

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: CS/SB 1264

INTRODUCER: Commerce and Tourism Committee and Senator Collins

SUBJECT: Rural and Urban Business Enterprises

DATE: March 31, 2025      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Renner	McKay	CM	Fav/CS
2.			FT	
3.			ATD	
4.			RC	

**Please see Section IX. for Additional Information:**  
 COMMITTEE SUBSTITUTE - Substantial Changes

**I. Summary:**

CS/SB 1264 makes several changes relating to business enterprises. Specifically, the bill:

- Repeals and replaces statutory references to minority business enterprises with “certified rural or urban business enterprises,” which are defined as businesses located in a defined geographic area where either the per capita income in the area is less than 80% of Florida’s per capita income or the unemployment rate in the area is greater than the unemployment rate for Florida by more than 1% over the previous 24 months.
- Repeals regional planning councils and allows local governments to enter into agreements to form regional planning entities.
- Includes business development in rural or urban areas as one of the programs the Department of Commerce (department) must implement.
- Revises the department’s Division of Economic Development’s (division) responsibilities to require the division to establish the Office of Secure Florida, which is responsible for administering and enforcing E-Verify, employment authorization compliance, and the prohibition against the purchase and registration of real property in Florida by foreign principals.
- Revises the information required in the department’s annual incentives report to include a description of trends relating to business interest in and usage of the various incentives and the number of small businesses and businesses in rural or urban areas receiving incentives.
- Creates the Research, Innovation, Science, and Engineering (RISE) Investment Tax Credit Program within the department to increase venture capital investment in Florida.

- Revises the eligibility requirements for the Law Enforcement Recruitment Bonus Payment Program for newly employed law enforcement officers by removing the requirement that the officer maintain continuous full-time employment or at least two years from the date on which certification was obtained, extends the break in service from 15 calendar days to 180 days, and specifies that any break in service will not count toward satisfying the 2-year full-time employment requirement. The bill also deletes the expiration date of the program.
- Repeals the expiration of the sales tax exemption for certain data centers on June 30, 2027.
- Requires the Department of Emergency Management’s statewide emergency shelter plan to identify the general location and square footage of special needs shelters annually through 2030. The bill also provides that state funds must be maximized and targeted to regional planning council regions as those regions existed on January 1, 2025.
- Provides an exemption from land being reverted to the Board of Trustees if land conveyances are at less than the appraised value for federal government agencies, including the Department of Defense, the Army, the Navy, the Air Force, and the U.S. Coast Guard, if the primary purpose of remaining as a military installation buffer continues, even though the specific military purpose, mission, and function on the conveyed land is modified or changes from that which was present or proposed at the time of the conveyance.
- Renames the Office of Supplier Diversity to the Office of Supplier Development under the Department of Management Services (DMS).
- Renames the Florida Advisory Council on Small and Minority Business Development to the Florida Advisory Council on Small, Rural, and Urban Business Development under the DMS.
- Specifies that Space Florida is not an agency under s. 287.055, F.S., for purposes of its ability to bid and contract in professional or construction services, or both, under an arrangement with a person under certain circumstances.
- Revises the definition of “managerial employees” to include those who have a significant and specific role executing statewide business and economic development projects in support of business recruitment, retention, and expansion, which has the effect of classifying such employees as Selected Exempt Service.

The bill has an indeterminate fiscal impact on state and local government. *See Section V. Fiscal Impact Statement.*

The bill takes effect July 1, 2025.

## **II. Present Situation:**

The present situation for each issue is described below in Section III, Effect of Proposed Changes.

## **III. Effect of Proposed Changes:**

### **Disadvantaged, Small, and Minority Business Enterprises**

#### *Present Situation*

Chapters 287 and 288, F.S., sets forth Florida’s statutory scheme for small and minority owned business assistance. A “small business” is defined as an independently owned and operated

business that employs 200 or fewer permanent full-time employees, has a net worth of not more than \$5 million. A “minority business enterprise” (MBE) is defined as a “small business” which is domiciled in Florida and is at least 51% owned by minority persons. A “minority person” means a lawful, permanent resident of Florida who is an African American, a Hispanic American, an Asian American, a Native American, or an American woman.<sup>1</sup> An “ombudsman” is an office or individual whose responsibilities include coordinating with the Office of Supplier Diversity for the interests of and providing assistance to small and minority business enterprises in dealing with governmental agencies.<sup>2</sup>

### ***Florida Minority Business Loan Mobilization Program***

The Florida Minority Business Loan Mobilization Program, created in s. 288.706, F.S., promotes the development of minority business enterprises, increases their ability to compete for state contracts, and sustains their economic growth in this state. The program aims to assist minority business enterprises by facilitating working capital loans to minority business enterprises that are vendors on state agency contracts. The Department of Management Services administers the program.

### ***Black Business Loan Program***

The Black Business Loan Program is established by s. 288.7102, F.S., under the department, which must annually certify eligible recipients and subsequently disburse funds appropriated by the Legislature, through such eligible recipients, to black business enterprises that cannot obtain capital through conventional lending institutions but that could otherwise compete successfully in the private sector. The program received \$2.25 million in Fiscal Year 2024 from the State Economic Enhancement and Development Trust Fund.<sup>3</sup>

### ***Office of Supplier Diversity***

The Office of Supplier Diversity, now renamed as the Office of Supplier Development (Office),<sup>4</sup> operates within the DMS. The Office assists Florida small businesses, including MBEs and women—and veteran-owned businesses, in becoming suppliers of commodities, services, and construction to the state government.<sup>5</sup> In addition to other statutory powers and functions, the Office has the duty to adopt rules to determine what constitutes a “good faith effort” to meet minority business enterprise procurement goals, create a certification program for MBEs, and monitor agencies’ compliance with procurement goals.<sup>6</sup>

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<sup>1</sup> Section 288.703, F.S.

<sup>2</sup> Section 288.703(5), F.S.

<sup>3</sup> HB 5001 General Appropriations Act (2024), Line 2335, available at [https://www.flhouse.gov/Sections/Documents/loadoc.aspx?FileName=CRA\\_.pdf&DocumentType=Amendments&BillNumber=5001&Session=2024](https://www.flhouse.gov/Sections/Documents/loadoc.aspx?FileName=CRA_.pdf&DocumentType=Amendments&BillNumber=5001&Session=2024) (last visited March 28, 2025).

<sup>4</sup> See Department of Management Services, *Office of Supplier Development*, available at [https://www.dms.myflorida.com/agency\\_administration/office\\_of\\_supplier\\_diversity\\_osd](https://www.dms.myflorida.com/agency_administration/office_of_supplier_diversity_osd) (last visited Mar. 28, 2025).

<sup>5</sup> 8 FLA. PRAC., CONSTR. LAW MANUAL s. 5:22 *Minority and disadvantaged business enterprise requirements* (2023-2024 ed.). For powers and duties of the Office, see s. 287.09451, F.S.

<sup>6</sup> Section 287.09451(4), F.S.

One of the duties of the Office is to develop procedures that an agency can use to identify commodities, contractual services, architectural and engineering services, and construction contracts that minority business enterprises could provide. Each agency is encouraged to spend 21 percent of the money on construction contracts, 25 percent on architectural and engineering contracts, 24 percent on commodities, and 50.5 percent on contractual services during the previous fiscal year. In the event of budget reductions, base amounts may be adjusted as follows:<sup>7</sup>

- Construction contracts – 4 percent for black Americans, 6 percent for Hispanic Americans, and 11 percent for American women.
- Architectural and engineering contracts – 9 percent for Hispanic Americans, 1 percent for Asian Americans, and 15 percent for American women.
- Commodities – 2 percent for black Americans, 4 percent for Hispanic Americans, 0.5 percent for Asian Americans, 0.5 percent for Native Americans, and 17 percent for American women.
- Contractual services- 6 percent for black Americans, 7 percent for Hispanic Americans, 1 percent for Asian Americans, 0.5 percent for Native Americans, and 36 percent for American women.

These spending goals were challenged in court as gender and racial classifications that impermissibly violated the Equal Protection Clause of the U.S. Constitution. A U.S. District Court found that s. 287.09451, F.S., et seq., were not narrowly tailored to serve a compelling governmental interest, violated the Equal Protection Clause of the Fourteenth Amendment, and were unconstitutional.<sup>8</sup>

### ***Florida Advisory Council on Small and Minority Business Development***

The Florida Advisory Council on Small and Minority Business Development assists the Secretary of Department of Management Services with minority businesses and economic and business development.<sup>9</sup> The council's powers and duties include, but are not limited to, studying the ability of financial markets and institutions to meet small business credit needs, determining the impact of government demands on credit for small businesses, and requiring a state economic development comprehensive plan as it relates to small minority businesses.<sup>10</sup>

### ***Effect of Proposed Changes***

The bill repeals or amends the following statutes related to minority business enterprises:

**Section 1** repeals s. 24.113, F.S., relating to minority participation in the sale of lottery tickets.

**Section 15** repeals s. 287.0931, F.S., relating to participation in bond underwriting for minority business enterprises.

**Section 16** repeals s. 288.12266, F.S., relating to the Targeted Marketing Assistance Program.

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<sup>7</sup> Section 287.09451(4)(n), F.S.

<sup>8</sup> *Florida A.G.C. Council v. Florida*, 303 F. Supp. 2d 1307, 1316 (N.D. Fla. 2004).

<sup>9</sup> Section 287.0947(1), F.S.

<sup>10</sup> Section 287.0947(5), F.S.

**Section 17** repeals s. 288.124, F.S., relating to VISIT Florida's convention grants program, and **section 79** amends s. 288.0001, F.S., relating to Economic Development Programs Evaluations, to remove the grants program from the evaluation schedule.

**Section 18** repeals s.288.706, F.S., relating to the Florida Minority Business Loan Mobilization Program.

**Section 19** repeals s. 288.7094, F.S., relating to Black business investment corporations.

**Section 20** repeals s. 288.7102, F.S., relating to the Black Business Loan Program.

**Section 21** repeals s. 288.71025, F.S., relating to prohibited acts and penalties under the Small and Minority Business Assistance Act.

**Section 22** repeals s. 288.7103, F.S., relating to the eligibility requirements for loans, loan guarantees, or investments under the Small and Minority Business Assistance Act.

**Section 23** repeals s. 288.714, F.S., which applies to the quarterly and annual reports required under the Black Business Loan Program.

**Section 24** repeals s. 331.351, F.S., relating to participation by women, minorities, and socially and economically disadvantaged business enterprises.

**Section 30** amends s. 287.012, F.S., relating to procurement of personal property and services definitions, to delete the definition of a minority business enterprise.

**Section 32** amends s. 287.09451, F.S., to rename the Office of Supplier Diversity the Office of Supplier Development. The bill specifies that the office's purpose and duties are to assist rural or urban business enterprises rather than minority ones. It also removes the provision encouraging agencies to spend certain percentages of contract money with specific minority business enterprises.

**Section 33** amends s. 287.0947, F.S., to rename the Florida Advisory Council on Small and Minority Business Development the Florida Advisory Council on Small, Rural, and Urban Business Development. The bill revises the council's powers and duties to assess the implementation of requiring a state economic development comprehensive plan as it relates to small and certified rural or urban business enterprises.

**Section 40** amends s. 288.703, F.S., to delete definitions relating to certified minority business enterprises and minority business enterprises. The bill revises the definition of an ombudsman to change the Office of Supplier Diversity to the Office of Supplier Development and provide that the office coordinate with individuals in assisting rural or urban business enterprises rather than minority business enterprises.

The bill defines a "certified rural or urban business enterprise" as a business located in a defined geographic area within Florida where one of the following conditions has been documented in

the most recent census conducted by the Bureau of the Census of the U.S. Department of Commerce:

- Per capita income in the area is less than 80 percent of Florida’s per capita income.
- The unemployment rate in the area has been greater than the unemployment rate for Florida by more than 1 percent over the previous 24 months from the time the comparison is made.

**Sections 31, 34, 36-42, 44, 47, 51, 69, 71, 72, 75-78, 80, 82, 97, 109, 136, 138-141** amend sections 212.096, 287.042, 287.09431, 288.001, 288.1167, 288.1229, 288.7015, 288.702, 288.705, 288.776, 290.0056, 331.351, 17.11, 255.101, 255.102, 287.055, 287.057, 287.0943, 288.7031, 290.004, 376.3072, 381.986, 473.3065, 625.3255, 657.042, and 658.67, F.S, to make conforming and non-substantive changes relating to the repeal of the terms “minority business enterprises” and “minority persons” and replacing those terms with “rural or urban business enterprises.”

## **Florida Regional Planning Councils**

### ***Present Situation:***

The Florida Legislature passed the Florida Regional Planning Council Act in 1980.<sup>11</sup> The Legislature found that “the problems of growth and development often transcend the boundaries of individual units of local general-purpose government”<sup>12</sup> and that “there is a need for regional planning agencies to assist local governments to resolve their common problems, engage in areawide comprehensive and functional planning, administer certain federal and state grants-in-aid, and provide a regional focus in regard to multiple programs undertaken on an areawide basis.”<sup>13</sup>

The state has 10 regional planning councils (RPCs), each functioning as an association of that district’s constituent local governments: West Florida, Apalachee, North Central, Northeast, East Central, Central, Tampa Bay, Southwest, Treasure Coast, and South.<sup>14</sup>

Current responsibilities of RPCs include, but are not limited to, the following:

- **Comprehensive Regional Planning**
  - Strategic Regional Policy Plans: develop long-term plans addressing transportation, housing, emergency response, economic development, and environmental protection.<sup>15</sup>
  - Growth Management: Review and coordinate local government comprehensive plans to ensure consistency with regional and state objectives.<sup>16</sup>
- **Economic Development**
  - Assist local governments with activities designed to promote and facilitate economic development.<sup>17</sup>

<sup>11</sup> Sections 186.501-186.513, F.S.

<sup>12</sup> Section 186.502(a), F.S.

<sup>13</sup> Section 186.502(b), F.S.

<sup>14</sup> Section 186.512, F.S.

<sup>15</sup> Section 186.507, F.S.

<sup>16</sup> See chapter 163, F.S.

<sup>17</sup> Section 186.502(5), F.S.

- Transportation Planning
  - Coordinate regional transportation systems and land development policies.<sup>18</sup>
  - Serve as partners with Metropolitan Planning Organizations to improve regional mobility.<sup>19</sup>
- Emergency Preparedness and Disaster Resilience
  - Develop and implement emergency response plans with the Florida Division of Emergency Management.<sup>20</sup>

### *Effect of Proposed Changes*

**Sections 2-14** repeal sections 186.501 – 186.515, F.S., relating to the Regional Planning Councils.

**Section 50** allows local governments to enter into agreements to create regional planning entities pursuant to ch. 163, F.S.

**Sections 52-68, 70, 73, 74, 81, 83-96, 98-108, 110-135, 137, 141, and 148** amend sections 68.082, 120.52, 120.525, 120.65, 163.3164, 163.3177, 163.3178, 163.3184, 163.3245, 163.568, 164.1031, 186.003, 186.006, 186.007, 186.008, 186.803, 187.201, 218.32, 258.501, 260.0142, 288.975, 320.08058, 335.188, 339.155, 339.175, 339.285, 339.63, 339.64, 341.041, 343.54, 366.93, 369.303, 369.307, 373.309, 373.415, 377.703, 378.411, 380.031, 380.045, 380.05, 380.055, 380.06, 380.061, 380.07, 380.23, 380.507, 403.031, 403.0752, 403.503, 403.50663, 403.507, 403.509, 403.5115, 403.5175, 403.518, 403.522, 403.5251, 403.526, 403.5271, 403.5272, 403.5363, 403.5365, 403.537, 403.704, 403.7225, 403.7226, 403.723, 403.9403, 403.941, 403.9422, 403.973, 408.033, 420.609, 501.171, and 1013.30, F.S., to make conforming and non-substantive changes necessary to implement the bill relating to the repeal of regional planning councils.

### **Present Situation**

#### *Department of Commerce*

The department is Florida's lead agency for working with the Legislature, state agencies, business leaders, and economic development professionals to formulate and implement coherent and consistent policies and strategies designed to promote economic opportunities for all Floridians.<sup>21</sup> The department is also the state's chief agency for business recruitment and expansion.<sup>22</sup> The department must also promote viable, sustainable communities by providing technical assistance and guidance on growth and development issues, grants, and other assistance to local communities.<sup>23</sup>

<sup>18</sup> Section 339.155(4), F.S.

<sup>19</sup> Section 339.175(6), F.S.

<sup>20</sup> Section 252.385(2), F.S.

<sup>21</sup> Section 20.60(4), F.S.

<sup>22</sup> *Id.*

<sup>23</sup> Section 20.60(4)(c), F.S.

The head of the department is the Secretary of Commerce, who is appointed by the Governor and confirmed by the Senate.<sup>24</sup> The secretary may create offices within the Office of the Secretary and within the divisions to promote efficient and effective operation of the department.<sup>25</sup> The department must also ensure that the state's goals and policies relating to economic development, workforce development and community planning and development are fully integrated with appropriate implementation strategies.<sup>26</sup>

To achieve these goals, the Legislature established seven divisions and offices within the department:

- Economic Development
- Community Development
- Workforce Services
- Finance and Administration
- Information Technology
- Office of the Secretary
- Office of Economic Accountability and Transparency<sup>27</sup>

The agency is charged with managing the activities of public-private partnerships and state agencies to avoid duplication and promote coordinated and consistent implementation of programs, including defense, space, and aerospace development and rural community development.<sup>28</sup>

### ***E-Verify & Prohibition against Purchases of Real Property***

It is unlawful for any person to knowingly employ, hire, recruit, or refer, either for herself or himself or on behalf of another, for private or public employment, an alien who is not duly authorized to work by the immigration laws of the United States, the Attorney General of the United States, or the United States Secretary of the Department of Homeland Security.<sup>29</sup> If the department finds or is notified by a specified entity that an employer has knowingly employed an unauthorized alien without verifying the employment eligibility, the department must enter an order making such determination and require repayment of any economic incentive.<sup>30</sup>

The department must place the employer on probation for a 1-year period and require that the employer report quarterly to the department to demonstrate compliance if there was a violation. Any violation that takes place within 24 months after a previous violation constitutes grounds for the suspension or revocation of all licenses issued by a licensing agency subject to ch. 120, F.S.<sup>31</sup>

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<sup>24</sup> Section 20.60(2), F.S.

<sup>25</sup> Section 20.60(3)(b), F.S.

<sup>26</sup> Section 20.60(3), F.S.

<sup>27</sup> *Id.*

<sup>28</sup> Section 20.60(4)(e), F.S.

<sup>29</sup> Section 448.09(1), F.S.

<sup>30</sup> Section 448.09(2), F.S.; Section 288.061(6), F.S., prohibits the Secretary of Commerce from approving an economic development incentive application unless the application includes proof to the department that the applicant business is registered with and uses the E-Verify system to verify the work authorization status of all newly hired employees. Upon a final determination of noncompliance, the awardee must repay all moneys received as an economic development incentive to the department within 30 days after the final determination.

<sup>31</sup> Section 488.09(4), F.S.



Section 448.095, F.S., requires an employer to verify each new employee's employment eligibility within 3 business days after the first day that the employee begins working for pay. A public agency, or private agency with 25 or more employees, must use the E-Verify system to verify employment eligibility. Each employer required to use the E-Verify system must certify compliance to the Department of Revenue each year when making contributions to or reimbursing the state's unemployment compensation or reemployment assistance system.<sup>32</sup>

Foreign principals are prohibited from directly or indirectly owning or acquiring by purchase, grant, devise, or descent any interest in real property within 20 miles of any military installation or critical infrastructure facility in the state.<sup>33</sup> A foreign principal that directly or indirectly owns or acquires any interest in real property within 20 miles of a military installation or critical infrastructure facility in the state before July 1, 2023, may continue to own or hold such real property, but may not purchase or otherwise acquire by grant, devise, or descent any additional real property within 20 miles of any military installation or critical infrastructure facility in the state. Additionally, foreign principals must register with the department.<sup>34</sup>

Similarly, the following persons or entities are prohibited from directly or indirectly owning or acquiring by purchase, grant, devise, or descent any interest in real property in the state:<sup>35</sup>

- The People's Republic of China, the Chinese Communist Party, or any official or member of the People's Republic of China or the Chinese Communist Party.
- Any other political party or member of a political party or a subdivision of a political party in the People's Republic of China.
- A partnership, an association, a corporation, an organization, or any other combination of persons organized under the laws of or having its principal place of business in the People's Republic of China, or a subsidiary of such entity.
- Any person who is domiciled in the People's Republic of China and who is not a citizen or lawful permanent resident of the U.S.

Any person or entity described above that owns or acquires real property in the state before July 1, 2023, must register with the department.<sup>36</sup>

### ***Annual Incentives Report***

The department must provide the Governor and Legislature with a detailed incentives report by December 30 of each year quantifying the economic benefits for all of the economic development incentive programs administered by the department and its public-private partnerships.<sup>37</sup>

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<sup>32</sup> Section 448.095(2), F.S.

<sup>33</sup> Section 692.203, F.S.

<sup>34</sup> Section 692.203(3)(a), F.S.

<sup>35</sup> Section 692.204(1), F.S.

<sup>36</sup> Section 692.204(4), F.S.

<sup>37</sup> Section 288.0065, F.S.

## Effect of Proposed Changes

**Section 25** amends s. 20.60, F.S., to include business development in rural or urban areas as one of the programs the department implements.

The bill also revises the Division of Economic Development's (division) responsibilities to require the division to establish the Office of Secure Florida, which is responsible for administering and enforcing E-Verify and employment authorization compliance under sections 448.09 and 448.095, F.S., and the prohibition against the purchase and registration of real property in Florida by foreign principals under sections 692.203 and 692.204, F.S.

**Section 35** amends s. 288.0065, F.S., revising the information required in the department's annual incentives report to include a description of trends relating to business interest in and usage of the various incentives and the number of small businesses and businesses in rural or urban areas receiving incentives.

## Present Situation

### *Law Enforcement Recruitment Bonus Payment*

The Law Enforcement Recruitment Bonus Payment Program (Bonus Program), within the department, administers one-time bonus payments of up to \$5,000 to newly employed officers<sup>38</sup> in Florida.<sup>39</sup> Bonus payments must be prorated based on the funds the Legislature appropriates for the Bonus Program. The department must develop an annual plan for administering the Bonus Program and distributing bonus payments to eligible officers. At a minimum, the annual plan must include:<sup>40</sup>

- The method for determining the estimated number of newly employed officers to gain or be appointed to full-time employment during the applicable fiscal year.
- The minimum eligibility requirements a newly employed officer must meet to receive and retain a bonus payment, which must include:
  - Obtaining certification as a law enforcement officer.
  - Gaining full-time employment with a Florida criminal justice agency.
  - Maintaining continuous full-time employment with one or more Florida criminal justice agencies for at least two years from the date on which the officer obtained a certification, provided that an officer employed by more than one criminal justice agency may not have a break in service longer than 15 days when transitioning between employers.
- The method that will be used to determine the bonus payment amount to be distributed to each newly employed officer.
- The method that will be used to distribute bonus payments to employing law enforcement agencies for distribution to eligible officers.

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<sup>38</sup> A newly employed officer is a person who gains or is appointed to full-time employment as a certified law enforcement officer with a Florida criminal justice employing agency on or after July 1, 2022, and who has never before been employed as a law enforcement officer in Florida. Section 445.08(1)(d), F.S.

<sup>39</sup> Section 445.08(2), F.S.

<sup>40</sup> Section 445.08(4), F.S.

- The estimated cost to the department associated with developing and administering the program and distributing bonus payment funds.
- The method by which an officer must reimburse the state if he or she received a bonus payment but failed to maintain continuous employment for the required two-year period. An officer is not required to reimburse the state if he or she is discharged from employment with a law enforcement agency for any reason other than this misconduct.

The Bonus Program expires July 1, 2025.<sup>41</sup>

### *Effect of Proposed Changes*

**Section 48** amends s. 445.08, F.S., revising the eligibility requirements for the Law Enforcement Recruitment Bonus Payment Program for newly employed law enforcement officers by removing the requirement that the officer maintain continuous full-time employment with a Florida criminal justice agency for at least two years from the date on which certification was obtained. Furthermore, the bill extends the break in service from 15 calendar days to 180 days. However, the law enforcement officer must provide documentation to the department justifying the break in service. The department must establish acceptable circumstances for any such break in service. Any break in service will not count toward satisfying the 2-year full-time employment requirement.

The bill also deletes the July 1, 2025 expiration date of the program.

### **Sales and Use Tax Exemptions for Data Centers**

#### *Present Situation*

Florida levies a 6 percent sales and use tax on the sale or rental of most tangible personal property,<sup>42</sup> admissions,<sup>43</sup> transient rentals,<sup>44</sup> and a limited number of services, and a 4.5 percent sales and use tax on the rental of commercial real estate.<sup>45</sup> Chapter 212, F.S., contains provisions authorizing the levy and collection of Florida's sale and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. Sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale.<sup>46</sup>

Counties are authorized to impose local discretionary sales surtaxes in addition to the state sales tax.<sup>47</sup> A surtax applies to "all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions by [ch. 212, F.S.], and communications services as defined in ch. 202."<sup>48</sup> The discretionary sales surtax is based on the tax rate imposed by the county where the taxable goods or services are sold or delivered.

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<sup>41</sup> Section 445.08(9), F.S.

<sup>42</sup> Section 212.05(1)(a)1.a., F.S.

<sup>43</sup> Section 212.04(1)(b), F.S.

<sup>44</sup> Section 212.03(1)(a), F.S.

<sup>45</sup> Section 212.031, F.S.

<sup>46</sup> Section 212.07(2), F.S.

<sup>47</sup> Section 212.055, F.S.

<sup>48</sup> Section 212.054(2)(a), F.S.

Certain data center property<sup>49</sup> is exempt from the sales and use tax.<sup>50</sup> To be eligible for the exemption, the data center's owners and tenants must make a cumulative capital investment of \$150 million or more. The data center must also have a critical IT load of 15 megawatts or higher and a critical IT load of 1 megawatt or higher dedicated to each individual owner or tenant within the data center. To receive the exemption, the person seeking the exemption must apply to the Department of Revenue for a temporary tax exemption certificate.<sup>51</sup> However, the Department of Revenue is prohibited from issuing a temporary sales and use tax exemption for those properties after June 30, 2027.<sup>52</sup>

### *Effect of Proposed Changes*

**Section 26** amends s. 212.08, F.S., to repeal the expiration of the data center sales tax exemption on June 30, 2027.

## **Hurricane Loss Mitigation Program**

### *Present Situation*

The Legislature created the Florida Hurricane Catastrophe Fund (FHFC), a tax-exempt trust fund, in 1993<sup>53</sup> in response to problems that developed in the residential property insurance industry following a series of catastrophic events, including Hurricane Andrew in 1992. When the Internal Revenue Service granted FHFC tax-exempt status, it required a certain amount of FHFC funds be appropriated for hurricane mitigation purposes.

In 1999,<sup>54</sup> the Legislature created the Hurricane Loss Mitigation Program under the Division of Emergency Management. The program is funded by the annual appropriation of \$10 million from the FHFC and funds are to be used as follows:<sup>55</sup>

- \$7 million for programs to improve the wind resistance of residences and mobile homes; educating persons concerning the Florida Building Code cooperative programs with local governments and the Federal Government; and other efforts to prevent or reduce losses or reduce the cost of rebuilding after a disaster.
- \$3 million for retrofitting public facilities for use as hurricane shelters. Each year, the Division of Emergency Management must prioritize the use of the funds for projects included in the annual report of the Shelter Development Report. The Division of Emergency Management must give funding priority to projects in regional planning council regions that have shelter deficits and to projects that maximize the use of state funds.

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<sup>49</sup> Data center property is property used exclusively at a data center to construct, outfit, operate, support, power, cool, dehumidify, secure, or protect a data center and any contiguous dedicated substations. The term includes, but is not limited to, construction materials, component parts, machinery, equipment, computers, servers, installations, redundancies, and operating or enabling software. Section 212.08(5)(r)1.c.(IV), F.S.

<sup>50</sup> Section 212.08(5)(r), F.S.

<sup>51</sup> Section 212.08(5)(r)1.c.(IV)(d)3., F.S.

<sup>52</sup> Section 212.08(5)(r)1.c.(IV)(e)., F.S.

<sup>53</sup> Chapter 93-409, Laws of Fla.

<sup>54</sup> Chapter 99-305, Laws of Fla.

<sup>55</sup> Section 215.559(1), F.S.

### *Effect of Proposed Changes*

**Section 27** amends s. 215.559, F.S., to require the Division of Emergency Management to prioritize funding under the Hurricane Loss Mitigation Program to projects in regional planning council regions as those regions existed on January 1, 2025.

### **Public Shelter Spaces**

#### *Present Situation*

The Division of Emergency Management manages a program for surveying existing private and public buildings, with the owner's consent, to identify appropriately designed and located shelters in the event of an emergency.<sup>56</sup> By January 31 of each even-numbered year, the Division of Emergency Management must prepare and submit a statewide emergency shelter plan to the Governor and Cabinet for approval. The plan must project the state's hurricane shelter needs for each of the next five years. Additionally, the plan must identify the general location and square footage of special needs shelters by regional planning council region.<sup>57</sup>

The list of facilities recommended for retrofitting using state funds must be provided annually to the Governor and the Legislature. State funds should be maximized and targeted to regional planning council regions with hurricane evacuation shelter deficits.<sup>58</sup>

### *Effect of Proposed Changes*

**Section 28** amends s. 252.385, F.S., to require the statewide emergency shelter plan to identify the general location and square footage of special needs shelters annually through 2030. The bill also provides that state funds must be maximized and targeted to regional planning council regions as those regions existed on January 1, 2025.

### **Military Base Protection**

#### *Present Situation*

The Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) holds state lands in trust for the use and benefit of the people of Florida.<sup>59</sup> The Board of Trustees consists of the Governor, Attorney General, Chief Financial Officer, and Commissioner of Agriculture. This body may acquire, sell, transfer, and administer state lands in the manner consistent with chs. 253 and 259, F.S.<sup>60</sup> The Department of Environmental Protection (DEP), through its Division of State Lands (DSL), performs all staff duties and functions related to the acquisition, administration, and disposition of state lands.<sup>61</sup>

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<sup>56</sup> Section 252.385(2)(a), F.S.

<sup>57</sup> Section 252.385(2)(b), F.S.

<sup>58</sup> Section 252.385(3), F.S.

<sup>59</sup> Section 253.001, F.S.

<sup>60</sup> Section 253.02(1), F.S.

<sup>61</sup> Section 253.002(1), F.S.

“Conservation lands” are lands managed for conservation, outdoor resource-based recreation, or archaeological or historic preservation, except those lands acquired solely to facilitate the acquisition of other conservation lands.<sup>62</sup>

The Board of Trustees may acquire nonconservation lands from the department's annual list through the Military Base Protection Program to buffer a military installation against encroachment.<sup>63</sup> A conveyance at less than appraised value must state that the land will revert to the Board of Trustees if the land is not used for its intended purposes as a military installation buffer or if the military installation closes.<sup>64</sup>

### *Effect of Proposed Changes*

**Section 29** amends s. 253.025, F.S., to provide an exemption from land being reverted to the Board of Trustees if land conveyances are at less than the appraised value. The exemption applies to federal government agencies, including the Department of Defense, the Army, the Navy, the Air Force, and the U.S. Coast Guard, if the primary purpose of remaining as a military installation buffer continues, even though the specific military purpose, mission, and function on the conveyed land is modified or changes from that which was present or proposed at the time of the conveyance.

## **Research, Innovation, Science, and Engineering (RISE) Investment Tax Credit Program**

### *Effect of Proposed Changes*

**Section 43** creates s. 288.9628, F.S., relating to the Research, Innovation, Science, and Engineering (RISE) Investment Tax Credit Program within the department to increase venture capital investment in Florida. The department must coordinate with the Florida Opportunity Fund and the State Board of Administration in reviewing and approving applications for tax credits under this section.

*Application:* An applicant must apply to the department for authorization to claim RISE tax credits. The department must review and approve or deny a complete application within 60 calendar days after the complete application has been submitted. An applicant must demonstrate to the department's satisfaction within 12 months after the complete application has been submitted that the qualifying private fund<sup>65</sup> has received at least the total capital commitment contained in its application. The application must include specified names of investors, number of qualifying instruments, and total capital commitment.

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<sup>62</sup> Section 253.034(2)(c), F.S.

<sup>63</sup> Section 253.025(21)(a), F.S.

<sup>64</sup> Section 253.025(21)(d), F.S.

<sup>65</sup> By reference to s. 517.12(22), F.S., a “qualifying private fund” means: a private fund that meets the definition of the term “qualifying private fund” in Securities and Exchange Commission Rule 203(m)-1, 17 C.F.R. s. 275.203(m)-1; a private fund that meets the definition of the term “venture capital fund” in Securities and Exchange Commission Rule 203(l)-1, 17 C.F.R. s. 275.203(l)-1; or a “venture capital operating company” as defined in 29 C.F.R. s. 2510.3-101(d) adopted by the United States Department of Labor under the Employee Retirement Income Security Act of 1974. The definition also includes an “angel investor group,” defined by s. 517.021, F.S., as a group of accredited investors who hold regular meetings and have defined processes and procedures for making investment decisions, individually or among the membership of the group, and who are not associated persons, affiliates, or agents of a dealer or investment adviser.

*Tax credits and revocation:* To receive tax credits, a qualifying private fund must provide documentation that demonstrates to the department's reasonable satisfaction that the qualifying investment meets requirements. A qualifying private fund must make at least one qualified investment in at least one qualifying portfolio project to be eligible to receive tax credits under this section. Each submission by a qualifying private fund to receive tax credits for a qualifying investment in a qualifying portfolio company must include, at a minimum: the amount of cash deployed in a qualifying portfolio company, the total number of employees employed by the qualifying portfolio company, and the total number of Florida-based, full-time equivalent employees employed by the qualifying portfolio company.

A qualifying private fund may receive tax credits equivalent to 25 percent of a qualifying investment in a qualifying portfolio company. Upon a determination by the department that the qualifying investment meets the requirements, the department must authorize the Department of Revenue to issue tax credits to the qualifying private fund. The Department of Revenue may not issue more than one-fifth of the tax credits authorized for a qualifying investment in a qualifying portfolio company in a fiscal year. Credits received pursuant to this section may be applied against the qualifying private fund's corporate income tax liability. A qualifying private fund may elect to sell or transfer, in whole or in part, any tax credit issued under this section. An election to sell or transfer any tax credit received pursuant to this section must be made no later than 5 years after the date the credit is received by the qualifying private fund, after which the credit expires and may not be used. A qualifying private fund may not sell or transfer credits that have been authorized by the department but not yet issued by the Department of Revenue.

The department may revoke or modify any written decision qualifying, certifying, or otherwise granting eligibility for tax credits under this section if it is discovered that the qualifying private fund submitted any false statement, representation, or certification in any application filed in an attempt to receive tax credits under this section, or if the information in a previously completed application materially changes. The department must immediately notify the Department of Revenue of any revoked or modified orders affecting previously granted tax credits. Additionally, the qualifying private fund must notify the Department of Revenue of any change in its tax credit claimed.

*Compliance:* A qualifying private fund must annually report to the department for each qualifying investment for 5 years after authorization to receive credits. Failure to do so will result in the qualifying private fund's tax credit being revoked. To receive a tax credit, a qualifying fund must submit the following to the department: certification that there have been no material changes to the information contained in the application or, a disclosure containing all material changes, if any; documentation supporting the total number of full-time equivalent employees employed by the qualifying portfolio company; documentation supporting the total number of full-time equivalent employees employed in this state by the qualifying portfolio company; and documentation supporting that the qualifying private fund has not exited its position from the qualifying portfolio company through acquisition by a company not based in this state. For purposes of this section and part III of chapter 692, committed capital invested in a qualifying portfolio company by a venture capital fund may not be construed as having ownership of the qualifying portfolio company.

*Sanctions:* The department must revoke and recapture the tax credits from the qualifying private fund and the Department of Revenue if a qualifying investment does not report to the department annually for five years after authorization to receive the tax credits. In such instances, the qualifying private fund must repay to the department an amount equal to 50% of the tax credits claimed by a qualifying portfolio company for the qualifying investment. Recaptured funds must be deposited into the General Revenue Fund. The department must also revoke and recapture the approval of tax credits for submitting a false statement, representation, or certification in an application by a qualifying private fund. In such instances, the qualifying private fund must repay the department an amount equal to 100% of the tax credits authorized by the department. Recaptured funds must be deposited into the General Revenue Fund.

*Priority of tax credits:* Fifty percent of the tax credits must be made available from July 1 to December 31 each year to provide tax credits for qualifying investments in qualifying portfolio companies located in rural communities defined in s. 288.065(2), F.S. All remaining tax credits must be made available from January 1 to June 30 of each year on a first-come, first-served basis, subject to the eligibility of the qualifying investment.

*Reporting and rulemaking:* Beginning December 30, 2026, the department must include the amounts of tax credits authorized and received, the total number of jobs created, and the total number of jobs created in this state in its annual incentives report required in s. 288.0065, F.S. The department is authorized to adopt rules to implement this section.

## **Space Florida**

### ***Present Situation***

Space Florida is an independent special district<sup>66</sup> created to promote aerospace business development by facilitating business and infrastructure financing, spaceport operations, research and development, workforce development, and innovative education programs.<sup>67</sup> Space Florida acts as the single point of contact for state aerospace-related activities with federal agencies, the military, state agencies, businesses, and the private sector.<sup>68</sup> Space Florida may purchase or construct facilities; set rates, fees, and charges for the use of facilities, and undertake joint financing with municipalities or private sector entities for any project.<sup>69</sup>

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<sup>66</sup> A “special district” is a unit of local government created for a particular purpose, with jurisdiction to operate with a limited geographic boundary. See *Halifax Hospital Medical Center v. State of Fla., et al.*, 278 So. 3d 545, 547 (Fla. 2019). Special districts are created by general law, special act, local ordinance, or by rule of the Governor and Cabinet. See ss. 189.02(1), 189.031(3), and 190.005(1), F.S. See generally s. 189.012(6), F.S. A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district’s charter. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county. A “dependent special district” is a special district subject to significant control by the governing body of a single county or municipality. Section 189.012(2), F.S. An “independent special district” is any district that is not a dependent special district. Section 189.012(3), F.S.

<sup>67</sup> Section 331.302, F.S.

<sup>68</sup> Section 331.3011, F.S.

<sup>69</sup> Section 331.305, F.S.



Space Florida is not an agency for the purpose of fiscal affairs of the state, appropriations acts, legislative budgets, and approved budgets<sup>70</sup> or for the procurement of personal property and services.<sup>71</sup>

### ***Agency Procurement Requirements***

Section 287.055, F.S., the Consultants Competitive Negotiation Act, specifies the competitive selection process to be followed by an agency when procuring professional services, which include architecture, professional engineering, landscape architecture, or registered surveying and mapping, as defined by the laws of the state, or those performed by any architect, professional engineer, landscape architect, or registered surveyor and mapper in connection with his or her professional employment or practice.<sup>72</sup> Section 255.20, F.S., specifies the procurement process to be followed for local bids and contracts for public construction projects.

### ***Effect of Proposed Changes***

**Section 46** amends s. 331.302, F.S., to provide that Space Florida is not an agency under s. 287.055, F.S., for purposes of its ability to bid and contract in professional or construction services, or both, under an arrangement with a person when:

- The person offering personal or construction goods or services is not subject to the requirements of s. 287.055, F.S.;
- Space Florida and the person execute a contract with terms acceptable to Space Florida; and
- The person provides to Space Florida via contract an unqualified representation and warranty that the payments by the person to Space Florida in return for the possession and use of the project by the person will not be derived, directly or indirectly, from state or local government funds.

The bill specifies monies received by the person contracted to provide goods produced and services provided from government entities in the ordinary course of its operation of the project are not state or local government funds.

### **Managerial Employees**

#### ***Present Situation***

Section 110.205, F.S., specifies the state employees who are classified as career service, and designates the positions that are exempt from career service. Pursuant to s. 110.205(2)(w), F.S., managerial employees, as defined in s. 447.203(4), F.S., are exempt from career service. Pursuant to s. 110.603, F.S., the DMS must adopt a classification plan and a pay plan consisting of pay bands appropriate to the positions included in the Selected Exempt Service and which provides for salary increases based on performance. Such pay bands must be designed to attract and retain qualified personnel for the Selected Exempt Service. The pay plan and benefit package for the Selected Exempt Service must provide for greater pay and benefits overall than

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<sup>70</sup> See s. 216.011(1)(ww), F.S.

<sup>71</sup> See s. 287.012(1), F.S.

<sup>72</sup> Section 287.055(2)(a), F.S.

are provided for the Career Service and less pay and benefits overall than are provided for the Senior Management Service.

***Effect of Proposed Changes***

**Section 49** amends s. 447.203, F.S., to revise the definition of “managerial employees” to include those who have a significant and specific role executing statewide business and economic development projects in support of business recruitment, retention, and expansion.

This has the effect of classifying such employees as Selected Exempt Service, pursuant to use of that definition in s. 110.205(2)(w), F.S.

**Miscellaneous Provisions**

**Sections 142 - 150** reenact ss. 110.205, 163.3162, 373.129, 339.2819, 380.0552, 403.5064, 403.5251, 403.5271, 403.9421, F.S., for the purpose of incorporating the amendments made under this bill.

**Section 151** provides an effective date of July 1, 2025.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

**Single Subject**

Article III, Section 6 of the State Constitution requires every law to “embrace but one subject and matter properly connected therewith.” The purpose of this single subject prohibition is to prohibit logrolling, in which multiple unrelated measures are combined in one bill in order to secure passage of a measure that is unlikely to pass on its own merits.<sup>73</sup> An act may be as broad as the Legislature chooses, provided the matters

<sup>73</sup> Santos v. State, 380 So.2d 1284 (Fla. 1980).

included in the act have a natural or logical connection.<sup>74</sup> The requirement is violated if a law is written to accomplish separate and disassociated objects of legislative intent.<sup>75</sup> The Florida Supreme Court has opined that the single subject clause contains three requirements. First, each law shall embrace only one subject. Second, the law may include any matter that is properly connected with the subject. The third requirement, related to the first, is that the subject shall be briefly expressed in the title.<sup>76</sup>

The bill is entitled “An act relating to rural and urban business enterprises.” Section 29 of the bill relates to the acquisition of state lands for purposes of buffering military installations, and section 51 relates to the Law Enforcement Recruitment Bonus Payment Program.

## V. Fiscal Impact Statement:

### A. Tax/Fee Issues:

The Revenue Estimating Conference has not yet determined the fiscal impact of the bill.

The bill may have a positive fiscal impact on local governments that have data centers due to the extension of the existing sales and use tax exemption certain data centers receive because the exemption could lead to additional economic growth.<sup>77</sup> However, the bill is likely to have a negative fiscal impact on general revenue.

The bill allocates \$100 million in tax credits under the RISE tax credit program. However, the credits are issued in one-fifth increments over five years and must be matched with new capital and revenue production.

### B. Private Sector Impact:

Employers may benefit from utilizing the Office of Secure Florida's resources to verify employment eligibility through E-Verify.

Businesses participating in the RISE investment tax credit program may see an increase in high-paying jobs in high-tech, manufacturing, and research and development sectors.

### C. Government Sector Impact:

The bill may have a negative fiscal impact on the department due to the creation of the Office of Secure Florida. However, the department's legislative budget request includes additional staff for the Office.<sup>78</sup>

The bill could impact state expenditures by deleting the expiration date of the Law Enforcement Recruitment Bonus Payment Program, if the program is funded.

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<sup>74</sup> *Chenoweth v. Kemp*, 396 So.2d 1122 (Fla. 1981).

<sup>75</sup> *State ex rel. Landis v. Thompson*, 163 So. 270 (Fla. 1935).

<sup>76</sup> *Franklin v. State*, 887 So.2d 1063, 1072 (Fla. 2004).

<sup>77</sup> Department of Commerce analysis for SB 1264 (2025). On file with the Senate Commerce and Tourism Committee.

<sup>78</sup> *Id.*

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Section 26 of the bill repeals the data center sales tax exemption's expiration date of June 30, 2027. It does not provide a future expiration date, thus allowing certain data centers to enjoy an indefinite exemption.

Section 48 of the bill extends the break in service from 15 calendar days to 180 days for newly employed officers participating in the Law Enforcement Recruitment Bonus Payment Program. The bill also provides that any break in service will not count toward satisfying the 2-year full-time employment requirement under the program. It is unclear if an officer must start the 2-year commitment over after the break in service.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 20.60, 212.08, 215.559, 252.385, 253.025, 287.012, 287.042, 287.09451, 287.0947, 288.001, 288.0065, 288.1167, 288.1229, 288.7015, 288.702, 288.703, 288.705, 288.776, 290.0056, 290.0057, 331.302, 331.351, 445.08, 447.203, 17.11, 68.082, 120.52, 120.525, 120.65, 163.3164, 163.3177, 163.3178, 163.3184, 163.3245, 163.568, 164.1031, 186.003, 186.006, 186.007, 186.008, 186.803, 187.201, 212.096, 218.32, 255.101, 255.102, 258.501, 260.0142, 287.057, 287.0943, 287.09431, 288.001, 287.055, 288.7031, 288.975, 290.004, 320.08058, 335.188, 339.155, 339.175, 339.285, 339.63, 339.64, 341.041, 343.54, 366.93, 369.303, 369.307, 373.309, 373.415, 376.3072, 377.703, 378.411, 380.031, 380.045, 380.05, 380.055, 380.06, 380.061, 380.07, 380.23, 380.507, 381.986, 403.031, 403.0752, 403.503, 403.50663, 403.507, 403.509, 403.5115, 403.5175, 403.518, 403.522, 403.526, 403.5271, 403.5272, 403.5363, 403.5365, 403.537, 403.704, 403.7225, 403.7226, 403.723, 403.9403, 403.941, 403.9422, 403.973, 408.033, 420.609, 473.3065, 501.171, 625.3255, 657.042, 658.67, 1013.30, 215.971, 257.193, 288.0655, 627.6699, 288.0001, 110.205, 163.3162, 373.129, 339.2819, 380.0552, 403.5064, 403.9421.

This bill creates the following sections of the Florida Statutes: 288.9628.

This bill repeals the following sections of the Florida Statutes: 24.113, 186.501, 186.502, 186.503, 186.504, 186.505, 186.506, 186.507, 186.508, 186.509, 186.511, 186.512, 186.513, 186.515, 287.0931, 288.12266, 288.124, 288.706, 288.7094, 288.7102, 288.71025, 288.7103, and 288.714.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Commerce and Tourism on March 31, 2025:**

The CS:

- Removes provisions relating to the Rural Economic Development Initiative and the Rural Accelerator Program.
- Removes sections making conforming changes related to the Rural Economic Development Initiative.
- Retains the current statutory definition for a “minority person” in s. 288.703, F.S.

Relating to the RISE Investment Tax Credit Program, the CS:

- Requires the Department of Commerce (department) to revoke and recapture to the qualifying private fund and the Department of Revenue if a qualifying investment does not annually report to the department for five years after authorization to receive the credits. In such instances, the qualifying private fund must repay to the department an amount equal to 50% of the tax credits authorized.
- Requires the department to revoke and recapture the approval of tax credits for submitting a false statement, representation, or certification in any application by a qualifying private fund. In such instances, the qualifying private fund must repay the department an amount equal to 100% of the tax credits authorized by the department.
- Requires 50% of tax credits be made available from July 1 to December 31 of each year. All remaining tax credits must be made available from January 1 to June 30 of each year on a first-come, first-served basis.
- Authorizes the department to adopt rules to implement the program.

**B. Amendments:**

None.