

ECONOMIC DEVELOPMENT

HB 691 — Economic Development Incentive Programs

by Rep. Hasner (CS/CS/SB 2410 by Finance and Taxation Committee; Commerce, Economic Opportunities, and Consumer Services Committee; and Senator Garcia)

This bill revises laws relating to several of the state's economic development incentive programs.

Capital Investment Tax Credit Program

Under the Capital Investment Tax Credit (CITC) Program, a “qualifying business” that establishes a “qualifying project” in this state is eligible to receive an annual credit against the business's corporate income tax liability or the premium tax liability generated by the project. The bill modifies the definition of a “qualifying project” eligible to receive a capital investment tax credit to expressly include:

a new financial services facility in this state which creates at least 2,000 new jobs in this state, pays an average annual wage of \$50,000, and makes a cumulative capital investment of at least \$30 million.

Tax Refund Program for Qualified Defense Contractors

The bill modifies the definition of “Department of Defense contract” in the Qualified Defense Contractor Tax Refund Program to include certain contracts for products or services for homeland security. Under the revised definition, eligible contracts may be made with the Department of Homeland Security. Businesses having Department of Defense contracts may be eligible for refunds of specified taxes paid to this state.

Tax Refund Program for Qualified Target Industry Businesses

The Office of Tourism, Trade, and Economic Development and Enterprise Florida, Inc., are expressly directed by the bill to consider the development of strong industrial clusters which include defense and homeland security businesses when identifying target industry businesses under the Qualified Target Industry (QTI) Tax Refund Program. The bill also extends the deadline to June 30, 2004, for a qualified target industry business to apply for an economic-stimulus exemption from its contractual obligations with the Office of Tourism, Trade, and Economic Development (OTTED). An economic-stimulus exemption will enable a qualified target industry business to remain in the QTI Tax Refund Program if it has been unable to

comply with its contractual obligations with OTTED due to economic conditions or terrorism. The business will be able to receive the exemption in lieu of a tax refund.

Quick Action Closing Fund

The bill revises the Quick Action Closing Fund to allow the Governor to disburse such funds to an eligible economic development project without consulting the Legislative Budget Commission through the process prescribed in s. 216.177, F.S. The bill also allows the Governor, in consultation with the President of the Senate and the Speaker of the House of Representatives, to request a budget amendment from the Legislative Budget Commission for authority to reallocate unencumbered funds in the Quick Action Closing Fund to other economic development programs and operations in an emergency or special circumstance.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 38-1; House 116-0

HB 1149 — Entertainment Industry

by Rep. D. Davis and others (CS/CS/SB 1756 by Appropriations Committee; Commerce, Economic Opportunities, and Consumer Services Committee; and Senators Saunders, Bullard, and Crist)

This bill creates an entertainment industry financial incentive program, subject to appropriation, which provides for the payment of financial incentives to qualified productions of filmed entertainment and digital-media-effects companies for expenditures made in Florida and to filmed entertainment projects that relocate to Florida from other states. The bill provides for an application process to be administered by the Governor's Office of Film and Entertainment, with oversight by the Office of Tourism, Trade, and Economic Development. The bill specifies eligibility requirements for qualified productions and projects, requires an annual report on the state's return on investment from these financial incentives, and provides that annual funding for the entertainment industry financial incentive program is subject to legislative appropriation. The bill also provides a conforming change to the definition of the term "entertainment industry."

If approved by the Governor, these provisions take effect July 1, 2003.

Vote: Senate 40-0; House 112-0

CS/SB 2624 — Florida Black Business Investment Board, Inc.

by Commerce, Economic Opportunities, and Consumer Services Committee and Senator Miller

This committee substitute authorizes the Florida Black Business Investment Board, Inc., (BBIB) and the black business investment corporations to participate in the Florida Minority Business Loan Mobilization Program; increases the authority of the BBIB over its bylaws and policies by eliminating the requirement that certain policies be approved by the black business investment

corporations; requires black business investment corporations to be certified by the BBIB every 5 years; and changes the due date for the BBIB's annual report from February 1 to May 1.

If approved by the Governor, these provisions take effect July 1, 2003.

Vote: Senate 40-0; House 116-0

SB 2164 — Enterprise Zones

by Senators Sebesta, Bullard, and Siplin

This bill authorizes the expansion of several enterprise zones and the creation of an enterprise zone as follows:

- Enterprise zones located in communities having a population of 235,000 but less than 260,000 may expand up to 25 acres. The enterprise zones satisfying this population criteria are the St. Petersburg, Immokalee, and Leon County enterprise zones.
- Upon the recommendation of Enterprise Florida, Inc., the Office of Tourism, Trade, and Economic Development (OTTED) may authorize the expansion of rural enterprise zones as defined in s. 290.004(8), F.S., to a maximum zone size of 20 square miles. Twenty of the 26 rural enterprise zones defined in s. 290.004(8), F.S., currently encompass less than 20 square miles and would be eligible to expand. The expanded areas of the rural enterprise zones will not have to satisfy the poverty requirements generally applicable to enterprise zones.
- Escambia County may apply to OTTED by December 31, 2003, for the designation of a 20-square-mile enterprise zone in addition to the existing enterprise zone in the City of Pensacola.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 39-0; House 117-0

BUSINESS ENTITIES AND TRANSACTIONS

HB 1623 — Florida Business Corporation Act

by Rep. Goodlette and others (CS/SB 2362 by Commerce, Economic Opportunities, and Consumer Services Committee and Senators Klein and Lynn)

This bill substantially revises ch. 607, F.S., the Florida Business Corporation Act. Specifically, this bill:

- Expands the number of authorized signatories for documents filed by the Department of State to include all directors of the corporation.

- Permits corporate filings with the Department of State to specify a time to become effective when the filing has a delayed effective date.
- Extends the time frame for a corporation to correct a filed document from 10 to 30 days after the filing date.
- Permits multiple shareholders within a single household to receive a single notice from a corporation if the shareholders consent to receive a single notice.
- Requires domestic and foreign corporations to clearly indicate their corporate status in their names.
- Provides a process for alien business organizations to withdraw their registered agents.
- Authorizes corporate articles of incorporation to provide shareholders with preemptive rights to purchase a corporation's treasury shares, and specifies that shareholders have no preemptive rights to shares of a corporation issued pursuant to a court-approved plan of reorganization.
- Provides for shareholder participation at annual and special shareholder meetings through remote electronic communication.
- Requires shareholders wait 90 days after making a demand to obtain action by the board of directors of a corporation before initiating legal proceedings in the right of the corporation.
- Eliminates a shareholder's right to demand payment for his or her shares when a vote is taken to grant voting rights to shares that would constitute a controlling interest.
- Authorizes voting rights to be accorded to shares for which voting rights have not been approved after a control share acquisition when those shares are transferred to a person who will not have a controlling interest in the corporation.
- Repeals s. 607.0903, F.S., which was held unconstitutional in *Grand Metropolitan P.L.C. v. Butterworth*, Civ.A. No. 88-40317WS, slip op. at 15 (N.D. Fla. Nov. 28, 1988); s. 607.0903, F.S., purports to impose restrictions on the internal governance structures of corporations domiciled elsewhere.
- Renames dissenters' rights, which is shareholder's right to demand payment for his or her shares, as appraisal rights.
- Eliminates appraisal rights for shareholders of corporations that have at least 2,000 shareholders and a market value of at least \$10 million.
- Establishes time frames and procedures by which shareholders must assert appraisal rights.
- Segments s. 607.1320, F.S., relating to a shareholder's right to demand payment for his or her shares, into its component parts and codifies them in ss. 607.1320-607.1332, F.S.

- Makes conforming changes relating to the execution and filing of articles of dissolution.
- Requires a dissolved corporation to publish a “Notice of Corporate Dissolution” in a newspaper or to file a notice with the Department of State to notify creditors having unknown claims against the dissolved corporation how to file a claim against the corporation.
- Streamlines the reinstatement process for administratively dissolved corporations.
- Provides express rights for directors to inspect corporate records.
- Eliminates the requirement for annual reports to include a statement of whether the corporation is liable for intangible taxes.

If approved by the Governor, these provisions take effect October 1, 2003.

Vote: Senate 40-0; House 117-0

CS/CS/CS/SB 592 — Corporate Affairs

by Judiciary Committee; Regulated Industries Committee; Commerce, Economic Opportunities, and Consumer Services Committee; and Senators Geller and Lynn

This committee substitute makes the following changes to existing law governing the affairs of corporations not for profit, condominiums, cooperatives, and homeowners’ associations:

- Defines the term “electronic transmission” for purposes of ch. 617, F.S., the Florida Not For Profit Corporation Act as:
 - any form of communication, not directly involving the physical transmission or transfer of paper, which creates a record that may be retained, retrieved, and reviewed by a recipient thereof and which may be directly reproduced in a comprehensible and legible paper form by such recipient through an automated process.
- Provides criteria to determine when an electronic transmission sent by a corporation not for profit to a member has been received.
- Authorizes foreign corporations not for profit to become domesticated in this state through a procedure similar to s. 607.1801, F.S., authorizing the domestication of foreign for-profit corporations.
- Permits members of condominiums, cooperatives, and homeowners’ associations to consent to receive notice of association meetings by electronic transmission, such as facsimile or e-mail in lieu of regular mail.

- Authorizes notices of condominium, cooperative, or homeowners' association meetings to be broadcast on a closed circuit cable television system serving the association in lieu of physical posting of a conspicuous meeting notice on association property.
- Requires condominium associations, cooperative associations, and homeowners' associations to maintain the e-mail addresses of their members. The associations are not liable for the inadvertent disclosure of their members' e-mail addresses and facsimile numbers.
- Enables condominium unit owners and cooperative shareholders to vote by limited proxy to waive certain financial reporting requirements of a condominium or cooperative association.
- Permits condominium and cooperative associations to charge a reasonable fee for issuing certificates detailing the status of assessments against a condominium or cooperative unit.
- Authorizes certain condominium and cooperative unit owners or shareholders to exempt their condominium or cooperative buildings from any requirement of law to retrofit any common element or units with a fire sprinkler system or other engineered life safety system. The exemption must be secured through the affirmative vote of two-thirds of all voting interests in the affected building. Certain high-rise condominium and cooperative buildings, however, may not be exempted from these fire-safety requirements. A vote to forego retrofitting may not be obtained by general proxy or limited proxy, but must be obtained by a vote personally cast at a duly called membership meeting, or by execution of a written consent by a member.
- Directs the Department of Financial Services to report to the Legislature on how insurance premiums on condominiums may be reduced.
- Clarifies the responsibilities of a condominium association to insure condominium property by specifying more precisely the objects that must be covered by a hazard insurance policy.
- Defines the term mortgage for the purpose of foreclosure proceedings to include liens created pursuant to the recorded covenants of a homeowners' association.
- Specifies that legal proceedings to enforce the governing documents of a condominium or cooperative association shall not be deemed actions for specific performance.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 36-2; House 114-0

HB 525 — Use of the Term “Chamber of Commerce”

by Rep. Gardiner and others (SB 1832 by Senators Bennett, Posey, and Aronberg)

This bill defines the term “chamber of commerce” as a not-for-profit corporation that is qualified for tax exempt status under s. 501(c)(3) or s. 501(c)(6) of the Internal Revenue Code; is dedicated to improving the economic climate and business development in the area in which the organization is located; makes appropriate filings with the Department of State and Internal Revenue Service; and is governed by a volunteer board of directors of at least 7 members who are selected from among the membership of the organization and who serve without compensation. A business entity is prohibited from using the term “chamber of commerce” in its name or to describe itself unless it meets the definition, except for certain bi-national chambers of commerce and chambers of commerce in existence on or before October 1, 1992. Unlawful use of the term “chamber of commerce” is a first-degree misdemeanor. Under the bill, chambers of commerce may sue to have any business entity that is not a chamber of commerce enjoined from using the term “chamber of commerce” in its name or to describe itself.

If approved by the Governor, these provisions take effect October 1, 2003.

Vote: Senate 37-0; House 114-0

HB 533 — County Tourism Promotion Agencies

by Rep. D. Davis and others (CS/SB 724 by Commerce, Economic Opportunities, and Consumer Services Committee and Senators Margolis and Siplin)

This bill provides authority for a county government to prohibit a business entity, other than a county tourism promotion entity, from using certain business names associated with tourism promotion entities in counties that levy the local option tourist development tax. The bill also states that county tourism promotion entities may use the following names when representing themselves as county tourism promotion entities:

- Convention and visitors bureaus.
- Visitors bureaus.
- Tourist development councils.
- Vacation bureaus.

These names generally are used by county-operated, not-for-profit, tourism-information organizations to offer tourism information to visitors. County tourism promotion entities may also use any name or names specifically designated by ordinance. The penalty for businesses violating the provisions of the bill would depend on how the county government chooses to enforce its ordinances. The bill appears to be an effort to reduce confusion for visitors of what is a government-sponsored versus a non-government-sponsored tourism-information organization

or location. Any future for-profit tourism-related organizations, and any not-for-profit tourism-information organizations not affiliated with a county, wishing to represent themselves with such names may be prevented by county ordinance from doing so.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 40-0; House 114-0

WORKFORCE AND EMPLOYMENT

CS/CS/SB 1448 — Unemployment Compensation

by Governmental Oversight and Productivity Committee and Commerce, Economic Opportunities, and Consumer Services Committee

This committee substitute revises the Unemployment Compensation Law (ch. 443, F.S.) and other provisions of the Florida Statutes to reflect the current agency framework for administration of the Unemployment Compensation (UC) Program, in which the program is administered by the Agency for Workforce Innovation (AWI) and the Unemployment Appeals Commission, and unemployment tax collection services are provided by the Department of Revenue (DOR) under contract with AWI. The committee substitute clarifies which functions are unemployment tax collection services by assigning duties throughout ch. 443, F.S., to the “tax collection service provider,” which the committee substitute designates as DOR.

The committee substitute provides technical changes to reflect current bill drafting practices and methods, revising the text of the UC law to reflect current grammar and usage of the English language, and correcting or updating erroneous, obsolete, and archaic provisions. The committee substitute deletes obsolete historical references and replaces nonspecific cross-references (e.g., “herein,” “hereto,” “hereof,” “hereunder,” and “hereinabove”) with specific cross-references to discrete subdivisions of the Florida Statutes. The committee substitute also replaces inconsistent terms (e.g., “employment record,” “experience-rating record,” and “employer’s account”) with uniform terms.

The committee substitute updates provisions of the UC law which have become obsolete due to advancements in information technology, thereby reflecting current procedures and practices used to administer the program. The committee substitute also provides conforming changes to recognize the role of the state’s workforce system, including the one-stop career centers operated by the regional workforce boards under the direction of AWI and Workforce Florida, Inc.

The committee substitute clarifies that limited liability companies are “employing units” under the UC law, requires claimants to submit a valid social security number in order to receive unemployment benefits, and requires claimants whose claims are denied to continue reporting to certify for benefits during any pending appeal. The committee substitute removes a requirement

that persons who prepare and report quarterly wages and unemployment contributions or reimbursements must remit the amounts due by electronic means, requires that persons who prepare quarterly reports for 100 or more employers (rather than 5 or more employers under the prior law) must file the reports electronically, and revises the penalties imposed for failure to file a report by electronic means. The committee substitute also removes a requirement that AWI contract with one or more consumer-reporting agencies to provide creditors with secured electronic access to information contained in the quarterly wage reports submitted to DOR.

If approved by the Governor, these provisions take effect October 1, 2003, except as otherwise expressly provided in the committee substitute.

Vote: Senate 39-0; House 118-0

CS/CS/SB 1334, SB 534, and SB 360 — School Readiness Programs

by Education Committee; Commerce, Economic Opportunities, and Consumer Services Committee; and Senators Garcia, Constantine, Carlton, and Lynn

This committee substitute prepares for implementation of Amendment No. 8 (Voluntary Universal Pre-Kindergarten Education), s. 1(b) and (c), Art. IX of the State Constitution. The committee substitute specifies that the voluntary universal prekindergarten education program shall provide a high-quality prekindergarten learning opportunity in the form of early childhood development and education which is voluntary and free for every 4-year-old child in the state. The committee substitute requires the State Board of Education to conduct a study and submit a report by October 1, 2003, to the Governor and Legislature on the curriculum, design, and standards for the new prekindergarten program. The report must include the state board's recommendations or options for implementing certain program elements (i.e., curriculum and standards, high-quality learning opportunity, quantity of instruction, delivery system, assessment and evaluation, and funding).

The committee substitute requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) and the Auditor General to conduct audits and report findings and recommendations to the Governor and Legislature by January 15, 2004, on the existing school readiness programs administered by the Florida Partnership for School Readiness and the local school readiness coalitions. The committee substitute specifies that OPPAGA shall conduct a performance audit, which must follow up on OPPAGA's 2002 program review of the school readiness system. The audit must also:

- Monitor the State Board of Education's study on the voluntary universal prekindergarten education program.
- Evaluate the existing school readiness system's ability to implement the prekindergarten program based on the state board's recommendations or options for the curriculum, design, and standards for the program.

- Identify modifications to the existing school readiness system needed to effectively implement the prekindergarten program.

The committee substitute specifies that the Auditor General shall conduct a financial and operational audit of the school readiness system for the same audit period as OPPAGA's audit (FY 2000-2001, FY 2001-2002, and FY 2002-2003).

The committee substitute also directs local school readiness coalitions to refrain from initiating new long-term fiscal commitments while the audits are being conducted.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 40-0; House 113-0