HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/CS/HB 5 Economic Programs
SPONSOR(S): Appropriations Committee and Commerce Committee, Esposito and others
TIED BILLS: HB 7073 **IDEN./SIM. BILLS:** CS/CS/CS/SB 1664

FINAL HOUSE FLOOR ACTION: 112 **Y's** 0 **N's** **GOVERNOR'S ACTION:** Approved

SUMMARY ANALYSIS

CS/CS/HB 5 passed the House on April 28, 2023, as amended. The bill was amended in the Senate on May 3, 2023, and was returned to the House on May 4, 2023. The House concurred in the Senate amendment and passed the bill as amended on May 4, 2023.

The bill eliminates Enterprise Florida, Inc., (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 the Department of Economic Opportunity (DEO).

The bill changes the name of DEO to the Department of Commerce (Commerce) and shifts duties from EFI to Commerce.

The bill designates VISIT FLORIDA (VF) and the Florida Sports Foundation (FSF) as direct-support organizations of Commerce. VF and FSF may enter into agreements with Commerce to continue any existing programs, activities, duties, or functions necessary for their operation.

The bill designates the international offices program as a direct-support organization of Commerce.

The bill provides for the repeal of the following programs and incentives; however, the bill authorizes continuation of payments for existing related commitments:

- Entertainment industry tax credit
- Qualified defense and space flight tax refund
- Qualified target industry businesses tax refund
- Economic Gardening Programs
- Quick Action Closing Fund
- Innovation Incentive Program
- Corporate income tax credits for spaceflight projects
- Scripps Florida Funding Corporation
- Motorsports Entertainment Complex
- Professional Golf Hall of Fame
- International Game Fish Association World Center
- Florida Small Business Technology Program
- New Markets Development Program
- Microfinance Loan Program
- Office of Film and Entertainment
- Florida Film and Entertainment Advisory Council

The bill authorizes 20 positions and appropriates $5 million in recurring funds to Commerce, $5 million in recurring funds to the direct-support organization created in the bill, and further appropriates $1 million in nonrecurring funds to Commerce to facilitate changes made by the bill. The economic incentive programs repealed by the bill will not impact current state expenditures or revenues. *See* Fiscal Analysis & Economic Impact Statement.

The bill was approved by the Governor on May 31, 2023, ch. 2023-173, L.O.F., and will become effective on July 1, 2023.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Present Situation

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). To achieve their economic development missions, EFI and DEO perform numerous activities and collaborate via contracts as directed by statute.[1]

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.[2]

To support the ongoing evolution of the state's economic development system, the 2011 Legislature created DEO, 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.[3] 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.[4]

Department of Economic Opportunity

The head of DEO is the Secretary of Opportunity, who is appointed by the Governor, subject to confirmation by the Senate.[5] DEO has seven divisions and offices established by statute, four of which carry out DEO's objectives and statutory responsibilities. Three of these divisions are Strategic Business Development, Community Development, and Workforce Services. These divisions help fulfill DEO's statutorily mandated responsibilities, which include, but are not limited to:

- 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;
- 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

---

[1] OPPAGA, Report No. 16-09, *Agency Review-Enterprise Florida, Inc., and Department of Economic Opportunity*, p.3 (December 2016).
[2] *Id.* at 7.
[3] Chapter 2011-142, Laws of Fla. DEO began operations in October 2011.
[4] OPPAGA, Report No. 16-09, *supra* n. 1, p.7.
[5] S. 20.60(2), F.S.

- Managing the activities of public-private partnerships and state agencies in order to avoid duplication and promote coordinated and consistent implementation of various programs.[6]

Current law allocates the following duties specifically to the Division of Strategic Business Development:[7]

- Analyzing and evaluating business prospects identified by the Governor and, the secretary, and EFI;
- Administering certain tax refund, tax credit, and grant programs created in law;
- Developing measurement protocols for the state incentive programs and for the contracted entities which will be used to determine their performance and competitive value to the state;
- Developing a 5-year statewide strategic plan, which must include certain strategies and provisions.;
- Updating the strategic plan every 5 years; and
- Involving EFI, CareerSource Florida, Inc., local governments, the general public, local and regional economic development organizations, the business community, educational institutions, and other specified entities in the formation of the strategic plan.

DEO's Office of Economic Accountability and Transparency was created in 2021.[8] The Office of Economic Accountability and Transparency is tasked with:

- Overseeing critical objectives and ensuring key objectives are clearly communicated to the public;
- Organizing resources, expertise, data, and research to focus on and solving the complex economic challenges facing the state;
- Providing leadership for priority issues that require integration of policy, managements, and critical objectives from multiple programs and organizations internal and external to DEO;
- Promoting and facilitating key initiatives to address priority economic issues and exploring data and identify opportunities for innovative approaches to address such economic issues; and
- Promoting strategic planning.[9]

<u>Enterprise Florida, Inc.</u>

EFI is a nonprofit corporation established by the Legislature to serve as the state's main economic development organization.[10] EFI is required to enter into a performance-based contract with DEO, which includes annual measurements of the performance of EFI.[11] The corporation is responsible for:

- Marketing the state as a pro-business location for new investment and as a tourist destination;
- Advancing international and domestic trade opportunities;
- Providing support to small and minority-owned businesses;
- Assisting, promoting, and enhancing economic opportunities in the state's rural and urban communities;
- Advocating for Florida's military bases and administering defense grants; and
- Promotion and development of professional, amateur, recreational sports, and physical fitness opportunities.[12]

---

[6] S. 20.60(4), F.S.
[7] S. 20.60(5)(a), F.S.
[8] Chapter 2021-25, Laws of Fla.
[9] S. 20.60 (3)(a), F.S.
[10] 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.
[11] S. 20.60(11), 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."
[12] Office of Program Policy Analysis and Governmental Accountability, *Enterprise Florida, Inc.*, https://oppaga.fl.gov/ProgramSummary/BackPageDetail?programNumber=6112&backPageNumber=03 (last visited May 10, 2023).

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 entities and 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;
- 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;
- Submit all proposed contracts with a cost in excess of a specified amount in accordance with the notice and review procedures required in statute;
- Not create or establish any other entity unless authorized by law; and
- Comply with per diem and travel expense provisions.[13]

At a minimum, 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.[14]

EFI is governed by a board of directors, of which the Governor serves as chairperson. The board of directors biennially elects one of its members as vice chairperson.[15] Including the Governor or his or her designee, the board of directors of EFI is comprised of twenty members: seven from the public sector and twelve from the private sector.[16] The eight 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.; the Secretary of State or his or her designee; and the Secretary of Economic Opportunity or his or her designee.[17]

Of the twelve members from the private sector, the Governor appoints six[18] 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:[19] 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.[20] 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.[21]

---

[13] S. 299.903, F.S.
[14] S. 288.92(1), F.S.
[15] S. 288.901(4), F.S.
[16] S. 288.901(5), F.S.
[17] *Id*.
[18] Members appointed by the Governor are subject to Senate confirmation. s. 288.901(5)(a), F.S.
[19] S. 288.901(5)(b), F.S.
[20] S. 288.901(7), F.S.
[21] S. 288.901(8), F.S.

Florida law directs the board of directors to "integrate its efforts in business recruitment and expansion, job creation, marketing the state for tourism and sports, and promoting economic opportunities for minority-owned businesses and promoting economic opportunities for rural and distressed urban communities with those of the department, to create an aggressive, agile, and collaborative effort to reinvigorate the state's economy."[22] 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. [23]

As a public-private partnership, EFI is expected to obtain private sector support to help pay for its operational costs. The Legislature provides an annual appropriation to EFI for its operations. 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.[24] 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 EFI or its divisions.[25]

In 2016, the Office of Program Policy Analysis and Government Accountability (OPPAGA) published a report indicating that EFI's state funding has always exceeded private sector funding.[26] Based on EFI's audited financial statements for Fiscal Year 2021-22, EFI received: $1,865,000 in private investment contributions; $1,405,918 in event revenue; and $1,153,795 in other income.[27] EFI's total state appropriation for Fiscal Year 2021-22 was $14,400,000.[28]

[22] S. 288.9015(1), F.S.
[23] S. 288.9015(2), F.S.
[24] S. 288.904(2)(a), F.S.
[25] S. 288.904(2)(b), F.S.
[26] OPPAGA Report No. 16-09, *supra* n. 1, p. 19.
[27] *Enterprise Florida, Inc. and Consolidated Entities, Consolidated Financial Statements*, p.5, available at https://www.enterpriseflorida.com/about/transparency/ (last visited May 10, 2023).
[28] General Appropriations Act of 2022 (HB 5001).

International Offices Program

Section 288.012, F.S., establishes the State of Florida international offices, permitting DEO to establish offices in other countries for the purpose to promote trade and economic development opportunities for the state and to research trade opportunities in specific countries.[29] Current law authorizes DEO to contract with EFI to carry out the program.[30] EFI maintains 18 international offices locations in 15 different countries.[31]

Each international office must have in place an operational plan, which must contain the following:

- Specific policies and procedures encompassing the entire scope of the operation and management of the office;
- A comprehensive, commercial strategic plan identifying marketing opportunities and industry sector priorities for the country in which an international office is located;
- Provisions for access to information for Florida businesses related to trade leads and inquiries;
- Identification of new and emerging market opportunities for Florida businesses;
- Provision of access for Florida businesses to international trade assistance services provided by state and local entities, seaport and airport information, and other services identified by the department;
- Qualitative and quantitative performance measures for each office, including, but not limited to, the number of businesses assisted, the number of trade leads and inquiries generated, the number of international buyers and importers contacted, and the amount and type of marketing conducted.[32]

Current law also requires each international office to annually submit a detailed report on its activities and accomplishments during the previous fiscal year for inclusion in EFI's annual report.[33]

EFI utilizes the international offices to: identify potential opportunities for investment in Florida; promote Florida for foreign direct investment; facilitate partnerships with local suppliers and distributors; and provide market specific information to Florida businesses.[34] A recent study by OPPAGA indicates that during the review period, EFI's international offices reported generating $333.8 million in foreign direct investment from 121 projects.[35]

Florida Sports Foundation

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.[36] 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.

---

[29] S. 288.012, F.S.
[30] S. 288.012(6), F.S.
[31] Office of Program Policy Analysis and Government Accountability, *Florida Economic Development Program Evaluations – Year 9*, 80 (December 2021), available at https://oppaga.fl.gov/Documents/Reports/21-09.pdf (last visited May 10, 2023).
[32] S. 288.012(2). F.S.
[33] S. 288.012(3), F.S.
[34] Office of Program Policy Analysis and Government Accountability, *Florida Economic Development Program Evaluations – Year 9 supra* n. 31, p. 81.
[35] *Id*. at 85.
[36] Ss. 288.901 and 288.9015, F.S.

The 1989, the Legislature provided that the 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 FSF.

In 2011, when Florida lawmakers reorganized certain governmental agencies to create DEO (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.[37] EFI continued as the official sports promotion and development organization for the state and FSF is currently housed within EFI and serves as EFI’s Division of Sports Industry Development. FSF’s stated mission is to:

- Provide grants to support sporting events that bring out-of-state visitors to Florida;
- Produce and distribute annual golf, fishing and boating, and baseball spring training guides for both in-state and out-of-state tourists; and
- Organize the annual Sunshine State Games, an Olympic-style festival for Floridians of all ages, and the Florida Senior Games State Championships for senior athletes, age 50 and over.[38]

<u>Division of Tourism Marketing and Florida Tourism Industry Marketing Corporation</u>

EFI’s Division of Tourism Marketing is the entity created through statute that interacts and contracts with its direct support organization,[39] the Florida Tourism Industry Marketing Corporation. The Florida Tourism Industry Marketing Corporation was created by the legislature in 1996 and is otherwise known by the service mark “VISIT FLORIDA,” which operates as a non-profit corporation that serves as Florida’s statewide destination marketing organization, representing the state’s tourism industry.[40] In practice, VF is EFI’s Division of Tourism Marketing. The division is staffed by VF, and the staff is not employed by EFI.[41]

VF’s primary responsibilities include:

- Administering domestic and international advertising campaigns;
- Coordinating domestic and international marketing activities;
- Coordinating marketing efforts with local tourism marketing organizations;
- Managing Florida’s four welcome centers;
- Conducting research on tourism and travel trends;
- Administering marketing activities for Veterans Florida;[42] and
- Marketing to assist the state following critical events, such as storms.[43]

Through a contractual relationship with the DEO, VF is held to various performance measures and standards. VF’s 31-member board of directors is appointed by DEO, in conjunction with EFI, and meets three times a year to provide guidance, input, and insight to VF, and work directly with VF executive staff.[44] VF is required to develop a four-year marketing plan[45] for the state which addresses issues such

---

[37] Ch. 2011-142, Laws of Fla.
[38] Florida Sports Foundation, *ABOUT US*, https://playinflorida.com/about-us/ (last visited May 10, 2023).
[39] “Direct support organization” means a not-for-profit Florida corporation incorporated under the provisions of chapter 617, F.S., and authorized by Florida law to exist as a direct support organization to benefit or provide assistance to a governmental entity. *See* State of Florida Auditor General, *Audits of Certain Nonprofit Organizations*, Rules of the Auditor General (Jun. 30, 2022), available at https://flauditor.gov/pages/pdf_files/10_700.pdf (last visited May 7, 2023).
[40] S. 288.1226, F.S. The fictitious name “VISIT FLORIDA” is registered with the Department of State, registration no. G18000088414.
[41] S. 288.923(5), F.S.
[42] Veterans Florida is a non-profit corporation created by the State of Florida to help military veterans transition to civilian life and to promote Florida’s status as the nation’s most veteran-friendly state. *See* Veterans Florida, *About Us*, https://www.veteransflorida.org/about/ (last visited May 10, 2023).
[43] Office of Program Policy Analysis and Government Accountability, *Florida Economic Development Program Evaluations – Year 8*, 13 (December 2020), available at https://oppaga.fl.gov/Documents/Reports/20-08.pdf (last visited May 10, 2023).
[44] *Id.* at 12.
[45] This plan is annual in construction and ongoing in nature. *See* S. 288.923(4)(c), F.S.

as the continuation of tourism growth in Florida, expansion to new or underrepresented markets, coordination with local and private sector partners on tourism advertising, and emergency response to disasters from a marketing standpoint.[46]

As a public-private partnership, VF is required to obtain private sector contributions to match public contributions. Eligible matching contributions come from four categories:

- Direct cash contributions;
- Fees for services;
- Cooperative advertising, which is limited to partner expenditures for paid media placement and actual market value of contributed products, air time, and print space; and
- In-kind contributions, which is limited to the actual market value of promotional contributions of partner-supplied benefits or of non-partner supplied airtime or print space.[47]

Economic Development Incentives

Florida has a number of incentive programs intended to promote economic development in the state. These programs are housed in several different agencies and come in a variety of forms including tax refunds, tax credits, tax exemptions, and cash grants. Businesses interested in expanding or relocating to Florida learn about the state's economic incentive programs through several channels, including EFI and state and local economic development organizations. EFI markets the benefits of doing business in Florida. EFI works to develop leads on businesses, then EFI identifies the specifics of each business's project to determine whether any economic development programs or incentives may be available. If EFI determines that a business is eligible for an economic development award, EFI makes a recommendation to DEO for the project.[48] Businesses can apply for more than one incentive to support their expansion or relocation projects.

Once a company begins the application process, DEO begins the formal due diligence process to determine the business's statutory eligibility and financial standing. Once a business successfully completes the evaluation process, DEO approves the business for an award and issues a certification letter. Businesses that receive an award, except for businesses that receive an award under the Capital Investment Tax Credit, Enterprise Zone, and New Markets Development programs, must enter into contractual agreements with DEO. These agreements include a schedule for meeting performance requirements. DEO must ensure that each business complies with state law and the terms of the agreement. Businesses found to be out of compliance with performance requirements may be subject to penalties (e.g., claw back provisions) or could be terminated from the incentive program.[49, 50]

---

[46] S. 288.923(4)(c), F.S.
[47] S. 288.1226(6), F.S.
[48] DEO, 2021-2022 Annual Incentives Report, p.3. Section 288.907, F.S., requires EFI, in conjunction with DEO, to provide a detailed incentives report quantifying the economic benefits for all the economic development incentive programs marketed by EFI.
[49] *Id*. at 2.
[50] Office of Program Policy Analysis and Government Accountability, *Florida Economic Development Program Evaluations – Year 10*, 2 (November 2022), available at https://oppaga.fl.gov/Documents/Reports/22-06.pdf (last visited May 10, 2023).

Incentive Type	Description	Overview of Claims Process	Revenue Source
Tax Refunds	Refund of taxes paid	- Business pays taxes - State verifies job creation, wages, and tax payments - State issues refund to eligible business	Annual appropriation
Tax Credits	Credit against taxes owed	- State verifies jobs and capital investment (if applicable) - Eligible business claims credits on state taxes after meeting program requirements	Foregone revenue
Tax Exemptions	Exemption from taxes owed	- DOR issues tax exemption permit to business for approved tax- exempt purchases - Business uses permit to make eligible tax-exempt purchases	Foregone revenue
Grants	Grant with a performance-based agreement	- Business achieves performance milestones - State verifies job creation, wages, and capital investment (ass applicable) -State issues payment	Annual appropriation

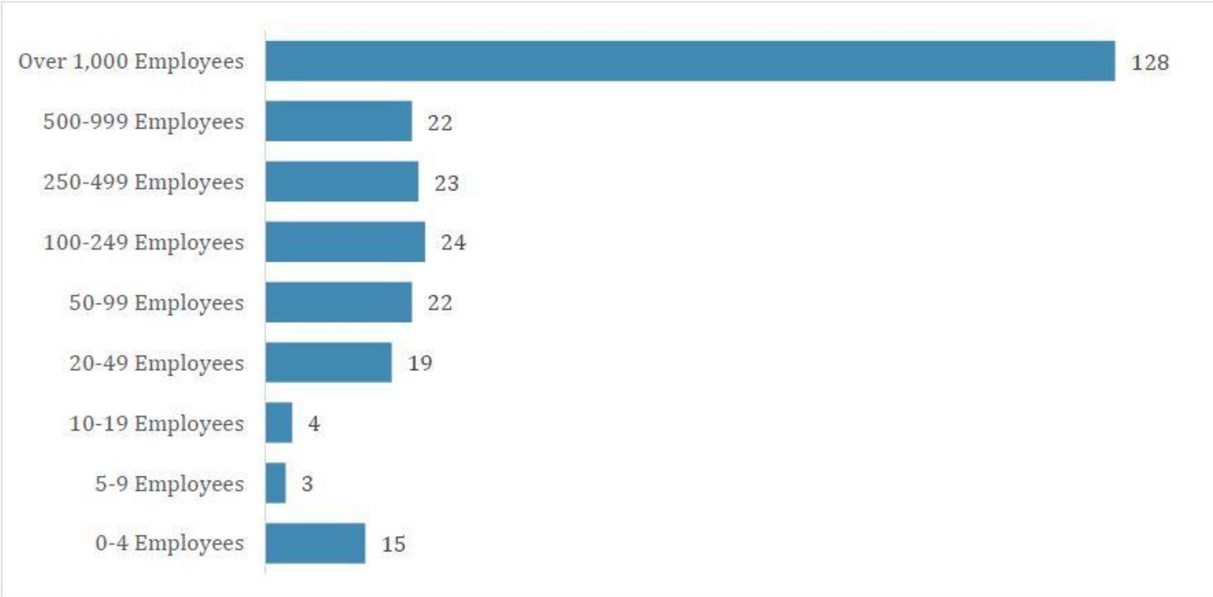
[51]

For Fiscal Year 2021-22, DEO reports paying 114 projects, with the total amount of state funds paid coming to $20,642,994. The confirmed average annual wage of these projects is $59,986.[52]

In 2022, OPPAGA published an updated analysis of Florida's economic development programs. For this report, OPPAGA analyzed incentive payments, revealing that 64% of the 260 projects which received incentive payments were expansions of existing Florida businesses rather than new companies to the state. During the same review period, OPPAGA reported that almost half of incentives were provided to businesses with over 1,000 employees.[53]

[51] DEO, 2021-2022 Annual Incentives Report, p.2.
[52] *Id*. at 5.
[53] Office of Program Policy Analysis and Government Accountability, *Florida Economic Development Program Evaluations – Year 10 supra* n. 50, p.7.

Employment of Businesses that have Received Incentives



[54]

Tax Credits, Tax Refunds, Cash Grants

Qualified Target Industry Tax Refund Program

The Qualified Target Industry (QTI) Tax Refund Program was established in 1995 to attract new high quality, high wage jobs for Floridians.[55] Tax refunds are made to qualifying, pre-approved businesses creating new jobs within Florida's target industries. All QTI projects include a performance-based contract with the state, which outlines specific milestones that must be achieved and verified by the state prior to payment of refunds. Unless waived by the DEO, 20% of the award must come from the local city or county government in which the project is located.[56]

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. Jobs created in rural communities and enterprise zones, as well as those paying higher annual average wages, are eligible for more incentives.

The authority to certify new applicants for the QTI program expired on June 30, 2020, but existing tax refund agreements continue in accordance with the contract terms. Based on current contracts, the anticipated program end date is Fiscal Year 2037-38.[57]

The Office of Economic and Demographic Research (EDR) analyzes the Return on Investment (ROI) of QTI every three years. For 2023, EDR reports that the ROI of the program does not break even at 0.23, however, the state does recover a portion of the cost of the program.[58] Furthermore, EDR indicates that

---

[54] *Id.*
[55] S. 288.061(1), F.S.
[56] S. 288.106(2)(j), F.S.
[57] Office of Program Policy Analysis and Government Accountability, *Florida Economic Development Program Evaluations – Year 10 supra* n. 50, p. 1.
[58] Office of Economic and Demographic Research, *Economic Evaluation for Select State Economic Development Incentive Programs*, 20 (February 2023), available at http://edr.state.fl.us/Content/returnoninvestment/ROISELECTPROGRAMS2023final.pdf (last visited May 10, 2023).

during the review process, DEO discovered a data error that was consistent through all prior review periods. EDR analyzed the corrected data sets for prior review periods and published the following chart with updated ROIs for each review period:

Report Year	Old ROI	New ROI
2014	6.40	-0.27
2017	4.40	0.84
2020	4.34	0.66

[59]

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.[60] Historically, the program was designed to protect the state's defense businesses and jobs from reductions in federal defense spending.[61] 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.[62] Incentive awards range from $3,000 to $8,000 per job.[63]

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 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; 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.[64]

---

[59] *Id*.
[60] S. 288.1045, F.S.
[61] The 2008 Legislature amended the program to include space flight businesses (ch. 2008-89, Laws of Fla.).
[62] 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.
[63] 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.
[64] S. 288.1045, F.S.

A recent OPPAGA report recommends that the Legislature consider eliminating or modifying the QDSC program, given that the program expired in 2014 and no businesses remain in the program.[65]

Corporate Income Tax Credits for Spaceflight Projects

Section 220.194, F.S., the "Florida Space Business Incentives Act," was enacted to create incentives to attract launch, payload, research and development, and other space business in Florida. If approved and certified by the DEO, it allowed a certified spaceflight business to take a nontransferable corporate income tax credit for up to 50 percent of the business's tax liability for the taxable year in which the credit is taken on a return for a taxable year beginning on or after October 1, 2015. The taxpayer had to be a spaceflight business engaged in a qualifying spaceflight project that created 35 new jobs in Florida directly associated with spaceflight projects, and that invested a total of at least $15 million in Florida. No credits were to be approved after October 1, 2017.[66]

New Markets Development Program

In 2009, the Legislature passed the New Markets Development Program Act (NMDP).[67] 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.[68]

Qualified community development entities apply to DEO for approval of a proposed investment as a qualified investment.[69] 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.[70] 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.[71] Often, the equity investor will make its investment with the help of a loan.[72]

The applications, which DEO reviews and approves on a first-come first-serve basis,[73] 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;

[65] Office of Program Policy Analysis and Government Accountability, *Florida Economic Development Program Evaluations – Year 9 supra* n. 31, p. 7.
[66] S. 220.194, F.S.
[67] Ch. 2009-50, Laws of Fla.
[68] S. 288.9912, F.S.
[69] S. 288.9914, F.S.
[70] S. 288.9913(6), F.S.
[71] S. 288.9913(7), F.S.
[72] 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.
[73] S. 288.9914(3), F.S.

- 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.[74]

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).[75] 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.[76] 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).[77]

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%.[78] 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.

Any unused portion of the tax credit may be carried forward for up to five future tax years.[79] 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.[80] DEO reports that the statutory limitation on credits that could be issued was reached in, and no new credits have been issued since, fiscal year 2014-2015.[81]

Qualified community development entities must follow certain time limits relating to qualified investment applications and issuance:[82]

- 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.

[74] S. 288.9914(2), F.S.
[75] S. 288.9915, F.S.
[76] S. 288.9913(5), F.S.
[77] S. 288.9913(3), F.S
[78] *See* s. 288.9916(1), F.S.
[79] S. 288.9916(1)(c), F.S.
[80] S. 288.9914(3)(c), F.S.
[81] DEO, 2016-2017 Annual Incentives Report, p. 11.
[82] S. 288.9914(3), F.S.

- 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.[83]

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

The ROI for the New Markets Development Program is -0.98, indicating that the state lost all of its investment in the program and incurred additional costs.[84]

Quick Action Closing Fund

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.[85] 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.[86]

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.[87]

DEO and EFI jointly review applications[88] 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.[89]

DEO is required to evaluate proposals for high-impact business facilities based on the following:
- a description of the type of facility or infrastructure, its operations, and the product or service associated with the facility;

---

[83] S. 288.9918(2), F.S.
[84] Office of Economic and Demographic Research, *Economic Evaluation for Select State Economic Development Incentive Programs supra* n. 58, p.5.
[85] S. 288.1088, F.S.
[86] S. 288.1088(1)(b), F.S.
[87] S. 288.1088(2), F.S.
[88] S. 288.061, F.S.
[89] S. 288.1088(2), F.S.

- 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.[90]

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 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.[91] The contract must include the total amount of funds awarded, the performance conditions for the project,[92] 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.[93]

The program is funded by a specific annual appropriation, and has no cap. DEO reports that the Quick Action Closing Fund was last funded in 2015-16. Additionally, the report stated that DEO did not receive any applications for the program.[94]

Innovation Incentive Program

The Innovation Incentive Program (IIP) [95] 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. [96]

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.

[90] S. 288.1088(3), F.S.
[91] S. 288.1088(3)(d), F.S.
[92] Performance conditions include net new employment in the state, average salary, and total capital investment. *See* s. 288.1088(3)(d), F.S.
[93] S. 288.1088(3)(d), F.S.
[94] DEO, 2021-2022 Annual Incentives Report, p. 9.
[95] S. 288.1089, F.S.
[96] Office of Program Policy Analysis and Government Accountability, *Florida Economic Development Program Evaluations – Year 10 supra* n. 50, p. 18.

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 by the LBC.[97]

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.[98]

DEO has not received an appropriation for the program since Fiscal Year 2011-12, and the last approved grant under the IIP was at that time.[99]

Sports Incentives

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.[100] The program required the IGFA to apply for and receive certification from DEO, which the IGFA accomplished in February, 2000.[101]

IGFA received funding after initially meeting the following requirements:

- 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;
- 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

---

[97] S. 288.1089(7), F.S.
[98] S. 288.1089(8), F.S.
[99] Office of Program Policy Analysis and Government Accountability, *Florida Economic Development Program Evaluations – Year 10 supra* n. 50, p. 1.
[100] Ch. 96-415, Laws of Fla.
[101] OPPAGA, Report No. 15-01, Economic Development Program Evaluations-Year 2, at 52 (Jan. 1, 2015).

- The application for certification is signed by senior officials of the IFGA and is notarized according to state law. [102]

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.[103]

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.[104]

Professional Golf Hall of Fame

The World Golf Hall of Fame is a 501(c)(3) nonprofit institution located in St. Augustine, Florida. Originally, formed in 1974 in Pinehurst, North Carolina, the hall of fame relocated to Florida in 1998[105] and was certified as a professional golf hall of fame facility pursuant to s. 288.1168, F.S., by the Governor's Office of Tourism, Trade, and Economic Development (OTTED)[106] that same year.

Section 288.1168, F.S., establishes the Professional Golf Hall of Fame Facility funding program which allows DEO to certify applicants as professional golf hall of fame facilities. To be eligible:

- The applicant facility must be the only professional golf hall of fame in the U.S. recognized by the PGA.
- The applicant is a unit of local government or private sector group that has contracted to construct or operate the professional golf facility on land owned by a unit of local government.
- The municipality or county (if located in an unincorporated area) in which the facility is located, has passed a resolution that states the application serves a public purpose.
- There are projections that the facility will attract a paid attendance of more than 300,000 annually.
- There is an independent analysis which demonstrates that the amount of sales tax generated by sales at the facility will at least equal $2 million annually.
- The applicant has submitted an agreement to provide $2 million in national and international media promotion of the hall of fame facility, Florida, and Florida tourism, through the PGA, or its affiliates during the period of time that the facility receives state funds.
- Documentation exists that demonstrates the applicant has provided, or is capable of providing, more than one-half of the costs associated with the improvement and development of the facility.
- The application is signed by an official senior executive of the applicant and is notarized according to state law.[107]

[102] S. 288.1169(2), F.S.
[103] *Id.*
[104] OPPAGA, Report No. 15-01
[105] World Golf Hall of Fame, *Our History*; available at https://www.worldgolfhalloffame.org/about-the-museum/ (last visited May 10, 2023)
[106] DEO assumed the responsibilities of OTTED in 2011 pursuant to ch. 2011-142, Laws of Fla.
[107] S. 288.1168, F.S.

Certified applicants are eligible to receive monthly disbursements from the state in an amount equal to $166,667 for up to 300 months (a total of $50,000,100).[108] The last payment is set to take place in June of 2023,[109] and current law provides that the incentive is repealed as of June 30, 2023.[110]

Motorsports Entertainment Complex

The motor sports entertainment complex incentive provides funding for the construction or expansion of motor sports entertainment complexes. A motorsports entertainment complex is a closed course racing facility.[111] DEO screens applications for the program. Before certifying an applicant, DEO must determine that:

- A unit of local government holds title to the land on which the motorsports entertainment complex is located or holds title to the motorsports entertainment complex.
- The municipality in which the motorsports entertainment complex is located, or the county if the complex is located in an unincorporated area, has certified by resolution that the complex serves a public purpose.[112]

An applicant certified as a motorsports entertainment complex may receive funding from the local government half-cent sales tax pursuant to s. 218.64, F.S. Similar to other sports programs, 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 a motor sports entertainment complex.[113] Funding for each motorsport complex shall begin 60 days after certification and shall continue for not more than 30 years.[114]

Per OPPAGA's most recent review of the sports related economic development programs, the Motorsports Entertainment Complex has not had any applicants or funds dispersed since the program's inception.[115]

<u>Entertainment Industry Incentives</u>

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.[116] The Commissioner of Film and Entertainment is selected through a national search and must meet certain qualifications. The OFE is assisted by the Florida Film and Entertainment Advisory Council (council), which is composed of 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.[117]

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

---

108 S. 212.20(6)(d)6.c., F.S.
109 Office of Program Policy Analysis and Government Accountability, *Florida Economic Development Program Evaluations – Year 8 supra* n. 43, p. 49.
110 S. 288.1168(8), F.S.
111 S. 288.1171(1), F.S.
112 S. 288.1171(3), F.S.
113 S. 218.64(3), F.S.
114 *Id.*
115 Office of Program Policy Analysis and Government Accountability, *Florida Economic Development Program Evaluations – Year 8 supra* n. 43, p. 35.
116 S. 288.1251, F.S.; *see also* Florida Office of Film & Entertainment, http://filminflorida.com/ (last visited May 10, 2023).
117 S. 288.1252, F.S.

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,[118] which is a six-year program that began July 1, 2010, and the program expired on July 1, 2016. The program provided tax credits for qualified expenditures related to filming and production activities in Florida. These tax credits could be applied against the corporate income tax or sales and use taxes. Additionally, these tax credits could be transferred or sold one time.[119]

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.[120]

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.[121]

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

<u>Other Programs</u>

Economic Gardening Programs

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.[122]

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.[123] 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."[124]

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;

---

118 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.
119 Also, tax credits may be relinquished to the Department of Revenue for 90% of the amount of the relinquished tax credit.
120 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.
121 S. 288.1258, F.S.
122 Ss. 288.1081 and 288.1082, F.S.
123 S. 288.1082(2), F.S.
124 DEO, 2015- 2016 Annual Incentives Report Page, p. 19.

- qualifies for the tax refund program for qualified target industry businesses under s. 288.106, F.S.; and
- has increased both its number of full-time equivalent employees in this State and its gross revenues during three of the previous five years.[125]

The loan program expired on July 1, 2016.[126]

Microfinance Programs

The state has two separate microfinance programs, the Microfinance Loan Program[127] and the Microfinance Guarantee Program.[128] The loan program is designed to make short-term, fixed-rate microloans for business management training, business development training, and technical assistance to entrepreneurs and newly established or growing small businesses for startup costs, working capital, and the acquisition of materials, supplies, furniture, fixtures, and equipment. The intent of the program is to enable entrepreneurs and small businesses to access private financing after completing the program. The guarantee program is intended to stimulate access to credit for entrepreneurs and small businesses by providing targeted guarantees to their loans. Loan guarantees cannot exceed 50 percent of the total loan amount, and are limited to loans that range between $50,000 and $250,000.[129]

Florida Small Business Technology Growth Program

Florida Small Business Technology Growth Program (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.[130] SBTGP and its associated nonprofit[131] 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.

Scripps Florida Funding Corporation

The Scripps Florida Funding Corporation is a non-profit created by the Legislature to receive, hold, invest, administer, and disburse legislatively appropriated funds to Scripps Florida. Scripps Florida is an institute in Florida that the Scripps Research Institute planned to open to create a biotech hub in Palm Beach County. The facility was going to focus on conducting biomedical research related to AIDS, Alzheimer's disease, cancer, diabetes, hepatitis C, and Schizophrenia.[132] Scripps received $310 million from the state and $269 million from Palm Beach County to build its campus.[133] Scripps opened in 2009 on land adjacent to Florida Atlantic University. However, the biotech village promised by Scripps on a nearby 70 acres of land bought by Palm Beach County was never built. Instead the land was given to the Scripps Research Institute in May of 2021 for $1. The University of Florida recently purchased three buildings previously built by the Scripps Research Institute and the accompanying vacant land.[134]

---

[125] S. 288.1082(4), F.S.
[126] S. 288.1081(10), F.S.
[127] S. 288.9934, F.S.
[128] S. 288.9935, F.S.
[129] S. 288.9935, F.S.
[130] S. 288.95155, F.S.
[131] S. 288.9519, F.S.
[132] OPPAGA, Report No. 09-36, *Scripps Florida Funding Corporation Complies with Requirements and Should be Continued*, p.1-2 (October 2009).
[133] Katherine Kokal, *UF will take over Jupiter Scripps campus, 70 acres nearby. Check out the price tag,* The Palm Beach Post (Jan. 12, 2022), available at https://www.palmbeachpost.com/story/news/local/pbgardens/2022/01/18/scripps-sells-palm-beach-county-research-campus-university-florida/9198371002/ (last visited May 10, 2023).
[134] *Id*.

Florida Development Finance Corporation

The Florida Development Finance Corporation (FDFC) is a statewide development financing authority created by the Legislature.[135] The FDFC operates as a conduit bond issuer that issues bonds on behalf of borrowers.[136] While the FDFC functions as a mechanism to help borrowers access capital markets, it does not take on responsibility of debt repayment, even when a borrower fails to repay. Conversely, the FDFC does not guarantee the bonds it issues but certain borrowers may opt in to the guaranty fund established by the FDFC pursuant to s. 288.9607, F.S., which guarantees that the bonds issued will be repaid. This guaranty fund consists of premiums paid by businesses that wish to participate in the fund and by a property interest in the infrastructure built with the insured bond's proceeds.[137]

A majority of the FDFC's financial assistance results from the issuance of municipal bonds, of which it may issue either a taxable revenue bond or a tax-exempt bond.[138] The bonds issued can provide financing for projects that further public purposes and are issued on behalf of a range of organizations. The FDFC also provides access to the Commercial Property Assessed Clean Energy (C-PACE) program, for which it issues a combination of revenue notes and finance agreements collected with a non-ad valorem assessment on the property's tax bill.[139]

The FDFC is governed by a Board of Directors (Board). The FDFC Board consists of seven directors with the Secretary of Economic Opportunity serving as the chair of the Board and the director of the Division of Bond Finance of the State Board Administration serving as the director of the Board. The remaining five directors are appointed by the Governor, subject to the confirmation of the Senate. The appointed directors serve a four-year term of office and can be reappointed. At three of the appointed directors must have experience in finance, and one of the directors must have experience in economic development.[140]

Under current law, the FDFC will be repealed on July 1, 2023.[141]

Florida Defense Support Task Force

In 2011, the Legislature created the Florida Defense Support Task Force (task force) with the mission to make recommendations to preserve and protect military installations to support the state's position in research and development related to or arising out of military missions and contracting, and to improve the state's military-friendly environment for servicemembers, military dependents, military retirees, and businesses that bring military and base-related jobs to the state.[142]

The task force is comprised of the Governor, or his or her designee, and 12 members representing defense-related industries or communities that host military bases and installations.[143]

The DEO is required to contract with the task force for the expenditure of appropriated funds, which may be used by the task force for:[144]

[135] S. 288.9604, F.S.
[136] S. 288.9605, F.S.
[137] The guaranty may not exceed 5 percent of the aggregate principal amount of bonds or other indebtedness relating to any capital project. S. 288.9607, F.S.
[138] Florida Development Finance Corporation, *About Us, available at* https://www.fdfcbonds.com/about (last visited May 10, 2023).
[139] Florida Development Finance Corporation, *Commercial PACE, available at* https://www.fdfcbonds.com/cpace (last visited May 23, 2023).
[140] S. 288.9604(2), F.S.
[141] S. 288.9604, F.S.
[142] S. 288.987(2), F.S.
[143] S. 288.987(3), F.S.
[144] S. 299.987(7), F.S.

- Economic and product research and development;
- Joint planning with host communities to accommodate military missions and prevent base encroachment;
- Advocacy on the state's behalf with federal civilian and military officials;
- Assistance to school districts in providing a smooth transition for large numbers of additional military-related students;
- Job training and placement for military spouses in communities with high proportions of active duty military personnel; and
- Promotion of the state to military and related contractors and employers.

Florida International Trade and Promotion Trust Fund

The Florida International Trade and Promotion Trust Fund[145] 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.[146]

Return on Investment

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.[147]

As part of their evaluation, EDR calculates the state's ROI in addition to reporting the impact on the key economic variables. In their most recent report, EDR released ROI data on the following programs:
- The Qualified Target Industry Tax Refund (QTI) established under s. 288.106, 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.;
- The Professional Golf Hall of Fame incentive established under s. 288.1168, F.S.;
- The International Game Fish Association World Center Facility incentive established under s. 288.1169, F.S.;
- The International Offices Program established under s. 288.012, F.S.; and
- The New Markets Development Program established under ss. 288.991-288.9922, F.S.

[145] S. 288.826, F.S.
[146] S. 212.0606(3)(a), F.S.
[147] S. 288.0001, F.S.

Return On Investment Analyses

Conducted by the Office of Economic and Demographic Research

Ranked Incentives and Investments	Working ROI*	*3rd 3-yr ROUND*	*2nd 3-yr ROUND*	*1st 3-yr ROUND*	STATUS
Economic Evaluation of Florida's Investment in Beaches	5.4				More than Breaks Even (State makes money from the investment)
International Offices Program	4.4	*4.4*	*4.3*	*4.0*	
Florida Sports Foundation Grant Program	4.3	*4.3*	*4.8*	*4.7**	
VISIT FLORIDA Advertising	3.3	*3.3*	*2.2*	*3.2*	
Transportation: Seaports Program Area	2.7				
Transportation: Aviation Program Area	1.7				
Quick Action Closing Fund (QACF)	0.84	*0.84*	*0.60*	*1.10*	Does Not Break Even (however, the State recovers a portion of the cost)
Professional Sports Franchise Incentive	0.75	*0.75*	*0.32*	*0.30*	
Spring Training Baseball Franchise Incentive	0.54	*0.54*	*0.22*	*0.11*	
Entertainment Industry Sales Tax Exemption (STE)	0.49	*0.49*	*0.58*	*0.54*	
Qualified Target Industry (QTI)--*all years have been revised*	0.23	*0.66*	*0.84*	*-0.27*	
Transportation: Roads & Highways	0.19				
Microfinance Loan Program	0.15				
Professional Golf Hall of Fame Facility Incentive	0.15	*0.15*	*0.12*	*-0.08*	
Innovation Incentive Program (IIP)	0.10	*n/a*	*0.10*	*0.20*	
Microfinance Guarantee Program	0.08				
Entertainment Industry Financial Incentives Program (Tax Credit or FTC)	0.07	*0.07*	*0.18*	*0.43*	
Urban High-Crime Area Job Tax Credit	0.07				
Quick Response Training Program (QRT)	0.06	*0.06*	*0.19*	*0.09*	
Transportation: Public Transit	0.05				
Export Assistance Program	0.04	*0.04*	*1.05*	*1.85*	
Veterans Florida Entrepreneurship Program**	0.04				
Transportation: Rails	0.02				
Enterprise Zones***	-0.05				State Loses All of Its Investment (plus incurs additional costs)
International Game Fish Association World Center Facility Incentive	-0.09				
Capital Investment Tax Credit (CITC)--*all years have been revised*	-0.58	*-0.22*	*-0.49*	*n/a*	
High-Impact Sector Performance Grant (HIPI)	-0.79	*-0.85*	*0.05*	*0.70*	
Brownfield	-0.89	*1.5*	*1.7*	*1.1*	
New Markets Development Program	-0.98	*-0.79*	*0.18*	*n/a*	

NOTEs:

**All Incentives and Investments are ranked by using the last ROI that could be calculated--in some cases, the 4th Round. Two initiatives had to reach back to reviews from prior years.*

***The Veterans Florida Workforce Training Grant Program was also reviewed, but no ROI was calculated.*

****The Enterprise Zone Program has effectively sunset; the ROI was calculated in 2015.*

Effect of the Bill

The bill changes the name of DEO to the "Department of Commerce" (Commerce) and likewise changes the name of the Secretary of Economic Opportunity to the "Secretary of Commerce." The Secretary of Commerce also serves as the Governor's chief negotiator for business recruitment and expansion, a duty which EFI's president currently holds. The bill clarifies that Commerce is the Governor's chief agency for business recruitment and expansion and economic development. The bill conforms many of the duties of EFI by moving them to Commerce and delegates other duties to Commerce based on changes made in the bill, including:

- Promoting the state as a pro-business location for new investment;
- Contracting with FSF to guide, stimulate, and promote the sports industry in Florida;
- Encouraging and overseeing the coordination of international trade development efforts of public institutions, business associations, economic development councils, and private industry;
- Supporting Florida's defense, space, and aerospace industries;
- Assisting, promoting, and enhancing economic opportunities for Florida's minority-owned businesses and rural and urban communities; and
- Contracting with applicable direct-support organizations.

Under the bill, DEO's current Division of Strategic Business Development is renamed "Division of Economic Development" (DED). In the 5-year statewide strategic plan, DED must include strategies for the attraction of venture capital and finance development, domestic trade, and strategies to support Florida's defense, space, and aerospace industries. DED must also coordinate with VF for the development of VF's 4-year marketing plan and provide the Governor, President of the Senate, and Speaker of the House of Representatives a detailed incentives report. DED must also administer and manage relationships with the programs created pursuant to the Florida Capital Formation Act.[148]

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 Commerce.

The bill directs Commerce and EFI to coordinate in the development and implementation of a transition plan that supports the implementation of this act within 30 days of the effective date. Under the bill, EFI may continue with any powers, duties, functions, records, offices, personnel, property, pending issues, and existing contracts as provided in Florida Statutes 2022 until December 1, 2023. The president of EFI must continue the operations of EFI until full implementation of the transition plan, or until December 1, 2023, whichever comes first.

The bill designates VF as a direct-support organization of Commerce, instead of EFI. VF must contract with Commerce to continue any existing program, activity, duty, or function necessary for operation of the corporation. The bill moves the administration of the Cooperative Advertising Matching Grants Program and the Capitol Information Center from EFI to VF. The bill repeals EFI's Division of Tourism Marketing and moves all of its duties and functions to VF.

The bill reenacts and amends s. 288.1229, F.S., which is the statute that created FSF. The bill makes conforming changes to the reenacted section and specifies that FSF is a DSO of Commerce. FSF must enter into an agreement with Commerce to continue any existing program, activity, duty, or function necessary for operation of the foundation.

The bill removes Commerce's ability to contract with EFI to administer the international offices program and creates a new DSO of Commerce to:

- Administer the international offices program;

---

[148] The Florida Capital Formation Act created the Florida Opportunity Fund, Institute for Commercialization of Florida Technology, and Florida Technology Seed Capital Fund. Ss. 288.9621-288.9627, F.S.

- Assist with the coordination of international trade development efforts; and
- Assist in development and planning related to foreign investment, international partnerships, and other international business development.

The new DSO for international trade development must be organized as a nonprofit under chapter 617 and recognized under s. 501(c)(3) of the Internal Revenue Code. A seven-member board of directors appointed by the Secretary of Commerce governs the DSO. The bill provides guidelines for the new DSO's board of directors and directs that members of the board of directors shall serve without compensation for four-year terms. The subsection creating the new DSO is repealed as of October 1, 2028, unless reviewed and saved from repeal by the legislature.

The bill inserts language clarifying that Commerce must continue to support the Florida Defense Support Task Force.

The bill removes the repeal date for the FDFC in current law for "July 1, 2023, and July 1 of every fourth year thereafter." Thus, the FDFC will continue operating in its role as provided under current law.

The bill provides for the repeal of the following programs and incentives:
- Entertainment industry tax credit
- Qualified defense contractor and space flight business tax refund
- Tax refund program for qualified target industry businesses
- Economic Gardening Business Loan Pilot Program
- Economic Gardening Technical Assistance Pilot Program
- Quick Action Closing Fund
- Innovation Incentive Program
- Motorsports Entertainment Complex
- International Game Fish Association World Center Facility
- Professional Golf Hall of Fame
- Florida Small Business Technology Growth Program
- Corporate Income Tax Credits for Spaceflight Projects
- New Markets Development Program
- Microfinance Loan Program
- Scripps Florida Funding Corporation.

In accordance with these repeals, 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, 2023. Existing contracts and agreements for these repealed programs and incentives 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.

Furthermore, the bill eliminates the Office of Film and Entertainment and the Florida Film and Entertainment Advisory Council.

The bill removes language referencing EFI in the International Trade and Promotion Trust Fund, and likewise updates language throughout the Florida Statutes consistent with the repeals and changes in the bill.

The bill appropriates 20 full-time equivalent positions and the sum of $5,000,000 in recurring funds to Commerce and $5,000,000 in recurring funds to the new DSO for international trade development. Additionally, the bill appropriates $1 million in nonrecurring funds to Commerce to facilitate the transition of EFI to Commerce.

The bill directs the Division of Law Revision to prepare a reviser's bill to change the terms "Department of Economic Opportunity" and "Secretary of Economic Opportunity" to "Department of Commerce" and "Secretary of Commerce," respectively, wherever the terms appear in the Florida Statutes and to make such further changes as are necessary to conform the Florida Statutes to the provisions of the bill.

The bill provides an effective date of July 1, 2023.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The bill provides an appropriation of $5 million in recurring funds to Commerce from the State Economic Enhancement and Development Trust Fund and 20 positions to carry out the provisions of the bill. The bill also provides an appropriation of $5 million in recurring funds from the International Trade and Promotion Trust Fund for the direct-support organization created by the bill. The bill provides an appropriation of $1 million in nonrecurring funds from the State Economic Enhancement and Development Trust Fund to Commerce to facilitate the transition plan and transfers required by the bill.

   The repeal of certain economic incentive programs will not have an impact on current state expenditures because their elimination either prevents future contracts or the programs have already expired. There will also be no impact to existing incentive contracts as those agreements that have met performance metrics are currently funded in the state budget and are evaluated annually for funding during the state budget process.

   The elimination of EFI yields a recurring savings of $12 million in trust fund expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate.

D. FISCAL COMMENTS:

None.