed and sent to DEO for further review. Once the incentive package is finalized, DEO and other appropriate state bodies issue formal approvals.

EFI has the following duties:

- Responsibly and prudently manage all public and private funds received, and ensure that the use of such funds is in accordance with all applicable laws, bylaws, or contractual requirements;
- Administer certain programs;
- Prepare an annual report;
- Prepare, in conjunction with DEO, an annual incentives report;
- Assist DEO with the development of an annual and a long-range strategic business blueprint for economic development; and
- In coordination with CareerSource Florida, Inc., identify education and training programs that will ensure that Florida businesses have access to a skilled and competent workforce necessary to compete successfully in the domestic and global marketplace.

The Legislature provides an annual appropriation to EFI for its operations. EFI is required to have divisions related to:

- International Trade and Business Development,
- Business Retention and Recruitment, Tourism Marketing;
- Minority Business Development; and
- Sports Industry Development.

The board of directors of EFI is comprised of nineteen members: seven from the public sector and twelve from the private sector.<sup>16</sup> The seven members of the board from the public sector include the following: the Governor or the Governor's designee; the Commissioner of Education or his or her designee; the Chief Financial Officer or his or her designee; the Attorney General or his or her designee; the Commissioner of Agriculture or his or her designee; the chairperson of the board of directors for CareerSource Florida, Inc.; and the Secretary of State or his or her designee.

Of the twelve members from the private sector, the Governor appoints six<sup>17</sup> and the President of the Senate and Speaker of the Florida House of Representatives each appoint three. Such members are appointed to four year terms and must include at least one director for each of the following areas of expertise:<sup>18</sup> international business; tourism marketing; the space or aerospace industry; managing or financing a minority-owned business; manufacturing; finance and accounting; and sports marketing. In addition, the President of the Senate must appoint a member of the Senate and the Speaker of the House must appoint a member of the House of Representatives, both of which serve as ex officio members.<sup>19</sup> The board must meet at least four times each year, upon the call of the chairperson, at the request of the vice chairperson, or at the request of a majority of the membership. A majority of the total number of current voting members constitutes a quorum.<sup>20</sup>

Florida law directs the board of directors to "integrate its efforts in business recruitment and expansion, job creation, marketing the state for tourism and sports, and promoting economic

---

<sup>16</sup> s. 288.901(5), F.S.

<sup>17</sup> Members appointed by the Governor are subject to Senate confirmation. s. 288.901(5)(a), F.S.

<sup>18</sup> s. 288.901(5)(b), F.S.

<sup>19</sup> s. 288.901(7), F.S.

<sup>20</sup> s. 288.901(8), F.S.

opportunities for minority-owned businesses and promoting economic opportunities for rural and distressed urban communities with those of the department, to create an aggressive, agile, and collaborative effort to reinvigorate the state's economy."<sup>21</sup> To that end, Florida law authorizes the Board to:

- secure funding for its programs and activities from federal, state, local, and private sources and from fees charged for services and published materials;
- solicit, receive, hold, invest, and administer any grant, payment, or gift of funds or property and make expenditures;
- make and enter into contracts and other instruments necessary or convenient with its powers and functions;
- elect or appoint officers, employees, and agents as required for its activities and for its divisions;
- carry forward any unexpended state appropriations into succeeding fiscal years;
- create and dissolve advisory councils, working groups, task forces, or other similar organizations, as necessary to carry out its mission;
- establish an executive committee consisting of the chairperson or a designee, the vice chairperson, and as many additional members of the board of directors as the board deems appropriate (with a minimum of five members);
- sue and be sued, and appear and defend all actions and proceedings;
- adopt, use, and alter a common corporate seal for EFI and its divisions;
- adopt, amend, and repeal bylaws;
- acquire, enjoy, use, and dispose of patents, copyrights, and trademarks and any licenses, royalties, and other rights or interests;
- use the state seal when appropriate for standard corporate identity applications; and
- procure insurance or require bond against any loss in connection with the property of EFI.<sup>22</sup>

### **Florida Tourism Industry Marketing Corporation (VISIT Florida)**

The Florida Tourism Industry Marketing Corporation dba VISIT Florida (VF) is a nonprofit corporation established by the Florida Legislature to serve as a direct support organization of EFI.<sup>23</sup> Florida law requires that EFI contract with VF "to execute tourism promotion and marketing services, functions, and programs for the state."<sup>24</sup>

EFI, in conjunction with DEO, appoints VF's 31-member board of directors. The board, which meets three times per year, provides guidance, input and insight into the evolution and development of programs, processes, and messages; acts as a steering council for various committees; and works directly with VF executive staff to guide strategy.

VF's primary responsibilities include:

- administering domestic and international advertising campaigns;
- conducting research on tourism and travel trends;
- conducting domestic and international marketing activities; and
- managing the state's welcome centers.

VF also administers a number of small grant programs that provide organizations and state agencies funding for certain tourism-related activities, including convention grants for attracting national conferences and conventions to Florida.<sup>25</sup> Grant funds total less than \$2 million per year.

---

<sup>21</sup> s. 288.9015(1), F.S.

<sup>22</sup> s. 288.9015(2), F.S.

<sup>23</sup> s. 288.1226(2), F.S.

<sup>24</sup> s. 288.923(3), F.S.

<sup>25</sup> s. 288.124, F.S.

VF administers a cooperative advertising matching grants program whereby VF makes expenditures and enters into contracts with certain local governments and nonprofit corporations for the purpose of publicizing the tourism advantages of the state.<sup>26</sup> The total annual allocation of funds for this grant program may not exceed \$40,000. Each grant awarded under the program is limited to no more than \$2,500 and must be matched by nonstate dollars. Grants are restricted to local governments and nonprofit corporations serving and located in municipalities having a population of 50,000 persons or less or in counties with an unincorporated area having a population of 200,000 persons or less.<sup>27</sup>

VF collaborates with Florida is For Veterans, Inc. to market the state to veterans as a permanent home and improve veterans' knowledge of and access to benefits.<sup>28</sup> VF is required to expend \$1 million annually on the research marketing campaign through a combination of existing funds appropriated to VF by the Legislature and private funds.<sup>29</sup>

VF operates the state's five official welcome centers. Four welcome centers are located along the main travel corridors leading into the state and the fifth welcome center operates in the Capitol Complex in Tallahassee. The Department of Transportation owns the buildings that house the four highway welcome centers, but the centers are staffed and managed by VF.

In a recent study, OPPAGA found that it is difficult to distinguish VF's influence from that of other entities that engage in similar tourism marketing activities. VF focuses much of its efforts on statewide tourism goals such as increasing total visitors and visitor spending in the state. As a result, these same indicators are often used to promote VF's success in positioning Florida as the top travel destination in the world. However, numerous other entities also actively promote the state. State agencies, county governments, the federal government, and the private sector all engage in tourism promotional activities, including statewide marketing. Moreover, county governments and private businesses specifically market local attractions and destinations.<sup>30</sup>

### **Economic Development Incentives**

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

Businesses interested in expanding or relocating in Florida learn about the state's economic incentive programs through several channels, including EFI, state and local economic development organizations, and private site selection consultants. EFI provides businesses a variety of services prior to application filing, including evaluating businesses' needs, identifying potential site locations, and providing information on state and local incentives that might aid businesses with expansion or relocation projects. EFI also helps businesses complete the incentive application. Businesses can apply for more than one incentive to support their expansion or relocation projects.<sup>31</sup>

Once a company begins the application process, EFI notifies the division so that it may begin the formal due diligence process to determine the business's statutory eligibility and financial standing. The due diligence process has two levels. Level one due diligence is conducted for all incentive applications and includes determining whether the company satisfies statutory criteria for program participation and if the business is in good financial and legal standing. Level two due diligence is used for grant incentive programs and considers the business's credit risk and other factors that could affect its ability to repay the state should it be unable to meet incentive performance requirements.<sup>32</sup>

---

<sup>26</sup> s. 288.017, F.S.

<sup>27</sup> s. 288.017(2), F.S.

<sup>28</sup> s. 295.23, F.S. Veterans research and marketing campaign.

<sup>29</sup> *Id.*

<sup>30</sup> OPPAGA, Report No. 15-01, Florida Economic Development Program Evaluations-Year 2 (January 1, 2015)

<sup>31</sup> OPPAGA, Report No. 16-09, p. 50-51.

<sup>32</sup> *Id.*

When due diligence is complete, division staff review the application for completeness; if the application is not complete, the applicant is notified and additional information is requested. Once the application is deemed complete, the division determines what incentives and associated amounts may be available to the applicant and makes an approval or disapproval recommendation to DEO's executive director. The executive director will make a decision within 10 business days and will issue a letter of certification to the applicant. DEO will develop a contract or agreement with the applicant that specifies the total incentive amount, performance conditions that must be met to receive payment, payment schedule, and sanctions for failure to meet performance conditions.<sup>33</sup>

Businesses found to be out of compliance with performance requirements may be subject to penalties (e.g., clawback provisions) or could be terminated from the incentive program. The division currently uses a third-party contractor to process incentive payment claims. The contractor must review each claim to assess the appropriateness and completeness of the documentation for three performance areas: (1) employment, wages, and benefits; (2) capital expenditures; and (3) tax payments. Payments are contingent upon the contractor's determination that the company has met performance requirements.<sup>34</sup>

| Category                 | Tax Refunds  | Tax Credits   | Tax Exemptions  | Cash Grants  |
|--------------------------|--|---|---|--|
| <b>Type of Incentive</b> | Refund of taxes paid, as outlined in a performance-based contract.   | Credit against taxes owed.  | Exemption from taxes owed.  | Grant with a performance-based contract to business.   |
| <b>Claim Process</b>     | <ul style="list-style-type: none"> <li>· Company pays taxes</li> <li>· State confirms tax payments and validates performance</li> <li>· State issues refund check</li> </ul> | <ul style="list-style-type: none"> <li>· Company claims credit on state corporate income tax return after meeting requirements</li> <li>· State confirms jobs and investment (if applicable)</li> </ul> | <ul style="list-style-type: none"> <li>· Company is issued tax exemption permit from Florida Department of Revenue</li> <li>· A permit is presented to seller</li> <li>· Seller exempts sales tax on transaction</li> </ul> | <ul style="list-style-type: none"> <li>· Business satisfies a term of the agreement</li> <li>· State verifies</li> <li>· State issues check</li> </ul> |
| <b>Revenue Source</b>    | Annual appropriation   | Foregone revenue (no appropriation)   | Foregone revenue (no appropriation)   | Annual appropriation   |

35

### **Tax Credits, Tax Refunds, Cash Grants**

#### **Qualified Target Industry Tax Refund Program (QTI)**

The Qualified Target Industry (QTI) Tax Refund Program was established in 1995 to attract new high quality, high wage jobs for Floridians.<sup>36</sup> Tax refunds are made to qualifying, pre-approved businesses creating new jobs within Florida's target industries. All QTI projects include a performance-based contract with the state, which outlines specific milestones that must be achieved and verified by the

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> DEO, 2015-2016 Annual Incentives Report, p. 7. Section 288.907, F.S., requires EFI, in conjunction with DEO, to provide a detailed incentives report quantifying the economic benefits for all of the economic development incentive programs marketed by EFI.

<sup>36</sup> s. 288.061(1), F.S.

state prior to payment of refunds. Unless waived by the Department of Economic Opportunity, 20% of the award must come from the local city or county government in which the project is located.<sup>37</sup>

A project must propose to create at least ten new jobs, or in the case of a business expansion, must result in a net increase in employment of at least 10% at that business. The jobs proposed to be created or retained must pay an average annual wage of at least 115% of the average private sector wage in the area where the business is located, or the statewide private sector average wage. The amount of the refund is based on the average wages paid by the business, number of jobs created, and where in the state the eligible business chooses to locate or expand. The minimum tax refund is \$3,000 per employee, and the maximum amount is \$11,000 per employee over the term of the incentive agreement. Jobs created in rural communities and enterprise zones, as well as those paying higher annual average wages, are eligible for more incentives.

The average annual wage for the State of Florida was approximately \$46,000 during calendar years 2013 to 2015. EDR's review of wages showed that the actual wage of the QTI projects were much greater than 115 percent of the average annual wage in the state. In most years, wages were higher than 135 percent of the statewide average annual wage; however, this was down from the 150 percent seen in EDR's original review in 2014. Higher than average wages leads to higher output being associated with the projects, and that, in turn, generates more revenue for the State of Florida.<sup>38</sup>

The original Return On Investment (ROI) in 2014 strongly benefited from producing more employees than contracted for during the window. During EDR's most recent review, the number of jobs confirmed was slightly less than the number of jobs committed. This placed downward pressure on the ROI relative to 2014. The ROI for the QTI Tax Refund Program is projected at 4.4, which is down from the prior ROI projected at 6.4. For every dollar spent on new high quality, high wage jobs in Florida's target industries, the state of Florida received \$4.40 back in tax revenue.<sup>39</sup>

### **Qualified Defense Contractor and Space Flight Tax Refund (QDSC)**

In 1996, the Legislature implemented the Qualified Defense Contractor and Space Flight Business Tax Refund Program (QDSC) to create and retain high quality, high wage jobs for Floridians in the defense and space industries.<sup>40</sup> Historically, the program was designed to protect the state's defense businesses and jobs from reductions in federal defense spending.<sup>41</sup> The program provides tax refunds for job creation similar to those awarded through the Qualified Target Industry Tax Refund Program (QTI). However, the programs differ in that tax refunds under the QDSC program are paid for both created and retained jobs. In addition, QDSC program participation is limited to certain defense and space flight contractors, while QTI includes a wider range of industries.<sup>42</sup> Incentive awards range from \$3,000 to \$8,000 per job.<sup>43</sup>

QDSC tax refunds were provided to qualifying businesses bidding on new competitive contracts or consolidating existing defense or space flight business contracts, converting defense production jobs to nondefense production jobs, or reusing defense-related facilities. A business could not apply for

---

<sup>37</sup> s. 288.106(1)(j), F.S.

<sup>38</sup> EDR, Economic Evaluation for Select State Economic Development Incentive Programs, p. 17 (January 2017).

<sup>39</sup> *Id.* at 2.

<sup>40</sup> s. 288.1045, F.S.

<sup>41</sup> The 2008 Legislature amended the program to include space flight businesses (ch. 2008-89, Laws of Fla.).

<sup>42</sup> According to state law, a program applicant is a business that holds or is a subcontractor under a valid U.S. Department of Defense contract or space flight contract, or a business entity that holds a valid contract for the reuse of a defense-related facility.

<sup>43</sup> s. 288.1045, F.S. The per-job award increases from the \$3,000 base when wages exceed 150 percent of the area or statewide annual wage, and when projects are located in specified locations. These included a rural county, an Enterprise Zone, or until 6/30/14, in any of the eight counties that were disproportionately affected by the BP Gulf Oil Spill: Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, Walton and Wakulla Counties. From 7/1/11 through 6/30/14, DEO could waive wage or local financial support eligibility requirements for Disproportionately Affected Counties.



the tax refund after submitting a proposal or deciding to consolidate a defense or space flight contract. Businesses seeking to qualify for the program were required to meet several requirements including deriving not less than 60% of gross receipts in the state from defense or space flight business contracts over the last fiscal year and over the five years preceding the date an application was submitted; creating net new Florida jobs;<sup>44</sup> paying an annual average wage of at least 115% of the average wage in the area where the project was located; and providing a local government resolution of financial support amounting to 20% of the total tax refund.

The QDSC program was a performance-based incentive tied directly to defense or space flight business contracts. Businesses qualified for the program in three ways:

- contract or subcontract consolidations that resulted in either a 25 percent increase in employment or at least 80 new Florida jobs;
- defense production conversion projects that resulted in a net increase in nondefense employment at the applicant's facilities in Florida; or
- reuse projects that resulted in the creation of at least 100 jobs for contracts with a duration of two or more years.<sup>45</sup>

The QDSC program was a grant program subject to annual appropriation, with the grant award determined by the interaction between the number of qualifying employees, geographic location of the jobs, and certain taxes paid to both state and local governments. Each QDSC project had a performance-based contract, which outlined specific milestones that must be achieved and verified by the state prior to payment of funds. For businesses engaged in competing for private space flight contracts, other incentives offered by Space Florida such as special conduit financing, conduit construction, and infrastructure improvements may be more important to the business than this type of incentives because these businesses may pay relatively little in the eligible taxes.<sup>46</sup>

Since the QDSC tax refund program's inception 33 applications have been approved. Of those 33 approved applications, three remain active.<sup>47</sup> In Fiscal Year 2013-2014, \$3,208,000 in QDSC tax refund program incentives were awarded.<sup>48</sup>

The QDSC program expired July 1, 2014.<sup>49</sup> However, existing tax refund agreements continue to be in effect in accordance with contract terms.

### **Brownfield Redevelopment Bonus Refund**

The Brownfield Redevelopment Bonus Refund was established in 1997 to improve economic activity in designated Brownfield areas.<sup>50</sup> These areas are designated by the respective community for the presence or perceived presence of economic blight or environmental contamination. Legislation passed in 2013 changed the Brownfield Redevelopment Bonus Tax Refund requirements so that projects only qualify if the project is either on a parcel designated as a Brownfield site or on any real property abutting the Brownfield site within a Brownfield area. Prior to 2013, projects qualified if the development was simply within a Brownfield area.

As with the QTI and QDSC programs, the Brownfield program requires 20 percent of the award to come from the local government. These incentives are grant programs, subject to annual

---

<sup>44</sup> A project consolidating a U.S. Department of Defense contract must increase employment by at least 25% or create at least 80 new jobs; reuse projects must result in the creation of at least 100 jobs; defense production conversion projects must result in net increases in nondefense production jobs; and space flight business contracts or consolidation projects must result in net increases in space flight business employment.

<sup>45</sup> *Id.*

<sup>46</sup> *Id.* at 24.

<sup>47</sup> DEO, 2015-2016 Annual Incentives Report, p. 24.

<sup>48</sup> *Id.* at 19.

<sup>49</sup> s. 288.1045, F.S.

<sup>50</sup> s. 288.107, F.S.

appropriations. The Brownfield Redevelopment Bonus Refund allows eligible businesses to claim an additional \$2,500 tax refund per employee for each new Florida job created in a Brownfield area eligible for bonus refunds.

Eligible businesses include: certified QTI businesses; businesses that can demonstrate a fixed capital investment of at least \$2 million in mixed-use business activities, including multiunit housing, commercial, retail, and industrial in brownfield areas eligible for bonus refunds, and that provides benefits to its employees.

As with other programs, the Brownfield program requires performance-based contracts and specific milestones to be met in order for a project to receive awards.

The program is funded through a specific annual appropriation. DEO reported that \$2.6 million in maximum rewards was approved in Fiscal Year 2013-2014, with an additional \$875,000 in maximum awards for the Brownfield Bonus with QTI. Additionally, the department reported that of the 59 contracts executed from the beginning of the program to June 30, 2014, 33 contracts are active and 9 contracts were successfully completed. For the Brownfield Bonus with QTI, there are 103 contracts executed in the same timeframe with 40 active contracts and 6 completed.<sup>51</sup>

Currently, an applicant may not be certified as qualified under this section after June 30, 2020. However, a tax refund agreement existing on that date shall continue in effect in accordance with its terms.

### **Urban High-Crime Area Job Tax Credit Program**

In 1997, the Legislature created the program to encourage job creation in certain urban high-crime areas. The Urban High-Crime Area Job Tax Credit Program provides job tax credits to businesses that are in specified industries and are located in designated urban areas of the state.<sup>52</sup> Businesses can use the credits to reduce sales and use tax or corporate income tax liability.

Eligible industries include agriculture, forestry, and fishing; manufacturing; retail; public warehousing and storage; hotels and other lodging places; research and development; motion picture production and allied services; public golf courses; amusement parks, and call centers or similar customer service operations that service multistate or international markets.<sup>53</sup>

DEO is responsible for determining whether areas nominated by local governments are eligible for designation as a high-crime area.<sup>54</sup> Every third year, the department is statutorily required to rank and tier nominated areas according to five criteria:<sup>55</sup>

- Highest arrest rates within the geographic area for violent crime and for such other crimes as drug sale, drug possession, prostitution, vandalism, and civil disturbances.
- Highest reported crime volume and rate of specific property crimes such as business and residential burglary, motor vehicle theft, and vandalism.
- Highest percentage of reported index crimes that are violent in nature.
- Highest overall index crime volume for the area.
- Highest overall index crime rate for the geographic area.

---

<sup>51</sup> The amount approved in any fiscal year may exceed the statutory cap, but payments in any fiscal year will not exceed the cap.

<sup>52</sup> s. 212.097, F.S.

<sup>53</sup> OPPAGA, Research Memorandum, Urban High-Crime Area Job Tax Credit Program, p. 1 (January 5, 2015).

<sup>54</sup> *Id.* The local government must provide DEO the (a) overall index crime rate for the geographic area; (b) overall index crime volume for the area; (c) percentage of reported index crimes that are violent in nature; (d) reported crime volume and rate of specific property crimes such as business and residential burglary, motor vehicle theft, and vandalism; and (e) arrest rates within the geographic area for violent crime and for such other crimes as drug sale, drug possession, prostitution, disorderly conduct, vandalism, and other public-order offenses.

<sup>55</sup> *Id.*

Designated urban high-crime areas are ranked into three tiers. There is no threshold level of crime that qualifies or disqualifies an area for designation as an urban high-crime area; instead, nominees ranked 1 to 5 are tier one, those ranked 6 to 10 are tier two, and those ranked 11 to 15 are tier three. The tax credit amount awarded to an eligible business varies depending on the tier ranking of the area in which the business is located, whether the business is new or existing, and the number of qualified employees. A qualified employee must work for an eligible business at least 36 hours per week for at least three months.<sup>56</sup>

| <b>Tier</b> | <b>Eligibility Requirements</b>   | <b>Credit Amount<sup>57</sup></b> |
|-------------|---|-----------------------------------|
| Tier 1      | <ul style="list-style-type: none"> <li>• New business – At least 10 qualified employees</li> <li>• Existing business – At least 5 qualified employees</li> </ul>  | \$1,500 per employee              |
| Tier 2      | <ul style="list-style-type: none"> <li>• New business – At least 20 qualified employees</li> <li>• Existing business – At least 10 qualified employees</li> </ul> | \$1,000 per employee              |
| Tier 3      | <ul style="list-style-type: none"> <li>• New business – At least 30 qualified employees</li> <li>• Existing business – At least 15 qualified employees</li> </ul> | \$500 per employee                |

In 2015, OPPAGA found that no new areas have been nominated since program inception and DEO did not reevaluate designated area rankings as required by state law. Section 212.097(1)(e), F.S., requires DEO to rank and tier nominated urban high-crime areas using prioritized statutory criteria pertaining to crime every three years. However, this statutory provision was not followed between 1997 and August 2014. OPPAGA noted that, without periodic reevaluation of crime data within the designated areas, it is impossible to verify the ongoing accuracy of the area rankings; it is possible that such an analysis would have resulted in areas changing tiers (e.g., a shift from tier 1 to tier 2 if an area's crime rate significantly declined). After DEO's August 2014 data request, three areas changed tier—Jacksonville (from 1 to 2), Pompano Beach (from 2 to 3), and St. Petersburg (from 3 to 1).<sup>58</sup>

According to program officials, rather than reevaluating the designated areas as required by state law, they surveyed area representatives about their willingness to submit updated crime data. These officials reported that most areas declined to provide updated information, citing the onerous process of gathering the data. In addition, the department's general counsel advised program officials that DEO has no statutory authority to compel areas to provide the crime data, and areas that did not comply should be moved to the bottom of the priority list. The department has no documentation of this internal policy.<sup>59</sup>

The maximum credit amount that may be approved during any calendar year is \$5 million, of which \$1 million shall be exclusively reserved for tier-one areas.<sup>60</sup> The Department of Revenue, in conjunction with the Department of Economic Opportunity, shall notify the governing bodies in areas designated as urban high-crime areas when the \$5 million maximum amount has been reached. Applications must be considered for approval in the order in which they are received without regard to whether the credit is for a new or existing business. This limitation applies to the value of the credit as contained in approved applications. Approved credits may be taken in the time and manner allowed pursuant to this section.

<sup>56</sup> *Id* at 2.

<sup>57</sup> s. 212.097, F.S. A new or existing business will receive an additional \$500 credit if the qualified employee is a welfare transition program participant.

<sup>58</sup> OPPAGA, Research Memorandum, Urban High-Crime Area Job Tax Credit Program, p. 3 (January 5, 2015).

<sup>59</sup> *Id* at 3.

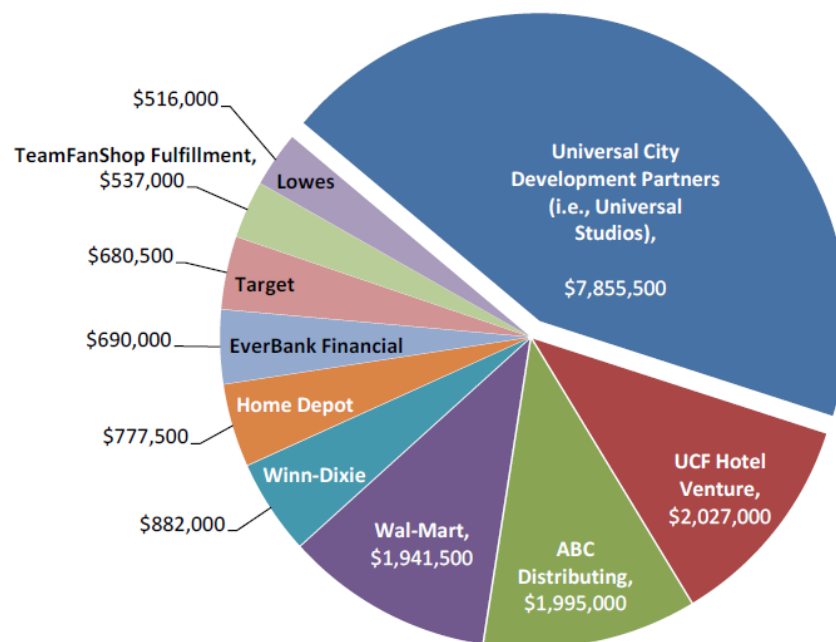
<sup>60</sup> s. 212.097(10)(c), F.S.

Between 1999 and 2015, the Urban High-Crime Area Job Tax Credit Program approved \$26,741,000 in tax credits. Annual credits have typically been well below the \$5 million cap over this period.<sup>61</sup>

Approvals, Jobs Created and Amount of Tax Credits (1999-2015).<sup>62</sup>

| Calendar Year | Number of Approvals | Number of Jobs Created | Amount of Tax Credits |
|---------------|---------------------|------------------------|-----------------------|
| 2015          | 15                  | 1,221                  | \$1,644,500           |
| 2014          | 13                  | 1,487                  | \$2,069,500           |
| 2013          | 7                   | 1,056                  | \$1,172,500           |
| 2012          | 5                   | 1,672                  | \$2,460,500           |
| 2011          | 12                  | 589                    | \$790,500             |
| 2010          | 11                  | 893                    | \$1,259,500           |
| 2009          | 18                  | 803                    | \$855,000             |
| 2008          | 16                  | 569                    | \$517,500             |
| 2007          | 10                  | 587                    | \$654,000             |
| 2006          | 16                  | 981                    | \$1,014,000           |
| 2005          | 11                  | 2,044                  | \$1,761,000           |
| 2004          | 18                  | 938                    | \$1,053,500           |
| 2003          | 14                  | 1,184                  | \$1,069,000           |
| 2002          | 19                  | 2,856                  | \$2,673,500           |
| 2001          | 22                  | 2,214                  | \$2,486,500           |
| 2000          | 9                   | 4,109                  | \$4,999,500           |
| 1999          | 5                   | 221                    | \$260,500             |
| <b>Totals</b> | <b>221</b>          | <b>23,424</b>          | <b>\$26,741,000</b>   |

Between January 1, 1999, and October 31, 2014, a small number of businesses account for over 70% of the approved tax credits. Universal City Development Partners (i.e., Universal Studios) received the most approved credits, or nearly \$8 million (44%).<sup>63</sup> Ten companies accounted for the majority of tax credits, as follows:<sup>64</sup>



OPPAGA staff surveyed urban high-crime area job tax credit recipients to better understand businesses' experiences with the program, the role the incentives played in location and expansion decisions, and recipients' perceptions regarding crime in the areas around their businesses. Surveys were sent to 19 businesses that DEO identified as having received program tax credits during the

<sup>61</sup> DEO, 2015- 2016 Annual Incentives Report, p. 40

<sup>62</sup> *Id.*

<sup>63</sup> OPPAGA, Research Memorandum, Urban High-Crime Area Job Tax Credit Program, p. 4 (January 5, 2015).

<sup>64</sup> *Id.*

study period. OPPAGA received responses from five of the businesses. Most of the businesses reported that the urban high-crime area job tax credits were not a factor in their decisions. Regarding crime, most of the businesses noted that their perception of crime in the area around their businesses is that it has remained about the same over the study period.<sup>65</sup>

The ROI for the Urban High-Crime Area Tax Credit was 0.07. For every \$1.00 spent on this program, the state of Florida received \$0.07 back in tax revenue.<sup>66</sup>

### **Capital Investment Tax Credit (CITC)**

The Capital Investment Tax Credit (CITC) is designed to attract and grow capital-intensive industries in Florida.<sup>67</sup> 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, and \$30.7 million claimed in 2015.<sup>68</sup> The annual credit can be provided for up to twenty 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 ROI for the CITC program is projected at 0.43, which is down from the prior ROI projected at 2.3. For every dollar spent to attract and grow capital-intensive industries, the state of Florida received \$0.43 back in tax revenue.

### **New Markets Development Program**

In 2009, the Legislature passed the New Markets Development Program Act (NMDP).<sup>69</sup> The program, which is modeled after the federal New Markets Tax Credit Program, allows taxpayers to earn credits against specified taxes by making qualified investments in qualified community development entities that, in turn, invest in businesses in low-income communities to create and retain jobs in such communities.<sup>70</sup>

Qualified community development entities apply to DEO for approval of a proposed investment as a qualified investment.<sup>71</sup> A qualified community development entity is a federally-certified Community Development Entity, which has entered into an allocation agreement with the U.S. Department of Treasury with respect to tax credits and is authorized under the allocation agreement to serve Florida businesses.<sup>72</sup> A qualified investment is an equity investment in, or a long-term debt security issued by, a qualified community development entity that is issued solely in exchange for cash and is approved by DEO.<sup>73</sup> Often, the equity investor will make its investment with the help of a loan.<sup>74</sup>

---

<sup>65</sup> *Id* at 8.

<sup>66</sup> EDR, Return on Investment for The Urban High-Crime Area Job Tax Credit Program, p. 8 (1/1/2015).

<sup>67</sup> s. 220.191, F.S.

<sup>68</sup> DEO, 2015-2016 Annual Incentives Report, p. 20.

<sup>69</sup> ch. 2009-50, Laws of Fla.

<sup>70</sup> s. 288.9912, F.S.

<sup>71</sup> s. 288.9914, F.S.

<sup>72</sup> s. 288.9913(6), F.S.

<sup>73</sup> s. 288.9913(7), F.S.

<sup>74</sup> The loan allows the taxpayer to make a larger investment, to in turn receive a greater amount of tax credits through the program. Current law does not dictate where the loan must come from. Accordingly, the loan may come from an affiliate of the qualified active low income community business.

The applications, which DEO reviews and approves on a first-come first-serve basis,<sup>75</sup> must include the following:

- the name, address, and tax identification number of the qualified community development entity;
- proof of certification as a qualified community development entity under 26 U.S.C. s. 45D;
- a copy of an allocation agreement executed by the qualified community development entity, or its controlling entity, and the Community Development Financial Institutions Fund, which authorizes the entity to serve businesses in this state;
- a verified statement by the chief executive officer of the entity that the allocation agreement remains in effect;
- a description of the proposed amount, structure, and purchaser of an equity investment or long-term debt security;
- the name and tax identification number of any person authorized to claim a tax credit earned as a result of the purchase of the proposed qualified investment;
- a detailed explanation of the proposed use of the proceeds from a proposed qualified investment;
- a nonrefundable application fee of \$1,000, payable to the department; and
- a statement that the entity will invest only in the industries designated by the department.<sup>76</sup>

Once DEO has approved the qualified investment, the taxpayer is eligible to receive tax credits, and the qualified community development entities can invest the proceeds received from the qualified investment in a qualified active low-income community business (up to \$10 million per qualified active low-income community business).<sup>77</sup> A qualified active low-income community business is a business that, among other requirements, derives at least 50% of its total gross income from within a low-income community.<sup>78</sup> A low-income community means a population census tract within the state with a particular poverty rate or average median family income (depending on where the tract is).<sup>79</sup>

Taxpayers that make a qualified investment in qualified community development entities may receive tax credits against the corporate income tax found in s. 220.11, F.S. or the insurance premium tax found in s. 624.509, F.S. The taxpayer may not claim the credit in the first two years after the investment. In year three after the investment, the credit is worth 7% of the qualified investment, and from the fourth year through the seventh year the credit is worth 8%. As in the federal program, over seven years the credit totals 39% of the total qualified investment in the qualified community development entity. Therefore, a taxpayer with qualified investments approved for both the federal and state programs could receive 78% of the purchase price of the investment in tax credits over seven years.<sup>80</sup>

Any unused portion of the tax credit may be carried forward for future tax years; however, all tax credits expire on December 31, 2022.<sup>81</sup> Moreover, the department may not approve a cumulative amount of qualified investments that may result in the claim of more than \$216.34 million in tax credits during the existence of the program or more than \$36.6 million in tax credits in a single state fiscal year.<sup>82</sup>

---

<sup>75</sup> s. 288.9914(3), F.S.

<sup>76</sup> s. 288.9914(2), F.S.

<sup>77</sup> s. 288.9915, F.S.

<sup>78</sup> s. 288.9913(5), F.S.

<sup>79</sup> s. 288.9913(3), F.S.

<sup>80</sup> See s. 288.9916(1), F.S.

<sup>81</sup> s. 288.9922, F.S.

<sup>82</sup> s. 288.9914(3)(c), F.S.

Qualified community development entities must follow certain time limits relating to qualified investment applications and issuance:<sup>83</sup>

- The department must approve or deny an application for a proposed investment to become a qualified investment within thirty days after receipt. If the department intends to deny an application, the department must inform the applicant of the basis of the proposed denial. The applicant then has fifteen days after it receives such notice to submit a revised application to the department. The department must issue a final order approving or denying the revised application within thirty days after receipt of the revised application.
- A qualified community development entity must issue a qualified investment in exchange for cash within sixty days after it receives the order approving an investment as a qualified investment.
- A qualified community development entity must provide the department with evidence of the receipt of the cash they received in exchange for the qualified investment within thirty business days after receipt.
- Within thirty days after a credit allowance date, a qualified community development entity that has issued a qualified investment shall submit extensive information to the department relating to all investments they made in qualified active low-income community businesses since the last credit allowance date.

Section 288.9918, F.S., requires qualified community development entities that have issued a qualified investment to submit an annual report to the department by January 31 after the end of each year that includes a “credit allowance date,” or date on which a qualified investment is made and the six subsequent anniversaries of that date. In addition, by April 30 after the end of each year that includes a credit allowance date, each qualified community development entity shall submit to the department annual financial statements for the preceding tax year, audited by an independent certified public accountant.<sup>84</sup>

From its inception in Fiscal Year 2009-2010 through Fiscal Year 2015-2016, the New Markets Development Program has allocated \$216 million in tax credits to eighteen community development entities (CDE), with two CDEs having received over half (54%) of all tax credits allocated.<sup>85</sup> Currently, there are no formal criteria for selecting recipients.<sup>86</sup> Prior to Fiscal Year 2013-2014, DEO allocated tax credits on a first-come, first-serve basis, and in Fiscal Year 2014-2015, DEO allocated the same amount of tax credits to each applicant.<sup>87</sup>

In a study released in January 2017, OPPAGA found that the New Markets Development Program projects are primarily located in two counties, with most capital invested in four industries; and that inadequate reporting requirements hamper assessment of program impact.<sup>88</sup>

Section 288.9922, F.S., provides that the New Markets Development Program will expire December 31, 2022.

The ROI for the New Markets Development Program is 0.18. For every dollar spent with this program, the state of Florida only received \$0.18 back in tax revenue.

### **High-Impact Sector Performance Incentive (HIPI)**

The High Impact Performance Incentive (HIPI)<sup>89</sup> grant program is designed to spur capital investment and job creation in designated portions of high-impact sectors including clean energy, life sciences,

---

<sup>83</sup> s. 288.9914(3), F.S.

<sup>84</sup> s. 288.9918(2), F.S.

<sup>85</sup> OPPAGA, Report No. 17-02, Florida Economic Development Program Evaluations-Year 4, p. 16.

<sup>86</sup> *Id.*

<sup>87</sup> *Id.*

<sup>88</sup> *Id.* at 2.

financial services, information technology, silicon technology, transportation equipment manufacturing, or a corporate headquarters facility. This performance-based cash award is paid in two equal installments, one upon commencement of operations and the other upon commencement of full operations. 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 requirements. Currently, the DEO “certifies” a qualified high impact business for program participation.

An “eligible high-impact business” is a business in one of the high-impact sectors identified by EFI, and certified by DEO, which is making a cumulative investment in the state of at least \$50 million and creating at least fifty new full-time equivalent jobs, or a research and development facility making a cumulative investment of at least \$25 million and creating at least twenty-five new full-time equivalent jobs. Such investment and employment must be achieved in a period not to exceed three years after the date the business is certified as a qualified high-impact business.<sup>90</sup>

DEO reviews the application before the business has made a decision to locate or expand a facility in this state. The business must provide the following information:

- A complete description of the type of facility, business operations, and product or service associated with the project.
- The number of full-time equivalent jobs that will be created by the project and the average annual wage of those jobs.
- The cumulative amount of investment to be dedicated to this project within three years.
- A statement concerning any special impacts the facility is expected to stimulate in the sector, the state, or regional economy and in state universities and community colleges.
- A statement concerning the role the grant will play in the decision of the applicant business to locate or expand in this state.
- Any additional information requested by the department.<sup>91</sup>

Amounts of the awards vary based on certain guidelines used by DEO in conjunction with other relevant applicant impact and cost information and analysis. The awards can range anywhere from \$500,000 for a cumulative investment of \$50 million and creating 50 jobs to \$12 million for a cumulative investment of \$800 million and creating 800 jobs.<sup>92</sup>

Within ten business days after DEO receives the submitted High-Impact Sector Performance Incentive application, the executive director of DEO must approve or disapprove the application and issue a letter of certification which includes a justification of that decision, unless the business requests an extension of that time. DEO has the authority to grant awards to qualifying High-Impact Sector Performance Incentive projects without approval by the Governor or Legislative Budget Commission (LBC).<sup>93</sup>

In EDR’s most recent review period, only one project received a HIPI payment totaling \$2,500,000 for commencement of operations. The project is in the Television Broadcasting industry and also received a Capital Investment Tax Credit award.<sup>94</sup>

The return on investment for the HIPI Program is 0.05, which mean that for every dollar spent on this program, the state of Florida only received \$0.05 back in tax revenue.<sup>95</sup>

---

<sup>89</sup> s. 288.108, F.S.

<sup>90</sup> s. 288.108(2)(c), F.S.

<sup>91</sup> s. 288.108(5), F.S.

<sup>92</sup> s. 288.108(3)(b), F.S.

<sup>93</sup> s. 288.108(3)-(5), F.S.

<sup>94</sup> Review period: Fiscal Years 2012-13, 2013-14 and 2014-15. *See* EDR, *Economic Evaluation for Select State Economic Development Incentive Programs*, p. 23 (January 2017)



The low return on investment for the program is mainly attributable to the bundled nature of the one qualifying project. It produced 316 jobs, with an average confirmed wage of \$87,000. The jobs and wages produce an estimated output of \$121 million, and the project's confirmed capital investment of was \$138 million. However, the project is bundled with CITC. The HIPI portion of the project accounts for only 1.79 percent of the total incentive package, and as a result, only 1.79 percent of the total output and capital investment.<sup>96</sup>

### Quick Action Closing Fund (QAC)

The Quick Action Closing Fund (QAC) was created in 1999 as a discretionary "deal closing" tool in highly competitive negotiations where the state's traditional incentives are not enough to compel a business to relocate, initiate, or expand a project in Florida<sup>97</sup>. The program was created in reaction to the announcement that the space shuttle program was being discontinued by NASA with expected job losses that would negatively impact families, companies, the state, and regional economies.<sup>98</sup>

Under current law, in order to be eligible for QAC funds a project must meet the following criteria:

- Be in a qualified target industry;
- Have a positive economic benefit ratio of at least 5 to 1;
- 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.

DEO and EFI jointly review applications<sup>99</sup> and determine the eligibility of each project. Waiver of the criteria may be considered under the following criteria:

- Based on extraordinary circumstances;
- In order to mitigate the impact of the conclusion of the space shuttle program; or
- In rural areas of opportunity if the project would significantly benefit the local or regional economy.

DEO is required to evaluate proposals for high-impact business facilities based on the following<sup>100</sup>:

- a description of the type of facility or infrastructure, its operations, and the product or service associated with the facility;
- the number of full-time equivalent jobs that will be created by the facility and the total estimated average annual wages of those jobs;
- the cumulative amount of capital investment to be made in the facility;
- a statement of any special impacts the facility is expected to stimulate in a particular business sector in the state or region or in the state's universities or colleges;
- a statement of the role the award will play in the decision of the company to locate or expand in the state; and
- a report evaluating the quality and value of the company submitting the proposal.

All QAC Fund projects have a performance based contract requiring specific scheduled milestones and annual compliance requirements. The program authorizes sanctions and penalties for failure to perform.

Within seven business days of evaluating a project, DEO must recommend to the Governor that a project be approved or disapproved for an award. The Governor is authorized to award projects less than \$2 million without Legislative approval. For project awards between \$2 million and \$5 million, the

---

<sup>95</sup> *Id.*

<sup>96</sup> *Id.*

<sup>97</sup> s. 288.1088, F.S.

<sup>98</sup> s. 288.1088(1)(b), F.S.

<sup>99</sup> s. 288.061, F.S.

<sup>100</sup> s. 288.1088(3), F.S.

Governor must provide a written description and evaluation of a project award to the chair and vice chair of the LBC at least ten days prior to giving final approval for a project award. Project awards over \$5 million must be approved by the LBC prior to funds being released. Following approval, DEO is required to enter into a contract with the business which specifies the conditions for payment of funds.<sup>101</sup> The contract must include the total amount of funds awarded, the performance conditions for the project,<sup>102</sup> a baseline of current service with a measure of enhanced capability following the project, methodology for measuring performance, the schedule of payments, and sanctions for failure to meet performance conditions.<sup>103</sup>

The program is funded by a specific annual appropriation, and has no cap. DEO reports that \$44.7 million in grant incentives was approved in Fiscal Year 2013-14. Additionally, the report stated that 144 contracts have been executed through June 30, 2014, with 106 active contracts and ten successfully completed contracts.

The ROI for the QAC program is projected at 0.60, which is down from the prior ROI projected at 1.1.<sup>104</sup> For every dollar spent on this discretionary “deal closing” tool for highly competitive negotiations, the state of Florida only received \$0.60 back in tax revenue.

### **Innovation Incentive Program (IIP)**<sup>105</sup>

The Innovation Incentive Program (IIP) was established in 2006 to provide financial resources so that the state can “respond expeditiously to extraordinary economic opportunities and to compete effectively for high-value research and development, innovation business, and alternative and renewal energy projects.” To be eligible for consideration to receive an IIP award, an innovation business, a research and development entity, or an alternative and renewable energy company must submit a written application to DEO before making a decision to locate new operations in the state or expand an existing operation in the state.

To qualify for review by DEO, the applicant must establish that the jobs created by the project must pay an estimated annual wage of at least 130% of the average private sector wage and state awards must be matched by local sources. IIP performance contracts also include a reinvestment requirement, obliging recipients to remit a portion of their royalty revenue back to the state for reinvestment.

DEO is authorized to waive the average wage requirement and the one-to-one match from the local community at the request of EFI, for a project located in a rural area, a brownfield area, or an enterprise zone, when the merits of the individual project or the specific circumstances in the community in relationship to the project warrant such action.

DEO must make a recommendation to the Governor to approve or deny an Innovation Incentive Program award. If the project is recommended, DEO must include in their recommendation proposed performance conditions that the applicant must meet in order to obtain incentive funds and any other conditions that are required to be met before the receipt of any incentive funds. The Governor must approve or deny the award based on the valuation and recommendation received from DEO, and consult with the President of the Senate and the Speaker of the House of Representatives prior to approving an award. The funds may not be released until the award has been reviewed and approved by the LBC.

---

<sup>101</sup> s. 288.1088(3)(d), F.S.

<sup>102</sup> Performance conditions include net new employment in the state, average salary, and total capital investment. *See* s. 288.1088(3)(d), F.S.

<sup>103</sup> s. 288.1088(3)(d), F.S.

<sup>104</sup> EDR, Economic Evaluation for Select State Economic Development Incentive Programs, p. 2 (January 2017)

<sup>105</sup> s. 288.1089, F.S.

Upon approval, DEO and the award recipient must enter into an agreement that specifies the amount of the award, the performance conditions and measures, and a schedule of payments and sanctions for failure to comply with performance conditions, including claw back provisions. Agreements signed on or after July 1, 2009, must also include, among other things, provisions related to job creation, reinvestment of royalty revenues, reporting requirements, and a process for amending the agreement.

Through Fiscal Year 2015-2016, nine projects have received \$435 million (96%) of the \$456 million in total contracted IIP funds.<sup>106</sup> Most IIP recipients have been unable to achieve job goals and several have left the state prior to contract completion.<sup>107</sup> As of June 30, 2016, program recipients had created less than half of the jobs they committed to create in their contracts.<sup>108</sup>

The ROI for the IIP program is 0.10, which is down from the prior ROI of 0.2.<sup>109</sup> For every dollar spent on this program, the state of Florida only received \$0.10 back in tax revenue.

## **OTHER INCENTIVES**

### **Quick-Response Training for Economic Development (QRT)**

The 1993 Legislature established the QRT Program to meet the workforce needs of existing, new, and expanding industries.<sup>110</sup> The program provides grant funding for customized, skill-based training designed to meet the special requirements of businesses in Florida's qualified target industries.<sup>111</sup> Industry associations from the target industry list may apply for consortium grants to serve multiple businesses in the same industry sector.<sup>112</sup> CareerSource Florida (CSF), the business-led statewide workforce investment board, administers the program.<sup>113</sup>

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/manuals and are reimbursed for a portion of the expenses upon submission of required documentation.

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 CSF 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.<sup>114</sup> 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).

---

<sup>106</sup> OPPAGA, Report No. 17-02, Florida Economic Development Program Evaluations-Year 4, p. 12.

<sup>107</sup> *Id.* at 1.

<sup>108</sup> *Id.* at 13.

<sup>109</sup> EDR, Economic Evaluation for Select State Economic Development Incentive Programs, p. 2 (January 2017)

<sup>110</sup> s. 288.047, F.S. (ch. 93-187, Laws of Fla.)

<sup>111</sup> From Fiscal Year 2011-12 through 2013-14, qualified target industries were aviation and aerospace, life sciences, manufacturing, defense and homeland security, information technology, financial and professional services, logistics and distribution, cleantech, and corporate headquarters.

<sup>112</sup> The consortium grants are intended to fill a need for small companies creating net new jobs. Consortium grant recipients must create a minimum of 10 new jobs.

<sup>113</sup> Prior to 2014, CSF was known as Workforce Florida, Inc. CSF is administratively housed within the Department of Economic Opportunity. In addition to administering the QRT and the Incumbent Worker Training training programs, CSF provides policy oversight and designs strategies to address statewide workforce needs and oversees 24 regional workforce boards around the state.

<sup>114</sup> s. 288.047(3), F.S. The 2000 Legislature created the allocation of 5% for fiscal agents via ch. 2000-165, Laws of Florida. This allocation is used solely for indirect costs.

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.

In order to qualify for QRT a company must<sup>115</sup>:

- Be “for profit” and create new, permanent, full-time (35+ hours per week) jobs for workers requiring customized entry-level skills training not available at the local level.
- Create new, full-time, permanent, high-quality jobs in qualified target industries.
- Require non-degree, specialized skill-based training of 24 months or less not available at the local level.
- Create high-quality jobs paying an average annual wage of at least 115% of local or state private sector wages, whichever is lower.
  - Exception: For businesses located in a distressed urban or rural community, enterprise/empowerment zone, or brownfield area, average annual wage means the average, for a 12-month period or, if less than a 12-month period, converted to a 12-month period, of actual wages.
- Produce an exportable (beyond regional markets) good.
- Provide sufficient documentation for identification of all participants that would allow access through the automated student databases pursuant to s. 288.047(5)(e), F.S., or electronic listings by social security number for calculation of performance measures, and any other outcomes as specified in s.1008.39, F.S., or deemed pertinent to CareerSource Florida.
- May not qualify for funding if relocating from one Florida community to another Florida community.

The ROI for the QRT program was 0.09.<sup>116</sup> For every dollar spent on this program, the state of Florida received \$0.09 back in tax revenue.

## **Economic Gardening**

In 2009, the Florida Legislature created the “Economic Gardening Technical Assistance Pilot Program” and “Economic Gardening Business Loan Pilot Program” to stimulate investment in Florida’s economy by providing technical assistance and loans to expanding businesses in the state, respectively.<sup>117</sup>

The technical assistance program provides an avenue through which eligible companies can receive counseling services, access to technology and information, marketing services and advice, business management support, and other similar services.<sup>118</sup> To carry out the program, DEO contracted with the University of Central Florida (UCF), which in turn established the Florida Economic Gardening Institute or “GrowFL.”<sup>119</sup>

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

- employs at least ten persons but not more than fifty persons;
- has maintained its principal place of business in the state for at least the previous two years;
- generates at least \$1 million but not more than \$25 million in annual revenue;
- qualifies for the tax refund program for qualified target industry businesses under s. 288.106, F.S.; and

---

<sup>115</sup> OPPAGA Report No. 15-11, p. 48

<sup>116</sup> EDR, Economic Evaluation for Select State Economic Development Incentive Programs, p. 2 (January 2017)

<sup>117</sup> ss. 288.1081 and 288.1082, F.S.

<sup>118</sup> s. 288.1082(2), F.S.

<sup>119</sup> DEO, 2015- 2016 Annual Incentives Report Page, p. 19.

- has increased both its number of full-time equivalent employees in this State and its gross revenues during three of the previous five years.<sup>120</sup>

The loan program expired on July 1, 2016.<sup>121</sup>

### **Microfinance Loan Guarantee Program**

The Microfinance Loan Guarantee Program is designed to stimulate access to credit for entrepreneurs and small businesses by providing guarantees for loans made to eligible entrepreneurs and small businesses. Microloan guarantees may be used for any allowable business purpose such as startup costs, working capital, and the acquisition of materials, supplies, furniture, fixtures, and equipment. Loan guarantees cannot exceed 50 percent of the total loan amount, and are limited to loans that range between \$50,000 and \$250,000.

On February 17, 2015, DEO entered into an agreement with EFI, as required in s. 288.9935(3), F.S., for \$2.52 million to administer the loan guarantee program. On June 16, 2015, EFI received an additional allocation of \$2.3 million for the Microfinance Loan Guarantee Program, as a result of the lack of RFP responses for additional Microfinance Loan Program administrators. EFI received a total allocation of \$4.825 million to administer the loan guarantee program.<sup>122</sup>

### **Sports Programs**

#### **International Game Fish Association World Center**

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

In 1996, the Florida Legislature created a funding program for the IGFA to build and maintain its “World Center” facility in Florida.<sup>123</sup> The program required the IGFA to apply for and receive certification from DEO, which the IGFA accomplished in February, 2000.<sup>124</sup>

IGFA received funding after initially meeting the following requirements<sup>125</sup>:

- the IGFA World Center must be the only fishing museum, hall of fame, and international administrative headquarters in the U.S. recognized by the IGFA, and that one or more private sector entities committed to donate to the IGFA land upon which the facility will operate;
- IGFA is a nonprofit Florida corporation that has contracted to construct and operate the facility;
- the municipality or county (if located in an unincorporated area) in which the facility is located has passed a resolution that states the facility serves a public purpose;
- there are existing projections that the facility and co-located privately-owned facilities will attract an attendance of more than 1.8 million annually;
- there is an independent analysis which demonstrates that the amount of sales tax generated by sales at the facility will at least equal \$1 million annually;
- there are existing projections that the project will attract more than 300,000 out-of-state visitors annually;

---

<sup>120</sup> s. 288.1082(4), F.S.

<sup>121</sup> s. 288.1081(10), F.S.

<sup>122</sup> DEO, Microfinance Program Annual Report FY 2015-2016, p. 7-8.

<sup>123</sup> ch. 96-415, Laws of Fla.

<sup>124</sup> OPPAGA, Report No. 15-01, Economic Development Program Evaluations-Year 2, at 52 (Jan. 1, 2015)

<sup>125</sup> s. 288.1169(2), F.S.

- the applicant has submitted an agreement to provide \$500,000 annually in national and international media promotion of the facility during the period of time that it receives state funds;
- documentation exists that demonstrates the applicant has provided, or is capable of providing, more than one-half of the cost related to the improvements and the development of the facility; and
- the application for certification is signed by senior officials of the IFGA and is notarized according to state law.

In addition, Florida law required the World Center to be recertified every ten years by demonstrating that it was open, continued to be the only international administrative headquarters, fishing museum, and hall of fame in the country recognized by the IGFA, and was meeting at least one of the minimum projections established at the time of original certification: 300,000 annual visitors or \$1 million in annual sales tax revenue.<sup>126</sup>

Upon the granting of certification, the Department of Revenue distributed a lump sum payment of \$999,996 to the IGFA and \$83,333 per month thereafter for up to 168 months (for a total of \$13,999,944). The state made its last disbursement to the facility in February 2014,<sup>127</sup> and on March 19, 2015, the IGFA announced that it would be moving its Fishing Hall of Fame and Museum to Springfield, Missouri.<sup>128</sup>

The ROI for the funding program for the IGFA was -0.09.<sup>129</sup> For every dollar spent for this program, the state of Florida lost all of its investment and incurred an additional cost of \$0.09.

### **Florida Sports Foundation (FSF)**

EFI is responsible for assisting and marketing professional and amateur sports teams and sporting events in Florida and is required to create a division to carry out such responsibility.<sup>130</sup> The Florida Sports Foundation, Inc. (FSF) is a 501(c)(3) non-profit corporation, serving as the official sports promotion and development organization for the State of Florida. It is charged with the promotion and development of professional, amateur, and recreational sports, physical fitness opportunities, and assisting communities and host organizations in attracting major and minor sports events to help produce a thriving Florida sports industry and environment.

The 1989, the Legislature provided that the Office of Tourism, Trade, and Economic Development (OTTED) could authorize a “direct support organization” to assist the office with a number of sports related responsibilities. The direct-support organization that ultimately fulfilled such role was the FSF.

In 2011, when Florida lawmakers reorganized certain governmental agencies to create the Department of Economic Opportunity (which, among other responsibilities, took over the operations of OTTED), the statute providing for the direct support organization (s. 288.1229, F.S.) was repealed.<sup>131</sup> EFI continued as the official sports promotion and development organization for the state and the FSF is currently housed within EFI and serves as EFI’s Division of Sports Industry Development. The FSF’s stated mission is to:

- assist communities in the state with securing, hosting, and retaining sporting events that generate economic impact and sports-tourism for the state;

<sup>126</sup> The facility reported an average of \$3.8 million in annual sales tax revenues generated from 2000 through 2010 and received recertification in 2011. OPPAGA, Report No. 15-01, p. 52 (Jan. 1, 2015)

<sup>127</sup> *Id.*

<sup>128</sup> Brian Bandell, *Fishing Hall of Fame and Museum ditching Dania Beach for Missouri*, ORLANDO BUS. J. (March 19, 2015), <http://www.bizjournals.com/southflorida/news/2015/03/19/fishing-hall-of-fame-and-museum-ditching-dania-for.html>

<sup>129</sup> EDR, Return on Investment for the Florida Sports Foundation Grants and Related Programs, p. 2 (January 2015).

<sup>130</sup> ss. 288.901 and 288.9015, F.S.

<sup>131</sup> ch. 2011-142, Laws of Fla.

- 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.

The FSF promotes Florida Spring Training Baseball as a tourist destination for Major League Baseball fans each March, hosting 15 MLB teams at 14 locations throughout the state. In 2016, over 1.5 million fans visited to Florida for Spring Training games, with over 26 million fans attending Florida Spring Training Games since 2000.

### **Professional Sports Franchise Program**

Authorized by the Legislature in 1988, the Professional Sports Franchise incentive is the state’s funding mechanism to attract and retain pro sport franchises in Florida. Since 1991, qualified/certified applicants are eligible for up to \$2 million annually for 30 years. These dollars are pledged with other local government resources to secure bonds to fund the acquisition, construction, reconstruction or renovation of pro sport facilities.

State law provides certification and state funding for new or retained professional sports franchises in Florida to pay for acquiring, constructing, reconstructing, or renovating facilities. DEO is responsible for screening and certifying applicants for state funding, and the FSF provides access to information about the program. Since 1994, the Legislature has allocated state funding for 8 major professional sports facilities; 10 Major League Baseball spring training facilities; and the Professional Golf Hall of Fame.<sup>132</sup>

“New professional sports franchise” means a professional sports franchise that was not based in this state before April 1, 1987. “Retained professional sports franchise” means a professional sports franchise that has had a league-authorized location in this state on or before December 31, 1976, and has continuously remained at that location, and has never been located at a facility that has been previously certified under any provision of this section.<sup>133</sup>

Before certifying an applicant as a facility for a new or retained professional sports franchise, DEO must determine that<sup>134</sup>:

- A “unit of local government” as defined in s. 218.369, F.S., is responsible for the construction, management, or operation of the professional sports franchise facility or holds title to the property on which the professional sports franchise facility is located.
- The applicant has a verified copy of a signed agreement with a new professional sports franchise for the use of the facility for a term of at least 10 years, or in the case of a retained professional sports franchise, an agreement for use of the facility for a term of at least 20 years.
- The applicant has a verified copy of the approval from the governing authority of the league in which the new professional sports franchise exists authorizing the location of the professional sports franchise in this state after April 1, 1987, or in the case of a retained professional sports franchise, verified evidence that it has had a league-authorized location in this state on or before December 31, 1976. As used in this section, the term “league” means the National League or the American League of Major League Baseball, the National Basketball Association, the National Football League, or the National Hockey League.
- The applicant has projections, verified by DEO, which demonstrate that the new or retained professional sports franchise will attract a paid attendance of more than 300,000 annually.

<sup>132</sup> OPPAGA Report No. 16-09, p. 47.

<sup>133</sup> s. 288.1162(3), F.S.

<sup>134</sup> s. 288.1162(4), F.S.

- The applicant has an independent analysis or study, verified by DEO, which demonstrates that the amount of the revenues generated by the taxes imposed under chapter 212 with respect to the use and operation of the professional sports franchise facility will equal or exceed \$2 million annually.
- The municipality in which the facility for a new or retained professional sports franchise is located, or the county if the facility for a new or retained professional sports franchise is located in an unincorporated area, has certified by resolution after a public hearing that the application serves a public purpose.
- The applicant has demonstrated that it has provided, is capable of providing, or has financial or other commitments to provide more than one-half of the costs incurred or related to the improvement and development of the facility.
- An applicant previously certified under any provision of this section who has received funding under such certification is not eligible for an additional certification.

No more than eight facilities can be certified as facilities for a new professional sports franchise or as facilities for a retained professional sports franchise, including in the total any facilities certified by the former Department of Commerce before July 1, 1996, and no more than one certification may be granted for any facility.<sup>135</sup>

Currently, under s. 218.64(3), F.S., counties may use up to \$3 million annually of the local government half-cent sales tax allocated to that county for a number of purposes, including, as specified in s. 218.64(3)(a), F.S., “funding a certified applicant as a facility for a new or retained professional sports franchise under s. 288.1162, F.S., or a certified applicant as defined in s. 288.11621, F.S., for a facility for a spring training franchise.”<sup>136</sup>

Under s. 212.20(6)(b), F.S., DEO distributes<sup>137</sup>:

- \$166,667 monthly to each applicant certified as a facility for a new or retained professional sports franchise pursuant to s. 288.1162, F.S., and
- up to \$41,667 monthly to each certified applicant as defined in s. 288.11621, F.S., for a facility for a spring training franchise.

However, not more than \$416,670 may be distributed monthly in the aggregate to all certified applicants for facilities for spring training franchises. Distributions begin 60 days after such certification and continue for not more than 30 years, except as otherwise provided in s. 288.11621, F.S. A certified applicant identified in this sub-subparagraph may not receive more in distributions than expended by the applicant for the public purposes provided in s. 288.1162(5), F.S., or s. 288.11621(3), F.S.<sup>138</sup>

An applicant certified as a facility for a new or retained professional sports franchise may use funds provided under s. 212.20, F.S., only for the public purpose of paying for the acquisition, construction, reconstruction, or renovation of a facility for a new or retained professional sports franchise to pay or pledge for the payment of debt service on, or to fund debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to, bonds issued for the acquisition, construction, reconstruction, or renovation of such facility or for the reimbursement of such costs or the refinancing of bonds issued for such purposes.<sup>139</sup>

---

<sup>135</sup> s. 288.1162(6), F.S.

<sup>136</sup> s. 218.64(3), F.S.

<sup>137</sup> s. 212.20(6)(a), F.S.

<sup>138</sup> s. 212.20(6)(a), F.S.

<sup>139</sup> s. 288.1162(5), F.S.



To date, eight certified facilities for new or retained professional sports franchises have received funding distributions from DOR. Each facility receives \$166,667 monthly (\$2 million annually) for no more than 30 years, totaling a maximum of \$60 million.<sup>140</sup>

The ROI for the Professional Sports Franchise incentive was 0.30.<sup>141</sup> For every dollar spent on the program, the state of Florida received \$0.30 back in tax revenue.

### Spring Training Baseball Franchise Program

The Spring Training Baseball Franchise incentive is the state's funding mechanism to attract and retain facilities for Major League Baseball (MLB) spring training in Florida. Qualified applicants are eligible for up to \$500,000 annually for up to 30 years. These dollars are typically pledged with designated Tourist Development Tax revenue and other local government resources to secure bonds to fund the acquisition, construction, reconstruction or renovation of spring training facilities.

In 1991, the law establishing incentives to attract professional franchises to the state was significantly revised and expanded to include an incentive for spring training baseball franchises. Certification criteria for the spring training franchise incentive included a commitment by the franchise to use the facility for fifteen years, projections for paid attendance (at least 50,000 annually), demonstration of the financial capability to provide more than one-half of the costs incurred or related to the improvement or development of the facility, proof that the facility was located within 20 miles of an interstate or other limited-access highway system, and a requirement that the county levy a four-percent Tourist Development Tax, with 87.5% of the proceeds dedicated for the construction of the complex.<sup>142</sup> This law also limited the total number of awards for both the professional sports franchises and new spring training franchises to six, and prohibited facilities from receiving more than one award.

In 1999, the Legislature extended the use of the Professional Sports and Additional Professional Sports Tourist Development Taxes to fund debt service on spring training franchise facilities.<sup>143</sup> At that point, no local governments had applied for the incentive. In 2000, the law was amended to limit the incentive to "retained" rather than "new" spring training franchises; delete the requirement that the facility be located within 20 miles of an interstate or other limited-access highway system; establish ranking criteria for awards;<sup>144</sup> and limit the awards to publically-owned facilities, authorized for in-state relocations.<sup>145</sup>

In 2006, the number of authorized awards for spring training facilities was expanded to ten, with the imposition of additional certification criteria. Counties were authorized to use up to \$2 million of their local option half-cent sales tax revenues annually to fund facilities for new or retained professional sports franchises and facilities for retained spring training franchises.<sup>146</sup> Finally, the scope of the incentive was expanded in 2010, to include any spring training franchise rather than only "retained" spring training franchises<sup>147</sup>, and by August 2012, ten facilities were certified for the incentive.<sup>148</sup>

Currently, under s. 218.64(3), F.S., counties may use up to \$3 million annually of the local government half-cent sales tax allocated to that county for a number of purposes, including, as specified in s. 218.64(3)(a), F.S., "funding a certified applicant as a facility for a new or retained

---

<sup>140</sup> EDR, Return on Investment for the Florida Sports Foundation Grants and Related Programs, p. 18-19 (January 2015).

<sup>141</sup> *Id.*

<sup>142</sup> ch. 91-274, Laws of Fla.

<sup>143</sup> ch. 99-287, Laws of Fla.

<sup>144</sup> EDR, Return on Investment for the Florida Sports Foundation Grants and Related Programs, p. 21. (January 2015).

<sup>145</sup> ch. 2000-186, Laws of Fla.

<sup>146</sup> ch. 2006-262, Laws of Fla.

<sup>147</sup> ch. 2010-140, Laws of Fla. (with provisions relating to the spring training incentive were transferred from s. 288.1162 to newly created s. 288.11621, F.S.)

<sup>148</sup> EDR, Return on Investment for the Florida Sports Foundation Grants and Related Programs, p. 21. (January 2015).

professional sports franchise under s. 288.1162, F.S., or a certified applicant as defined in s. 288.11621, F.S., for a facility for a spring training franchise.”<sup>149</sup>

Before certifying an applicant to receive state funding for a facility for a spring training franchise, DEO must verify that<sup>150</sup>:

- The applicant is responsible for the acquisition, construction, management, or operation of the facility for a spring training franchise or holds title to the property on which the facility for a spring training franchise is located.
- The applicant has a certified copy of a signed agreement with a spring training franchise for the use of the facility for a term of at least 20 years. The agreement also must require the franchise to reimburse the state for state funds expended by an applicant under this section if the franchise relocates before the agreement expires. The agreement may be contingent on an award of funds under this section and other conditions precedent.
- The applicant has made a financial commitment to provide 50 percent or more of the funds required by an agreement for the acquisition, construction, or renovation of the facility for a spring training franchise. The commitment may be contingent upon an award of funds under this section and other conditions precedent.
- The applicant demonstrates that the facility for a spring training franchise will attract a paid attendance of at least 50,000 annually to the spring training games.
- The facility for a spring training franchise is located in a county that levies a tourist development tax under s. 125.0104.

Each applicant certified since July 1, 2010, enters into an agreement that<sup>151</sup>:

- Specifies the amount of the state incentive funding to be distributed.
- States the criteria that the certified applicant must meet in order to remain certified.
- States that the certified applicant is subject to decertification if the certified applicant fails to comply with this section or the agreement.
- States that DEO may recover state incentive funds if the certified applicant is decertified.
- Specifies information that the certified applicant must report to DEO.
- Includes any provision deemed prudent by DEO.

A certified applicant may use funds provided under s. 212.20(6)(d)(6)(b), F.S., to:<sup>152</sup>

- Serve the public purpose of acquiring, constructing, reconstructing, or renovating a facility for a spring training franchise.
- Pay or pledge for the payment of debt service on, or to fund debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect thereto, bonds issued for the acquisition, construction, reconstruction, or renovation of such facility, or for the reimbursement of such costs or the refinancing of bonds issued for such purposes.
- Assist in the relocation of a spring training franchise from one unit of local government to another only if the governing board of the current host local government by a majority vote agrees to relocation.

Additionally, state funds awarded to a certified applicant for a facility for a spring training franchise may not be used to subsidize facilities that are privately owned, maintained, and used only by a spring training franchise.<sup>153</sup> The expenditure of state funds distributed to a certified applicant, must begin within 48 months after the initial receipt of the state funds, with the additional requirement of the construction of, or capital improvements to, a spring training facility being completed within 24 months after the project's commencement.<sup>154</sup>

---

<sup>149</sup> s. 218.64(3), F.S.

<sup>150</sup> s. 288.11621(2)(a), F.S.

<sup>151</sup> s. 288.11621(2)(c), F.S.

<sup>152</sup> s. 288.11621(3)(a), F.S.

<sup>153</sup> s. 288.11621(3)(b), F.S.

<sup>154</sup> s. 288.11621(3)(d)(3), F.S.

The ROI for the Spring Training Baseball Franchise program is 0.11. For every dollar spent for this program, the state of Florida only received \$0.11 back in tax revenue.

## Major League Baseball Spring Training Retention Program

Section 288.11631, F.S., authorizes local governments that partner with a spring training baseball franchise to apply for certification from DEO to receive state distributions for the purpose of renovating or constructing a spring training baseball facility.<sup>155</sup>

Certified applicants receive a distribution from state sales tax revenue of up to \$83,333 per month for 20 years for a facility used by a single spring training franchise facility or up to \$166,667 per month for 25 years for a facility used by more than one spring training franchise.<sup>156</sup> The amount of state incentive funding per certified applicant may not exceed \$20 million if the applicant's facility is used by one franchise and \$50 million if the applicant's facility is used by more than one franchise.<sup>157</sup>

Section 288.11631, F.S., which became law in 2013, mostly mirrors the provisions of s. 288.11621, F.S. The differences between the sections include:

- The agreement must be for a minimum of the length of the term of the bonds issued for the construction or renovation of the facility, or if no such bonds are issued, at least 20 years.
- A new agreement may not be signed unless the previous agreement, if any, is within 4 years of expiring.
- There is no limit to the number of applicants which may be certified.
- The net increase in recreational areas represented by the facility is not considered in the evaluation process.
- The amount of state funding provided in the agreement between the applicant and DEO may not exceed \$20 million, or if the applicant hosts 2 or more franchises, \$50 million.
- Funds provided as a result of certification under this section may not be used to acquire or reconstruct a facility, or to assist a franchise in moving from one local government to another.

A recent example of the Spring Training Retention Program is with the City of Lakeland and the Detroit Tigers who reached an agreement on the terms and conditions included in a contract extending the City's relationship with the organization another 20 years. The previous contract signed in 2000 expired December 31, 2016, with the new contract solidifying the Detroit Tigers continuing their Spring Training, their Class A Minor League operations with the Flying Tigers, and programs at Joker Marchant Stadium and the Tigertown Complex through 2036.<sup>158</sup> The State of Florida, through the Spring Training Retention Program is set to fund \$1 million per year for 20 years as part of the total \$37 million to be available for capital improvements to the Joker Marchant Stadium and Tigertown Complex.

## Sports Development Program

In 2014, the Florida Legislature enacted the Sports Development Statute for "[t]he purpose of ... provid[ing] applicants state funding ... for the public purpose of constructing, reconstructing, renovating, or improving a [sports] facility."<sup>159</sup> An applicant qualifying as a new professional sports franchise must be a professional sports franchise that was not based in Florida prior to April 1, 1987. Applicants qualifying as retained professional sports franchises must have had a league-authorized location in the state on or before December 31, 1976, and be continuously located at the location.

---

<sup>155</sup> s. 288.11631(1)-(2), F.S.

<sup>156</sup> s. 212.20(6)(d)(6)(e), F.S.

<sup>157</sup> s. 288.11631(2)(c), F.S.

<sup>158</sup> *City News Blog*, CITY OF LAKELAND (July, 18, 2014),

<https://www.lakelandgov.net/lakelandgovmobilehome/newsblogmobile/tag/spring-training>

<sup>159</sup> s. 288.11625(3), F.S.

The number of certified professional sports franchises, both new and retained, is limited to eight total franchises.

The statute tasks DEO with screening applications and provides two distinct application processes. The general application and approval process, found in s. 288.11625(4), F.S., includes a competitive evaluation and ranking component. The special application process, found in subsection s. 288.11625(11), F.S., modifies the general application and approval process by providing a separate process for any applications for new facilities or projects commenced between March 1, 2013, and July 1, 2014. The special application process specifically omits a competitive evaluation and ranking component and also permits the LBC, rather than the Legislature, to “approve” applications.

Under either application process, it is not the DEO’s role to allocate funding; that is a decision the statute explicitly reserves for the Legislature under the general application process and for the LBC under the special application process. A DEO recommendation under the special application process is not a subjective determination by DEO that an applicant’s project will have a positive economic impact, but is simply a certification that the statutory criteria are met.

Within the statute, any “beneficiary” means a professional sports franchise of the National Football League, the National Hockey League, the National Basketball Association, the National League or American League of Major League Baseball, Minor League Baseball, Major League Soccer, the North American Soccer League, the Professional Rodeo Cowboys Association, the promoter or host of a signature event administered by Breeders’ Cup Limited, or the promoter of a signature event sanctioned by the National Association for Stock Car Auto Racing.<sup>160</sup> A beneficiary may also be an applicant under this section. However, a professional sports franchise of the National League or the American League of Major League Baseball or Minor League Baseball may not be a beneficiary unless, before filing an application under s. 288.11625(3), F.S., it meets specified conditions.

No applications have been approved under this program.

### **Florida Sports Specialty License Plates**

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

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

### **Entertainment Industry Incentives**

#### **Office of Film and Entertainment**

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.<sup>161</sup> The Commissioner of Film and Entertainment is selected through a national search and must meet certain qualifications.

---

<sup>160</sup> s. 288.11625(2)(c), F.S.

<sup>161</sup> s. 288.1251, F.S.; *see also* Florida Office of Film & Entertainment, <http://filminflorida.com/> (last visited February 4, 2017).

The OFE is assisted by the Florida Film and Entertainment Advisory Council (council), which is composed of seventeen 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.<sup>162</sup>

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 five 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.

### Entertainment Industry Incentive Programs

In 2003, the Legislature created the Entertainment Industry Financial Incentive Program,<sup>163</sup> which is a six 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.<sup>164</sup>

Over the six 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.<sup>165</sup>

The OFE reports that all of the tax credits authorized for the six year period have been certified (*allocated to certified productions*).<sup>166</sup> 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.<sup>167</sup> Qualified production companies are exempt from paying sales tax for the following:

- *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).<sup>168</sup>
- *Fabrication labor* when a producer uses his or her own equipment and personnel to produce a qualified motion picture.<sup>169</sup>
- *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.<sup>170</sup>
- *Sale, lease, storage, or use of blank master tapes, records, films, and video tapes.*<sup>171</sup>

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

---

<sup>162</sup> s. 288.1252, F.S.

<sup>163</sup> s. 288.1254, F.S. See ch. 2003-81, Laws of Fla. In 2010, the incentive program was changed from a cash reimbursement type program to the current form. See ch. 2010-147, Laws of Fla.

<sup>164</sup> Also, tax credits may be relinquished to the Department of Revenue for 90% of the amount of the relinquished tax credit.

<sup>165</sup> s. 288.1254(7), F.S. In 2012, an additional year was added to the program. See s. 15, Ch. 2012-32, Laws of Fla.

<sup>166</sup> EDR, Return on Investment for the Entertainment Industry Incentive Programs, p. 5 (Jan. 2015)

<sup>167</sup> s. 288.1258, F.S.

<sup>168</sup> s. 212.031(1)(a)(9), F.S.

<sup>169</sup> Section 212.06(1)(b), F.S., provides a definition of the term "qualified motion picture" for purposes of ch. 212, F.S.

<sup>170</sup> s. 212.08(5)(f), F.S.

<sup>171</sup> s. 212.08(12), F.S.

The ROI for the Entertainment Industry Financial Incentive Program was 0.43.<sup>172</sup> For every dollar spent on this program, the state of Florida received \$0.43 back in tax revenue. Additionally, the ROI for the Entertainment Industry Sales Tax Exemption was 0.54.<sup>173</sup> For every dollar spent on this program providing tax credits for qualified expenditures related to filming and production activities in Florida, the state of Florida received \$0.54 back in tax revenue.

## **Other Programs**

### **Florida Opportunity Fund**

In 2007, the Legislature found that there was a need to increase the availability of seed capital and early stage venture equity capital for emerging Florida companies in targeted industries. In response to this need, the Legislature passed the Florida Capital Formation Act.<sup>174</sup> The act provided for the creation of the Florida Opportunity Fund (FOF), which was launched in 2008, initially as a fund of funds program. In 2009, the Legislature expanded the FOF's mandate under the Capital Formation Act to create direct investment programs that invest in businesses and infrastructure projects.<sup>175</sup>

FOF is a consolidated unit of EFI, and EFI appoints a five-member board of directors to govern the FOF. The individuals selected for the board serve without compensation and have expertise in the selection and supervision of early stage investment managers or in the fiduciary management of investment funds.<sup>176</sup>

To manage the fund, the FOF contracts with Florida First Partners, a joint venture between Arsenal Venture Partners and Grosvenor Capital Management's Customized Fund Investment Group.<sup>177</sup> Florida First Partners provides the FOF with investment advisory services. In this capacity, the fund manager must evaluate the suitability of possible investments, perform due diligence on venture capital firms and direct investment candidates, ensure proper allocation of funds across FOF programs, and measure the performance of individual investments and the fund at large. As of June 30, 2013, EFI has paid Florida First Partners fund management fees of approximately \$4.7 million.<sup>178</sup>

The Capital Formation Act authorized the creation of the FOF, which as of June 30, 2013, was funded with approximately \$103.9 million from state and federal sources. These funds support three programs: Fund of Funds, Clean Energy Investment, and Florida Venture Capital. The Legislature appropriated \$29.5 million to the Fund of Funds Program, while the federal government provided \$74.4 million for direct investments in the Clean Energy Investment Program and Florida Venture Capital Program.<sup>179</sup>

State law requires that the FOF invest in venture capital funds that are either based in the state, have a record of successful investments in the state, or have an office in the state staffed with a full-time professional investment executive. Similarly, federal law requires that all direct investments through

---

<sup>172</sup> EDR, Return on Investment for the Entertainment Industry Incentive Programs, p. 5 (Jan. 2015)

<sup>173</sup> *Id.*

<sup>174</sup> s. 288.9621, F.S.

<sup>175</sup> OPPAGA, Status of Florida Opportunity Fund Investments, p. 1 (August 13, 2014)

<sup>176</sup> *Id.*

<sup>177</sup> The FOF issued an RFP for Venture Capital Investment Advisory Services in 2008. Firms were required to submit a proposal to EFI providing information regarding the firm's level of experience, quality of management, investment philosophy and process, provable success in fundraising, prior investment fund results, and plan for achieving the purposes of the Capital Formation Act.

<sup>178</sup> *Id.* The fund manager may also receive a percentage of the realized gains from fund investments if the return exceeds the aggregate invested capital.

<sup>179</sup> *Id.* at 2. The Legislature established the Fund of Funds Program in 2008 following the passage of the Capital Formation Act. In subsequent years, the Clean Energy Investment Program and Florida Venture Capital Program were established and funded with federal American Recovery and Reinvestment Act and State Small Business Credit Initiative funds, respectively.

the Clean Energy Investment Program and Florida Venture Capital Program be awarded to companies with a Florida nexus.

The following table provides an overview of the three programs, including funding sources and total investments made as of June 30, 2013:<sup>180</sup>

| Program (Inception)            | Purpose  | Funding/Source  | Investments   |
|--------------------------------|--|---|---|
| The Fund of Funds (2008)       | Realize significant long-term capital appreciation by identifying and investing in a diversified, high-quality portfolio of seed and early stage venture capital funds that target investment opportunities within Florida | \$29.5 million / State appropriation                                  | As of June 30, 2013, \$27 million had been committed to eight venture capital funds; \$11.8 had been funded.                                    |
| Clean Energy Investment (2010) | Promote the adoption of energy efficient or renewable energy products and technologies in Florida by providing funding to businesses to increase the use of such technologies, equipment, and materials in the state       | \$32.5 million / Federal American Recovery and Reinvestment Act funds | As of June 30, 2013, eight direct investment commitments had been made, fully committing the program's funding; \$20.2 million had been funded. |
| Florida Venture Capital (2011) | Provide direct investments to qualifying Florida businesses to increase the amount of capital available to small businesses  | \$41.9 million / Federal State Small Business Credit Initiative funds | As of June 30, 2013, \$39.9 million had been committed to nine direct investments; \$14.2 million had been funded.                              |

In 2016, OPPAGA reviewed the FOF and found that fund annual reports have not adequately addressed statutory information requirements, including businesses or jobs created, industry growth, or additional capital leveraged. The report noted that the FOF's fund manager was unable to provide OPPAGA information needed to fully evaluate the progress of business growth for projects funded through direct investments. To address these concerns, the FOF agreed to improve reporting to incorporate OPPAGA feedback and ensure consistent and accurate reporting of all statutorily-required information.<sup>181</sup>

### The Florida Institute for the Commercialization of Public Research

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

- maintain a centralized location to showcase companies and their technologies and products;
- develop an efficient process to inventory and publicize companies and products that have been accepted by the institute for commercialization;
- routinely communicate with private investors and venture capital organizations regarding the investment opportunities in its showcased companies;
- facilitate meetings between prospective investors and eligible organizations in the institute;
- hire full-time staff who understand relevant technologies needed to market companies to the angel investors and venture capital investment community; and
- develop cooperative relationships with publicly supported organizations all of which work together to provide resources or special knowledge that is likely to be helpful to institute companies.<sup>182</sup>

<sup>180</sup> *Id.*

<sup>181</sup> OPPAGA, Report No. 16-09, p.46

<sup>182</sup> s. 288.9625(8), F.S.

## Florida Technology Seed Capital Fund

In 2013, the Legislature directed the Institute for the Commercialization of Public Research to create the Florida Technology Seed Capital Fund as a corporate subsidiary<sup>183</sup> for the following purposes:

- foster greater private-sector investment funding,
- encourage seed-state investments in start-up companies, and
- advise companies on the restructuring of existing management, operations, or production in order to attract greater business opportunities.<sup>184</sup>

The Institute is responsible for the administration of the Fund, and is directed to establish an advisory board consisting of venture capitalists and early stage investors to advise and guide the Fund in addition to making funding recommendations. Administrative fees associated with the Fund are determined by the advisory board. The state is required to annually evaluate the activities and results of the funding.

The Institute is required to use a thorough and detailed process modeled after the best practices of the investment industry to evaluate each proposal. To approve a company for investment, the Institute must consider if:

- The company has a strong intellectual property position, capable management team, readily identifiable paths to market or commercialization, significant job-growth potential, the ability to provide other sources of capital to leverage the state's investment, and the potential to attract additional funding.
- The company has been identified by a publicly funded research institution.
- The company operates in a targeted industry.<sup>185</sup>
- The company has been identified by an approved private-sector lead investor who has demonstrated due diligence typical of start-up investments in evaluating the potential of the company.
- The advisory board and fund manager have reviewed the company's proposal and recommend it.

The Fund may make an investment if a company is approved for funding by the Institute and:

- The individual investment range is between \$50,000 and \$300,000.
- The total invested in a single company does not exceed \$500,000.
- There is a one-to-one match of private-sector investment for seed fund investments up to \$300,000. There is a two-to-one match of private sector investment for seed fund investments over \$300,000.

Additionally, s. 288.92655(6), F.S., provides that the Institute may:

- Provide a company with value-added support services in the areas of business plan development and strategy, the preparation of investor presentations, and other critical areas identified by the Institute to increase its chances for long-term viability and success.
- Encourage appropriate investment funds to become preapproved to match investment funds.
- Market the attractiveness of the state as an early-stage investment location.
- Collaborate with state economic development organizations, national associations of seed and angel funds, and other innovation-based associations to create an enhanced state entrepreneurial ecosystem.

The Institute is required to annually evaluate the activities and results of the funding, taking into consideration that seed investment horizons span anywhere from 3 to 7 years.<sup>186</sup>

---

<sup>183</sup> ch. 2013-120, Laws of Fla.

<sup>184</sup> s. 288.92655, F.S.

<sup>185</sup> section 288.106(2)(q), F.S.; defined broadly by Enterprise Florida, Inc., as cleantech, life sciences, information technology, aviation/aerospace, logistics and distribution, defense and homeland security, and financial/professional services.

<sup>186</sup> s. 288.92655(7), F.S.



## Economic Development Transportation Projects (Road Fund)

The Economic Development Transportation Projects (Road Fund) is a grant fund administered by the Department of Transportation (DOT). Section 339.2821, F.S., provides for DOT, in consultation with DEO and EFI, to make and approve expenditures and contract with governmental bodies<sup>187</sup> for the direct costs of transportation projects<sup>188</sup>.

DOT, in consultation with DEO, reviews each transportation project for approval and funding. Transportation projects must be deemed “necessary to facilitate the economic development and growth of the state”<sup>189</sup> and the review must consider:

- The cost per job created or retained considering the amount of transportation funds requested;
- The average hourly rate of wages for jobs created;
- The reliance on any program as an inducement for determining the transportation project’s location;
- The amount of capital investment to be made by a business;
- The demonstrated local commitment;
- The location of the transportation project in an enterprise zone as designated in s. 290.0055, F.S.;
- The location of the transportation project in a spaceport territory as defined in s. 331.304, F.S.;
- The unemployment rate of the surrounding area; and
- The poverty rate of the community.<sup>190</sup>

DOT must approve a transportation project if it determines that the project will:

- Attract new employment opportunities to the state or expand or retain employment in existing companies operating within the state.
- Allow for the construction or expansion of a state or federal correctional facility in a county having a population of 75,000 or fewer which creates new employment opportunities or expands or retains employment in the county.<sup>191</sup>

The Road Fund is funded by the State Transportation Trust Fund.<sup>192</sup> The amount appropriated for this transfer varies from year to year. In 2012, the Legislature repealed s. 288.063, F.S., where the Road Fund was statutorily placed, and created s. 339.2821, F.S.<sup>193</sup> The revisions did not change the purpose of the Road Fund, but moved oversight of the fund from the DEO to DOT.<sup>194</sup>

Funds for approved transportation projects may be used for expenses that are necessary for building new, or improving existing, transportation facilities, as well as administrative costs and equipment purchases specified in the contract. Funds may not be expended for the relocation of a business from one community to another community within the state unless DOT determines that, without the relocation, the business will move outside the state or determines that the business has a compelling

---

<sup>187</sup> Section 339.2821(1)(b)2., F.S. defines “Governmental body” as an instrumentality of the state or a county, municipality, district, authority, board, or commission, or an agency thereof, within which jurisdiction the transportation project is located and which is responsible to the department for the transportation project. Section 339.2821(2), F.S. provides that Space Florida may serve as the governmental body or as the contracting agency for a project within a spaceport territory.

<sup>188</sup> s. 339.2821, F.S.

<sup>189</sup> s. 339.2821(1)(b)2., F.S.

<sup>190</sup> s. 339.2821(2), F.S.

<sup>191</sup> s. 339.2821(3)(a), F.S.

<sup>192</sup> s. 339.08(1)(f), F.S.

<sup>193</sup> ch. 2012-128, Laws of Fla.

<sup>194</sup> Budget Committee Final Analysis of SB 1998 (2012)

economic reason for the relocation, such as creating additional jobs.<sup>195</sup> Approved projects are terminated if construction does not begin within four years after the date of the initial grant award.

### **The Florida Small Business Development Center Network (SBDC)<sup>196</sup>**

SBDC provides entrepreneurial and business development services to support Florida's economic development by assisting entrepreneurs in every stage of the business life cycle. SBDC provides professional expertise, tools, and information to small businesses to support business decisions in a complex and ever-changing marketplace. SBDC is operated by a Board, which represents various segments and industries of the economy in Florida, bringing knowledge and skills that enhance the board's collective knowledge of small business assistance needs and challenges.

### **Florida Small Business Technology Growth Program (SBTGP)<sup>197</sup>**

SBTGP is a subset of EFI that provides financial assistance to businesses in this state having high job growth and emerging technology potential and fewer than 100 employees. SBTGP and its associated nonprofit<sup>198</sup> are under the guidance of EFI. EFI must establish and monitor a separate small business technology growth account in the Florida Technology Research Investment Fund for the Florida SBTGP. This fund consists of appropriations by the Legislature, proceeds of any collateral used to secure such assistance, transfers, fees assessed for providing or processing such financial assistance, grants, interest earnings, and earnings on financial assistance.

## **International Trade & Development**

### **Export Assistance Program**

The International Trade & Development division within EFI offers export assistance to Florida businesses. The Export Assistance Program assists Florida firms that seek to export goods and services to international markets with activities, including grants, scholarships, and miscellaneous services. The assistance is primarily directed towards small to mid-sized businesses that have little or no history in exporting.

The Export Assistance Program provides many services including, maintaining Florida's Export Directory; maintaining international trade statistics; promoting and supporting international trade shows and trade missions; providing trade grants; and providing an Export Marketing Plan Scholarship.

Florida's Export Assistance Program offers a variety of export-related services and grants for small to medium-sized businesses. Available grants and scholarships include<sup>199</sup>:

- **Target Sector Grants**  
Eligible companies may be reimbursed up to \$6,000 for expenses at qualified trade shows or exhibitions around the world. To qualify, the company must be in one of the following target sectors: Aviation & Aerospace, Clean Energy, Homeland Security & Defense, Life Sciences, Marine Industry, Professional Services (Healthcare, Architecture/Engineering, Software Development), or Manufacturing.
- **Gold Key/Matchmaker Grants**  
Companies are provided an opportunity to meet with pre-screened and pre-qualified potential buyers, importers, agents, and others with an interest in the companies' products or services. The grant covers up to \$1,000 for the cost of the matchmaking services. To qualify, the firm

---

<sup>195</sup> s. 339.2821(3)(c), F.S.

<sup>196</sup> s. 288.001, F.S.

<sup>197</sup> s. 288.95155, F.S.

<sup>198</sup> s. 288.9519, F.S.

<sup>199</sup> EDR, Return-on-Investment for International Trade and Business Development Programs, p. 19 (December 2015)

must be in a qualified target sector (same as Target Sector Trade Grants) and either a new exporter, new to the interested foreign market, or an infrequent exporter (i.e., less than 50 export shipments per year).

- Export Marketing Plan Scholarship

Eligible companies receive a \$3,530 grant to cover the cost of a customized export marketing plan done by a Small Business Development International Trade Specialist. The export marketing plan provides the company with an in-depth strategic assessment of the firm's export opportunities. The company must be an infrequent exporter to qualify and personally cover \$500 of the cost of the plan.

In addition to the grant and scholarship programs, the Export Assistance Program includes a variety of technical assistance to Florida firms looking to export, including helping a company find a distributor or sales representative, aiding in the resolution of regulatory issues, assisting with licensing, and preparing a Certificate of Free Sale or Certificate of Good Manufacturing for exporting firms.<sup>200</sup>

### International Offices Program

Section 288.012, F.S., establishes the International Offices Program to promote foreign direct investment. EFI contracts with 13 full service foreign offices and 2 liaison offices in 13 countries. Full-service foreign offices are located in Brazil, Canada, China, France, Germany, Israel, Japan, Mexico, South Africa, Spain, and the United Kingdom. Liaison offices are located in Taiwan and the Czech Republic.<sup>201</sup>

In a 2015 survey of state trade directors, 40 out of the 50 states collectively operated 199 international offices. The top five countries with U.S. international offices were Germany, Mexico, China, Brazil, and Canada. One role of international offices is to increase state exports into the host country. The international offices can act as intermediaries between domestic businesses and potential international clients by arranging meetings or providing translation services between the companies. The offices also assist domestic companies at international trade shows and provide advice (e.g., trade statistics and market research).<sup>202</sup>

One role of the international offices is attracting foreign direct investment. Foreign direct investment (FDI) is defined as the full or partial ownership by a foreign investor of a business operating in the domestic country. In Florida's case, an FDI example could be a logistics center located in Jacksonville and owned, at least in part, by a German company which has more than a 10% stock in the center. Foreign direct investment can involve either a new business or an established company whose shares are bought by a foreign company. In 2012, the total stock of FDI in the United States was at \$3.9 trillion dollars, with an annual net positive inflow of \$166 billion dollars. In 2012, an estimated 245,000 Florida jobs were affiliated with companies that were either fully or partially foreign-owned.<sup>203</sup>

EFI receives about \$6.6 million each year to support international trade and development activities; payroll and foreign office contracts comprise the largest portion of expenditures. EFI's International Trade and Development unit received \$6.6 million in funding for Fiscal Year 2016-17. The Legislature allocates funds for the unit from the Florida International Trade and Promotion Trust Fund, which receives 4.25% of the state's rental car surcharge tax.

---

<sup>200</sup> *Id.* Certificate of Free Sale or Certificate of Good Manufacturing are documents that indicate that the exporting products are legally sold or distributed in the open market and approved by the regulatory authorities in the country of origin.

<sup>201</sup> EDR, Return-on-Investment for International Trade and Business Development Programs, p. 22 (December 2015)

<sup>202</sup> *Id.*

<sup>203</sup> EDR, Return-on-Investment for International Trade and Business Development Programs, p. 22 (December 2015)

## **Trust Funds**

### **Economic Development Trust Fund<sup>204</sup>**

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.<sup>205</sup>

### **The State Economic Enhancement and Development Trust Fund<sup>206</sup>**

The trust fund was created for the purpose of infrastructure and job creation opportunities and for the following purposes or programs:

- Transportation facilities that meet a strategic and essential state interest with respect to the economic development of the state;
- Affordable housing programs and projects in accordance with chapter 420, F.S.;
- Economic development incentives for job creation and capital investment;
- Workforce training associated with locating a new business or expanding an existing business; and
- Tourism promotion and marketing services, functions, and programs.

The trust fund receives documentary stamp tax proceeds as specified in law, local financial support funds, interest earnings, and cash advances from other trust funds. Funds are expended only pursuant to legislative appropriation or an approved amendment to DEO's operating budget pursuant to the provisions of chapter 216, F.S.

### **Tourism Promotional Trust Fund<sup>207</sup>**

Moneys deposited in the Tourism Promotional Trust Fund may only be used to support the authorized activities and operations and the tourism promotion and marketing activities, services, functions, and programs administered by EFI, through a contract with VISIT Florida. The Tourism Promotional Trust Fund receives 15.75% of the state's rental car surcharge tax.<sup>208</sup>

### **Florida International Trade and Promotion Trust Fund<sup>209</sup>**

The Florida International Trade and Promotion Trust Fund is administered by DEO for the operation of EFI and for the operation of Florida international offices under s. 288.012, F.S. The Florida International Trade and Promotion Trust Fund receives 4.25% of the state's rental car surcharge tax.<sup>210</sup>

## **Return on Investment (ROI)**

The Legislature has directed the Office of Economic and Demographic Research (EDR) and the Office of Program Policy Analysis and Government Accountability (OPPAGA) to analyze and evaluate 21 state economic development incentive programs on a recurring three-year schedule.<sup>211</sup>

---

<sup>204</sup> s. 288.095, F.S.

<sup>205</sup> s. 288.095, F.S.

<sup>206</sup> s. 288.1201, F.S.

<sup>207</sup> s. 288.122, F.S.

<sup>208</sup> s. 212.0606(3)(a), F.S.

<sup>209</sup> s. 288.826, F.S.

<sup>210</sup> s. 212.0606(3)(a), F.S.

<sup>211</sup> s. 288.0001, F.S.

As part of their evaluation, EDR calculates the state's return on investment (ROI)<sup>212</sup> in addition to reporting the impact on the key economic variables. In their most recent report,<sup>213</sup> EDR reviewed the following programs for Fiscal Years 2012-13, 2013-14 and 2014-15:

- The Capital Investment Tax Credit (CITC) established under s. 220.191, F.S.;
- The Qualified Target Industry Tax Refund (QTI) established under s. 288.106, F.S.;
- The Brownfield Redevelopment Bonus Refund (BFR) established under s. 288.107, F.S.;
- High-Impact Business Performance Grants (HIPI) established under s. 288.108, F.S.;
- The Quick Action Closing Fund (QACF) established under s. 288.1088, F.S.;
- The Innovation Incentive Program (IIP) established under s. 288.1089, F.S.;
- Enterprise Zone Program (EZ) incentives established under ss. 212.08(5) and (15), F.S.; and
- The New Markets Development Program established under ss. 288.991-288.9922, F.S..<sup>214</sup>

| <b>Return On Investment Analyses</b>                                    |                        |                      |  |
|---|------------------------|----------------------|--|
| <b>Conducted by the Office of Economic and Demographic Research</b>     |                        |                      |  |
| <b>Ranked Incentives and Investments</b>                                | <b>CURRENT<br/>ROI</b> | <b>PRIOR<br/>ROI</b> | <b>STATUS</b>  |
| Florida Sports Foundation Grant Program                                 | 5.6                    |                      | More than Breaks Even<br>(State makes money from the investment)           |
| Economic Evaluation of Florida's Investment in Beaches                  | 5.4                    |                      |  |
| Qualified Target Industry (QTI)   | 4.4                    | 6.4                  |  |
| International Offices Program   | 4.0                    |                      |  |
| VISIT FLORIDA Advertising   | 3.2                    |                      |  |
| Transportation: Seaports Program Area                                   | 2.7                    |                      |  |
| Export Assistance Program   | 1.9                    |                      |  |
| Transportation: Aviation Program Area                                   | 1.7                    |                      | Does Not Break Even<br>(however, the State recovers a portion of the cost) |
| Quick Action Closing Fund (QACF)  | 0.60                   | 1.1                  |  |
| Entertainment Industry Sales Tax Exemption (STE)                        | 0.54                   |                      |  |
| Capital Investment Tax Credit (CITC)                                    | 0.43                   | 2.3                  |  |
| Entertainment Industry Financial Incentives Program (Tax Credit or FTC) | 0.43                   |                      |  |
| Brownfield  | 0.30                   | 1.1                  |  |
| Professional Sports Franchise Incentive                                 | 0.30                   |                      |  |
| Transportation: Roads & Highways  | 0.19                   |                      |  |
| New Markets Development Program   | 0.18                   |                      |  |
| Spring Training Baseball Franchise Incentive                            | 0.11                   |                      |  |
| Innovation Incentive Program (IIP)                                      | 0.10                   | 0.20                 |  |
| Quick Response Training Program   | 0.09                   |                      |  |
| Urban High-Crime Area Job Tax Credit                                    | 0.07                   |                      |  |
| Transportation: Public Transit  | 0.05                   |                      |  |
| High-Impact Sector Performance Grant (HIPI)                             | 0.05                   | 0.70                 |  |
| Transportation: Rails   | 0.02                   |                      |  |
| Enterprise Zones  | -0.05                  |                      | State Loses All of Its Investment<br>(plus incurs additional costs)        |
| Professional Golf Hall of Fame Facility Incentive                       | -0.08                  |                      |  |
| International Game Fish Association World Center Facility Incentive     | -0.09                  |                      |  |

## **Effect of Proposed Changes**

### **Repeals**

The bill repeals the following sections of Florida Statutes:

|          |  |
|----------|--|
| 20.601   | Agency Review; Department of Economic Opportunity. |
| 212.0602 | Education; limited exemption.                      |
| 212.097  | Urban High-Crime Area Job Tax Credit Program.      |
| 220.1899 | Entertainment industry tax credit.                 |

<sup>212</sup> In this report, the term Return on Investment is synonymous with economic benefit, and is used in lieu of the statutory term.

<sup>213</sup> EDR, Economic Evaluation for Select State Economic Development Incentive Programs, Revised (January 2017)

<sup>214</sup> With the exception of the Florida New Markets Development Program, this is EDR's second evaluation of these programs. The previous report and several presentations related to the findings of the first report can be found at EDR's website:

<http://edr.state.fl.us/Content/returnoninvestment/>

|                |  |
|----------------|--|
| 220.191        | Capital investment tax credit.   |
| 288.001        | Florida Small Business Development Center Network.                                   |
| 288.012        | State of Florida international offices, state protocol officer, and protocol manual. |
| 288.046        | Quick-response training for economic development.                                    |
| 288.1045       | Qualified defense contractor and space flight business tax refund program.           |
| 288.106        | Tax Refund Program for Qualified Target Industry Businesses.                         |
| 288.107        | Brownfield Redevelopment Bonus Refunds.  |
| 288.108        | High-Impact Business Program.  |
| 288.1081       | Economic Gardening Business Loan and Technical Assistance Pilot Programs.            |
| 288.1088       | Quick Action Closing Fund.   |
| 288.1089       | Innovation Incentive Program.  |
| 288.1162       | Professional Sports Franchises.  |
| 288.11621      | Spring Training Baseball Franchises.   |
| 288.11625      | Sports development.  |
| 288.11631      | Retention of Major League Baseball Spring Training Baseball Franchises.              |
| 288.1169       | International Game Fish Association World Center facility.                           |
| 288.1201       | State Economic Enhancement and Development Trust Fund.                               |
| 288.122        | Tourism Promotional Trust Fund.  |
| 288.125--.1258 | Entertainment Industry Programs.   |
| 288.826        | Florida International Trade and Promotion Trust Fund.                                |
| 288.90-9614    | Enterprise Florida, Inc.   |
| 288.95155      | Florida Small Business Technology Growth Program.                                    |
| 288.9621       | Florida Capital Formation Act.   |
| 288.96255      | Florida Technology Seed Capital Fund.  |
| 288.9624       | Florida Opportunity Fund.  |
| 288.9625       | Institute for the Commercialization of Public Research.                              |
| 288.991--.9922 | New Markets Development Program Act.   |
| 288.9935       | Microfinance Guarantee Program.  |
| 339.2821       | Economic development transportation projects.  |
| 625.3255       | Capital participation instrument.  |

## Transfers to DEO

The bill eliminates EFI and provides that all duties, functions, records, pending issues, existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other public funds relating to the programs in EFI are transferred by a type two transfer to DEO.

The bill provides that VISIT Florida may enter into an agreement with DEO to continue any existing program, activity, duty, or function necessary for operation of the foundation and that any funds held in trust for the corporation may be used for the purpose for which the funds were received.

The bill provides that the Florida Sports Foundation may enter into an agreement with DEO to continue any existing program, activity, duty, or function necessary for operation of the foundation and that any funds held in trust for the foundation may be used for the purpose for which the funds were received.

## Trust Funds

The bill terminates the following trust funds:

- The State Economic Enhancement and Development Trust Fund (s. 288.1201, F.S.)
- Tourism Promotional Trust Fund (s. 288.122, F.S.)
- The Florida International Trade and Promotion Trust Fund (s. 288.826, F.S.)

The bill provides that all current balances remaining in, and all revenues of, the trust funds shall be transferred to the General Revenue Fund.

The bill provides that DEO shall pay any outstanding debts and obligations of the terminated funds as soon as practicable, and the Chief Financial Officer shall close out and remove the terminated funds from various state accounting systems using generally accepted accounting principles concerning warrants outstanding, assets, and liabilities.

The portion of the rental car surcharge tax formerly deposited in the Florida International Trade and Promotion Trust Fund and the portion of the rental car surcharge tax formerly deposited in the Tourism Promotional Trust Fund are redirected to general revenue. The portion of the documentary stamp tax proceeds formerly deposited in the State Economic Enhancement and Development Trust Fund are redirected to general revenue.

### Transitional Provision

The bill provides that certified incentive projects currently in existence will be allowed to continue in accordance with the terms of the contract or agreement with DEO for the following programs:

- The Urban High-Crime Area Job Tax Credit Program (s. 212.097, F.S.)
- The Entertainment Industry Tax Credit (s. 220.1899, F.S.)
- The Capital Investment Tax Credit (s. 220.191, F.S.)
- Quick-Response Training for Economic Development (288.047, F.S.)
- The Qualified Defense Contractor and Space Flight Business Tax Refund Program (s. 288.1045, F.S.)
- The Tax Refund Program for Qualified Target Industry Businesses (s. 288.106, F.S.)
- Brownfield Redevelopment Bonus Refunds (s. 288.107, F.S.)
- The High-Impact Business Program (s. 288.108, F.S.)
- The Economic Gardening Business Loan and Technical Assistance Pilot Programs (ss. 288.1081 and 288.1082, F.S.)
- The Quick Action Closing Fund (s. 288.1088, F.S.)
- The Innovation Incentive Program (s. 288.1089, F.S.)
- Professional Sports Franchises (s. 288.1162, F.S.)
- Spring Training Baseball Franchises (s. 288.11621, F.S.)
- Sports Development (s. 288.11625, F.S.)
- The Retention of Major League Baseball Spring Training Baseball Franchises (s. 288.11631, F.S.)
- The New Markets Development Program Act (s. 288.9916, F.S.) and
- Economic Development Transportation Projects (s. 339.2821, F.S.).

The bill provides that no new or additional applications, certifications, contracts, agreements, or awards will be made, approved, issued, or executed. All certifications are rescinded except for those certified applicants or projects that continue to meet the criteria in effect before July 1, 2017. Existing contracts and agreements will continue in full force and effect in accordance with the statutory requirements in effect when the contract or agreement was executed or last modified. Except for computations made by the Department of Revenue relating to the income generated by or arising out of the qualifying project, no further modifications, extensions or waivers may be made or granted.

### B. SECTION DIRECTORY:

|         |   |        |           |  |
|---------|---|--------|-----------|--|
| Section | 1 | Amends | s. 11.45  | Authority for Audits and Other Engagement                  |
| Section | 2 | Amends | s. 14.32  | Office of Chief Inspector General                          |
| Section | 3 | Amends | s. 15.18  | International and Cultural Relations                       |
| Section | 4 | Amends | s. 15.182 | International Travel by State-Funded musical, cultural, or |

|         |    |           |             |  |
|---------|----|-----------|-------------|--|
|         |    |           |             | artistic organizations; notification to the Department of Economic Opportunity   |
| Section | 5  | Amends    | s. 20.60    | Department of Economic Opportunity   |
| Section | 6  | Repeals   | s. 20.601   | Agency Review; Department of Economic Opportunity  |
| Section | 7  | Transfers |             | Type Two transfer of Enterprise Florida, Inc. to Department of Economic Opportunity; authorizing the Florida Sports Foundation and the Florida Tourism Industry Marketing Corporation to enter into agreements with the Department of Economic Opportunity for certain purposes and to use certain funds |
| Section | 8  | Provides  |             | Transitional provisions for terminated programs established pursuant to certain statutes   |
| Section | 9  | Amends    | s. 125.0104 | Taxable privileges; exemptions; levy; rate   |
| Section | 10 | Amends    | s. 159.803  | Definitions  |
| Section | 11 | Amends    | s. 166.231  | Municipalities; public service tax   |
| Section | 12 | Amends    | s. 189.033  | Independent special district services in disproportionately affected county; rate reduction for providers providing economic benefits  |
| Section | 13 | Amends    | s. 196.012  | Definitions  |
| Section | 14 | Amends    | s. 196.101  | Exemption for totally and permanently disabled persons   |
| Section | 15 | Amends    | s. 196.121  | Homestead exemptions; forms  |
| Section | 16 | Amends    | s. 196.1995 | Economic development ad valorem tax exemption  |
| Section | 17 | Amends    | s. 201.15   | Distribution of taxes collected  |
| Section | 18 | Amends    | s. 212.031  | Tax on rental or license fee for use of real property  |
| Section | 19 | Amends    | s. 212.06   | Sales, storage, use tax; collectible from dealers; "dealer" defined; dealers to collect from purchasers; legislative intent as to scope of tax   |
| Section | 20 | Repeals   | s. 212.0602 | Education; limited exemption   |
| Section | 21 | Amends    | s. 212.0606 | Rental car surcharge   |
| Section | 22 | Amends    | s. 212.08   | Sales, rental, use, consumption, distribution, and storage tax; specified exemptions   |
| Section | 23 | Repeals   | s. 212.097  | Urban High-Crime Area Job Tax Credit Program   |
| Section | 24 | Amends    | s. 212.098  | Rural Job Tax Credit Programs  |
| Section | 25 | Amends    | s. 212.20   | Funds collected, disposition; additional powers of department; operational expense; refund of taxes adjudicated unconstitutionally collected   |
| Section | 26 | Amends    | s. 218.61   | Local government half-cent sales tax; designated proceeds; trust fund  |
| Section | 27 | Amends    | s. 218.64   | Local government half-cent sales tax; uses; limitations  |
| Section | 28 | Amends    | s. 220.02   | Legislative intent   |
| Section | 29 | Amends    | s. 220.13   | "Adjusted federal income" defined  |
| Section | 30 | Amends    | s. 220.1895 | Rural Job Tax Credit   |
| Section | 31 | Repeals   | s. 220.1899 | Entertainment industry tax credit  |
| Section | 32 | Repeals   | s. 220.191  | Capital investment tax credit  |
| Section | 33 | Amends    | s. 220.194  | Corporate income tax credits for spaceflight projects  |
| Section | 34 | Amends    | s. 220.196  | Research and development tax credits   |
| Section | 35 | Amends    | s. 272.11   | Capitol information center   |
| Section | 36 | Amends    | s. 287.0947 | Florida Advisory Council on Small and Minority Business Development; creation; membership; duties  |



|         |    |            |              |   |
|---------|----|------------|--------------|---|
| Section | 37 | Amends     | s. 288.0001  | Economic development program evaluation   |
| Section | 38 | Repeals    | s. 288.001   | The Florida Small Business Development Center Network   |
| Section | 39 | Repeals    | s. 288.012   | State of Florida international offices; state protocol officer; protocol manual   |
| Section | 40 | Amends     | s. 288.017   | Cooperative advertising matching grants program   |
| Section | 41 | Amends     | s. 288.018   | Regional Rural Development Grants Program   |
| Section | 42 | Repeals    | s. 288.046   | Quick-response training; legislative intent   |
| Section | 43 | Repeals    | s. 288.047   | Quick-response training for economic development  |
| Section | 44 | Amends     | s. 288.061   | Economic development incentive application process  |
| Section | 45 | Amends     | s. 288.0655  | Rural Infrastructure Fund   |
| Section | 46 | Amends     | s. 288.0656  | Rural Economic Development Initiative   |
| Section | 47 | Amends     | s. 288.0658  | Nature-based recreation; promotion and other assistance by Fish and Wildlife Conservation Commission                        |
| Section | 48 | Amends     | s. 288.075   | Confidentiality of records  |
| Section | 49 | Amends     | s. 288.076   | Return on investment reporting for economic development programs  |
| Section | 50 | Amends     | s. 288.095   | Economic Development Trust Fund   |
| Section | 51 | Repeals    | s. 288.1045  | Qualified defense contractor and space flight business tax refund program   |
| Section | 52 | Repeals    | s. 288.106   | Tax refund program for qualified target industry businesses   |
| Section | 53 | Repeals    | s. 288.107   | Brownfield redevelopment bonus refunds  |
| Section | 54 | Repeals    | s. 288.108   | High-impact business  |
| Section | 55 | Repeals    | s. 288.1081  | Economic Gardening Business Loan Pilot Program  |
| Section | 56 | Repeals    | s. 288.1082  | Economic Gardening Technical Assistance Pilot Program   |
| Section | 57 | Repeals    | s. 288.1088  | Quick Action Closing Fund   |
| Section | 58 | Repeals    | s. 288.1089  | Innovation Incentive Program  |
| Section | 59 | Amends     | s. 288.111   | Information concerning local manufacturing development programs   |
| Section | 60 | Repeals    | s. 288.1162  | Professional sports franchises; duties  |
| Section | 61 | Repeals    | s. 288.11621 | Spring training baseball franchises   |
| Section | 62 | Repeals    | s. 288.11625 | Sports development  |
| Section | 63 | Repeals    | s. 288.11631 | Retention of Major League Baseball spring training baseball franchises  |
| Section | 64 | Repeals    | s. 288.1169  | International Game Fish Association World Center facility   |
| Section | 65 | Repeals    | s. 288.1201  | State Economic Enhancement and Development Trust Fund   |
| Section | 66 | Terminates |              | State Economic Enhancement and Development Trust Fund   |
| Section | 67 | Repeals    | s. 288.122   | Tourism Promotional Trust Fund  |
| Section | 68 | Terminates |              | Tourism Promotional Trust Fund  |
| Section | 69 | Amends     | s. 288.1226  | Florida Tourism Industry Marketing Corporation; use of property; board of directors; duties; audit                          |
| Section | 70 | Amends     | s. 288.12265 | Welcome centers   |
| Section | 71 | Amends     | s. 288.124   | Convention grants programs  |
| Section | 72 | Repeals    | s. 288.125   | Definition of "entertainment industry"  |
| Section | 73 | Repeals    | s. 288.1251  | Promotion and development of entertainment industry; Office of Film and Entertainment; creation; purpose; powers and duties |

|         |     |            |              |  |
|---------|-----|------------|--------------|--|
| Section | 74  | Repeals    | s. 288.1252  | Florida Film and Entertainment Advisory Council; creation; purpose; membership; powers and duties  |
| Section | 75  | Repeals    | s. 288.1253  | Travel and entertainment expenses  |
| Section | 76  | Repeals    | s. 288.1258  | Entertainment industry qualified production companies; application procedure; categories; duties of the Department of Revenue; records and reports |
| Section | 77  | Amends     | s. 288.7015  | Appointment of rules ombudsman; duties   |
| Section | 78  | Amends     | s. 288.706   | Florida Minority Business Loan Mobilization Program  |
| Section | 79  | Amends     | s. 288.773   | Florida Export Finance Corporation   |
| Section | 80  | Amends     | s. 288.776   | Board of directors; powers and duties  |
| Section | 81  | Amends     | s. 288.7771  | Annual report of Florida Export Finance Corporation  |
| Section | 82  | Amends     | s. 288.8017  | Awards   |
| Section | 83  | Amends     | s. 288.816   | Intergovernmental relations  |
| Section | 84  | Repeals    | s. 288.826   | Florida International Trade and Promotion Trust Fund   |
| Section | 85  | Terminates |              | Florida International Trade and Promotion Trust Fund within DEO  |
| Section | 86  | Repeals    | s. 288.901   | Enterprise Florida, Inc.   |
| Section | 87  | Repeals    | s. 288.9015  | Powers of Enterprise Florida, Inc.; board of directors.  |
| Section | 88  | Repeals    | s. 288.903   | Duties of Enterprise Florida, Inc.   |
| Section | 89  | Repeals    | s. 288.904   | Funding for Enterprise Florida, Inc.; performance and return on the public's investment.   |
| Section | 90  | Repeals    | s. 288.905   | President and employees of Enterprise Florida, Inc.  |
| Section | 91  | Repeals    | s. 288.906   | Annual report of Enterprise Florida, Inc., and its divisions; audits.  |
| Section | 92  | Amends     | s. 288.907   | Annual Incentives Report   |
| Section | 93  | Repeals    | s. 288.911   | Creation and implementation of a marketing and image campaign.   |
| Section | 94  | Amends     | s. 288.912   | Inventory of communities seeking to recruit businesses   |
| Section | 95  | Repeals    | s. 288.92    | Divisions of Enterprise Florida, Inc.  |
| Section | 96  | Amends     | s. 288.923   | Division of Tourism Marketing; definitions; responsibilities.  |
| Section | 97  | Repeals    | s. 288.95155 | Florida Small Business Technology Growth Program.  |
| Section | 98  | Repeals    | s. 288.9519  | Not-for-profit corporation.  |
| Section | 99  | Amends     | s. 288.9520  | Public records exemption.  |
| Section | 100 | Amends     | s. 288.9603  | Definitions  |
| Section | 101 | Amends     | s. 288.9604  | Creation of the authority  |
| Section | 102 | Amends     | s. 288.9605  | Corporation powers.  |
| Section | 103 | Repeals    | s. 288.9614  | Authorized programs.   |
| Section | 104 | Repeals    | s. 288.9621  | Florida Capital Formation Act  |
| Section | 105 | Repeals    | s. 288.9622  | Findings and intent  |
| Section | 106 | Repeals    | s. 288.9623  | Definitions.   |
| Section | 107 | Repeals    | s. 288.9624  | Florida Opportunity Fund; creation; duties.  |
| Section | 108 | Repeals    | s. 288.9625  | Institute for the Commercialization of Public Research.  |
| Section | 109 | Repeals    | s. 288.96255 | Florida Technology Seed Capital Fund; creation; duties.  |
| Section | 110 | Repeals    | s. 288.9626  | Exemptions from public records and public meetings requirements for the Florida Opportunity Fund.  |
| Section | 111 | Repeals    | s. 288.9627  | Exemptions from public records and public meetings requirements for the Institute for the Commercialization of Public Research.                    |

|         |     |         |              |  |
|---------|-----|---------|--------------|--|
| Section | 112 | Amends  | s. 288.980   | Military base retention; legislative intent; grants program.   |
| Section | 113 | Repeals | s. 288.991   | New Markets Development Program Act  |
| Section | 114 | Repeals | s. 288.9912  | New Markets Development Program; purpose.  |
| Section | 115 | Repeals | s. 288.9913  | Definitions.   |
| Section | 116 | Repeals | s. 288.9914  | Certification of qualified investments; investment issuance reporting.                                   |
| Section | 117 | Repeals | s. 288.9915  | Use of proceeds from qualified investments; recordkeeping.   |
| Section | 118 | Repeals | s. 288.9916  | New markets tax credit.  |
| Section | 119 | Repeals | s. 288.9917  | Community development entity reporting after a credit allowance date; certification of tax credit amount |
| Section | 120 | Repeals | s. 288.9918  | Annual reporting by a community development entity   |
| Section | 121 | Repeals | s. 288.9919  | Audits and examinations; penalties   |
| Section | 122 | Repeals | s. 288.9920  | Recapture and penalties  |
| Section | 123 | Repeals | s. 288.9921  | Rulemaking   |
| Section | 124 | Repeals | s. 288.9922  | Expiration of the New Markets Development Program Act  |
| Section | 125 | Amends  | s. 288.9932  | Definitions  |
| Section | 126 | Amends  | s. 288.9934  | Microfinance Loan Program  |
| Section | 127 | Repeals | s. 288.9935  | Microfinance Guarantee Program   |
| Section | 128 | Amends  | s. 288.9936  | Annual report of the Microfinance Loan Program   |
| Section | 129 | Amends  | s. 288.9937  | Evaluation of programs   |
| Section | 130 | Amends  | s. 290.0056  | Enterprise zone development agency   |
| Section | 131 | Amends  | s. 290.0065  | State designation of enterprise zones  |
| Section | 132 | Amends  | s. 290.00677 | Rural enterprise zones; special qualifications.  |
| Section | 133 | Amends  | s. 290.007   | State incentives available in enterprise zones   |
| Section | 134 | Amends  | s. 290.053   | Response to economic emergencies in small communities  |
| Section | 135 | Amends  | s. 295.22    | Veterans Employment and Training Services Program  |
| Section | 136 | Amends  | s. 320.08058 | Specialty license plates   |
| Section | 137 | Amends  | s. 331.3051  | Duties of Space Florida  |
| Section | 138 | Amends  | s. 331.3081  | Board of directors   |
| Section | 139 | Amends  | s. 339.08    | Use of moneys in State Transportation Trust Fund   |
| Section | 140 | Repeals | s. 339.2821  | Economic development transportation projects   |
| Section | 141 | Amends  | s. 364.0135  | Promotion of broadband adoption  |
| Section | 142 | Amends  | s. 376.82    | Eligibility criteria and liability protection  |
| Section | 143 | Amends  | s. 377.703   | Additional functions of the Department of Agriculture and Consumer Services                              |
| Section | 144 | Amends  | s. 377.804   | Renewable Energy and Energy-Efficient Technologies Grants Program  |
| Section | 145 | Amends  | s. 377.809   | Energy Economic Zone Pilot Program   |
| Section | 146 | Amends  | s. 380.06    | Developments of regional impact  |
| Section | 147 | Amends  | s. 380.0657  | Expedited permitting process for economic development projects   |
| Section | 148 | Amends  | s. 403.42    | Florida Clean Fuel Act   |
| Section | 149 | Amends  | s. 403.7032  | Recycling  |
| Section | 150 | Amends  | s. 403.973   | Expedited permitting; amendments to comprehensive plans.   |
| Section | 151 | Amends  | s. 443.091   | Benefit eligibility conditions   |

|         |     |          |             |  |
|---------|-----|----------|-------------|--|
| Section | 152 | Amends   | s. 445.004  | CareerSource Florida, Inc.; creation; purpose; membership; duties and powers   |
| Section | 153 | Amends   | s. 445.045  | Development of an Internet-based system for information technology industry promotion and workforce recruitment                                  |
| Section | 154 | Amends   | s. 446.44   | Duties of Rural Workforce Services Program   |
| Section | 155 | Amends   | s. 477.0135 | Exemptions.  |
| Section | 156 | Amends   | s. 570.81   | Agricultural Economic Development Project Review Committee; powers and duties  |
| Section | 157 | Amends   | s. 570.85   | Agritourism  |
| Section | 158 | Amends   | s. 624.5105 | Community contribution tax credit; authorization; limitations; eligibility and application requirements; administration; definitions; expiration |
| Section | 159 | Repeals  | s. 625.3255 | Capital participation instrument   |
| Section | 160 | Amends   | s. 657.042  | Investment powers and limitations  |
| Section | 161 | Amends   | s. 658.67   | Investment powers and limitations  |
| Section | 162 | Amends   | s. 1004.015 | Higher Education Coordinating Council  |
| Section | 163 | Amends   | s. 1004.65  | Florida College System institutions; governance, mission, and responsibilities   |
| Section | 164 | Amends   | s. 1004.78  | Technology transfer centers at Florida College System institutions   |
| Section | 165 | Amends   | s. 1011.76  | Small School District Stabilization Program  |
| Section | 166 | Amends   | s. 1011.80  | Funds for operation of workforce education programs  |
| Section | 167 | Amends   | s. 1011.94  | University Major Gifts Program   |
| Section | 168 | Provides |             | Effective Date   |

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The bill was reviewed by the Revenue Estimating Conference on February 10, 2017, and it was determined that for Fiscal Year 2017-18 the bill had a positive recurring impact to general revenue of \$231.7 million and a positive nonrecurring impact to general revenue of \$57.2 million. The net overall positive recurring revenue impact of \$45.1 million and nonrecurring impact of \$75.7 million is outlined below:

| In Millions  | General Revenue |               | Trust Funds     |               | Total         |               |
|--|-----------------|---------------|-----------------|---------------|---------------|---------------|
|  | Recurring       | Nonrecurring  | Recurring       | Nonrecurring  | Recurring     | Nonrecurring  |
| Elimination of Tax Credits   | \$29.6          | -\$27.9       | \$0.0           | \$0.0         | \$29.6        | -\$27.9       |
| Redirect Trust Fund Revenue  | \$186.6         | \$85.3        | -\$186.6        | -\$85.3       | \$0.0         | \$0.0         |
| Elimination of Entertainment Industry Sales Tax Exemption                  | \$14.5          | \$0.0         | \$0.0           | \$0.0         | \$14.5        | \$0.0         |
| No New Applicants to Baseball Spring Training Facilities Tax Distributions | \$1.0           | -\$0.2        | \$0.0           | \$0.0         | \$1.0         | -\$0.2        |
| Escrow Account Transfer  | \$0.0           | \$0.0         | \$0.0           | \$103.8       | \$0.0         | \$103.8       |
| <b>Total</b>   | <b>\$231.7</b>  | <b>\$57.2</b> | <b>-\$186.6</b> | <b>\$18.5</b> | <b>\$45.1</b> | <b>\$75.7</b> |

The bill also provides for a nonrecurring transfer of \$115.3 million to the state, the current balance from an EFI escrow account. This is represented above as \$103.8 million based on the assumption that the entities participating in economic development programs where the funds are placed in an escrow account at EFI will meet 100% of their contracted performance requirements

in order to received 100% of payments due in Fiscal Year 2016-17 prior to the bill becoming law. Funds are anticipated to be moved into a state treasury account, such as the Economic Development Trust Fund within DEO.

*See fiscal comments section.*

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference further determined the bill had a net positive recurring revenue impact to local governments of \$4.1 million based on the following:

| In Millions   | Local/Other |              |
|---|-------------|--------------|
|   | Recurring   | Nonrecurring |
| Elimination of Tax Credits                                | \$0.4       | \$0.0        |
| Elimination of Entertainment Industry Sales Tax Exemption | \$3.7       | \$0.0        |
| Total   | \$4.1       | \$0.0        |

*See fiscal comments section.*

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

A number of studies and performance reviews have attempted to fully quantify the impact of state and local incentives on the overall business climate within a state or local area. While the studies and reviews do not always agree, many of these reviews have found that the impact of specific economic incentive programs is small and that a number of other factors are more important for economic and tourist development. The factors that are often cited as most important to business and tourism development include the following: community quality of life, community cost of living, overall tax climate, workforce education, transportation infrastructure, permitting and construction requirements, regulatory structure, crime rates, and leisure amenities.

D. FISCAL COMMENTS:

The bill eliminates many of the incentive programs that did not have a positive return on investment, which will have a positive impact on state revenues.

According to OPPAGA Report No. 16-09, the Legislature appropriates certain incentive funds to DEO, which in turn provides funding to EFI as the agent for DEO, to hold in order to make future payments to some of the state's incentive recipients after contract requirements are met. EFI holds those funds in a commercial bank account (escrow account), which generates daily interest. Bank representatives and OPPAGA analyses indicate that the escrow account receives approximately 0.25% interest on funds held in the account. Current balances in the escrow account have increased over the years due to additional funds provided for the Quick Action Closing Fund by the Legislature and interest income earned. EFI remits interest payments earned on escrow funds to DEO quarterly.

According to EDR and OPPAGA, EFI's escrow account balances increased significantly from Fiscal Year 2012-13 through 2015-16: 2012-13 – \$19,107,556; 2013-14 – \$77,626,338; 2014-15 –

\$85,513,019; 2015-16 – \$110,710,175. EDR and OPPAGA both report that EFI's escrow account funds could generate significantly more interest income if held in a state trust fund. Currently, the escrow account has a balance of \$115.3 million. Using a state trust fund to hold these funds would generate almost \$2 million more annually in interest than the commercial account.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

##### 2. Other:

None

#### B. RULE-MAKING AUTHORITY:

None

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 21, 2017, the Appropriations Committee adopted a strike all amendment and reported the bill favorably as a committee substitute. The committee substitute:

- Provides additional accountability for VISIT Florida by:
  - Requiring VISIT Florida to comply with state procurement laws.
  - Limiting travel and per diem expenses of VISIT Florida employees to those of state employees.
  - Limiting compensation of VISIT Florida employees to \$130,000, freezing benefits of employees at current levels and prohibiting bonuses for employees unless authorized by law.
  - Prohibiting VISIT Florida employees or board members from receiving food, beverages, lodging, entertainment or gifts paid for by VISIT Florida funds or funds from a local tourist or economic development agency.
  - Requiring VISIT Florida contracts to contain performance standards, operating budgets and salaries of employees of the contracting entity to increase transparency of VISIT Florida contracts and partnership agreements.
  - Requiring VISIT Florida to post all contracts on the CFO Transparency website.
  - Requiring the Governor to approve all out-of-state and international travel.
  - Requiring the corporation to take all steps necessary to provide all data that is used to develop tourism estimates and measures, including the source data, to the Office of Economic and Demographic Research.
  - Removing the public records exemption for marketing projects and research.
  - Prohibiting the corporation from creating or establishing any other entity, corporation, or direct support organization.
  - Prohibiting expending funds, public or private, that directly or indirectly, benefit only one company, corporation or business entity.
- Provides for additional legislative oversight of VISIT Florida by:

- Requiring VISIT Florida to place proposed contracts worth \$750,000 or more on 14-day legislative consultation. Upon objection by the chair or vice chair of the LBC or Speaker or Senate President, VISIT Florida would be prohibited from entering into contract.
- Requiring VISIT Florida to submit detailed operating budget to the LBC each year in order to obtain release of funds.
- Requiring Senate confirmation of the VISIT Florida President/CEO.
- Provides \$25 million recurring appropriation for VISIT Florida.

On March 6, 2017, the Rules & Policy Committee adopted a strike all amendment and reported the bill favorably as a committee substitute. The committee substitute removes the additional accountability and legislative oversight provisions for VISIT Florida, and removes the recurring appropriation for VISIT Florida.

The bill analysis is drafted to the committee substitute as passed by the Rules & Policy Committee.