

CS/SB 1752 — Economic Development

by Policy and Steering Committee on Ways and Means and Senators Gaetz, Ring, Fasano, Richter, Negron, Bennett, Haridopolos, Thrasher, Hill, Sobel, Lynn and Detert

This bill is the omnibus Jobs For Florida economic development package that includes a wide variety of business incentives ranging from direct appropriations to tax credits and grants to reductions in state regulations. The bill:

Sales and Use Tax (SUT) Exemptions

- Revives and amends an exemption to the tax on admissions for events sponsored by a governmental entity, sports authority, or sports commission under certain conditions. This exemption expired on July 1, 2009. The bill reenacts this exemption permanently.
- Creates additional exemptions from the tax on admissions for certain sporting events: the National Basketball Association All-Star Game, Rookie Challenge, Celebrity Game, 3-Point Shooting Contest, and Slam Dunk Contest; the National Hockey League All-Star Game; the Major League Baseball Home Run Derby; and the National Football League Pro-Bowl.
- Creates an exemption from the use tax for aircraft that are sold in Florida free of sales tax to a non-resident when the plane returns to Florida for fewer than 21 total days within 6 months after the date of purchase. The aircraft owner may demonstrate to the Florida Department of Revenue (DOR) that it has met the requirements of the exemption by producing specified documentation.
- Creates an exemption from the use tax for aircraft owned by a non-resident when it is used in Florida exclusively for the purpose of flight training, repairs, alterations, refitting, or modification. The non-resident owner must be able to prove entitlement to the exemption by producing written documentation issued by in-state vendors or suppliers that identifies the aircraft. There are no time limitations associated with this exemption.
- Creates an exemption from the state sales and use tax for aircraft that primarily will be used in a fractional aircraft ownership program, and for parts or labor used in the completion, maintenance, repair, or overhaul of an aircraft for primary use in a fractional aircraft ownership program.
- The bill exempts from the SUT the rental/leasing of space at a convention hall, civic hall, or meeting space at public lodgings to a person providing telecommunications, data systems management, or Internet services. This exemption is remedial and retroactive in nature.
- Modifies the definition of “productive output” to allow a manufacturer to be eligible for an SUT exemption based on a factory’s individual product “lines,” rather than its total product output.

Sales tax caps

- Creates an \$18,000 cap on the amount of SUT that may be levied against each sale of a boat in Florida.
- Creates a new section (s. 212.0597, F.S.) to cap the amount of state and local taxes levied under ch. 212, F.S., including any discretionary sales surtaxes, at \$300 on the sale or use of a fractional aircraft ownership interest. The maximum tax applies to the total purchase

price of the fractional ownership interest, including monthly management or maintenance fees, when sold by or to the program manager or transferred upon the manager's approval. A definition of "fractional aircraft ownership program" is added to s. 212.02, F.S., which requires a program to include a minimum of 25 aircraft to qualify for the exemptions created by the bill.

Tax Credits

- Replaces the current film and entertainment industry cash refund incentive with a transferable tax credit program, for FY 10-11 through FY 14-15. The credits can be taken against SUT and corporate income tax. OTTED may award the following amount of credits over the life of the program: \$53.5 million the first year; \$74.5 million the second year; and \$38 million in each of the final 3 years. The tax credits may be claimed by the certified production company against its Florida tax liabilities; transferred by the certified production company to a Florida taxpayer; or relinquished by the certified production company to the state for 90 percent of the face value.
- Creates s. 220.1896, F.S., the Jobs for the Unemployed Tax Credit. This section creates, for FY 10-11 and FY 11-12, a \$1,000-per-employee CIT credit for businesses representing the state's target industry sectors that hire persons who have been unemployed at least 30 days prior to being hired by the eligible businesses and that meet other criteria.

Grants/Refunds

- Creates s. 288.0659, F.S., the "Local Government Distressed Area Matching Grant Program," to provide a matching grant to a local government's contribution or \$50,000, whichever is less, to a business that will create at least 15 jobs and meet other criteria. The business must locate in a community that is suffering from pervasive poverty, unemployment and general distress. This program also received \$3 million in state appropriations for use as grants.
- Creates the 2-year "Manufacturing and Spaceport Investment Program," to provide grants of up to \$50,000 to eligible manufacturers, based on the difference in sales taxes paid on eligible equipment purchases made in the base year of 2008, compared to that on eligible equipment purchases in FY 10-11 and FY 11-12. The total "sales tax refund" is \$50,000 per business. For FY 10-11, \$19 million is available for refunds and \$24 million is available for refunds in FY 11-12, to be awarded on a first-come, first-served basis.
- Creates three new bonus categories for businesses that are certified as "qualified target industries," pursuant to s. 288.106, F.S. Eligible businesses may obtain additional refunds of eight taxes paid, in the following categories:
 - A \$2,000 per employee bonus for businesses that increase either the tonnage or value of exports by 10 percent a year.
 - A \$2,000 per employee bonus if the business is in one of the "high-impact industry sectors" of clean energy, corporate headquarters, financial services, biomedical technology, information technology, or transportation equipment manufacturing.
 - A \$1,000 per employee bonus for a business locating in a county which is matching the state's incentive on a dollar for dollar basis.
- Creates s. 288.9552, F.S., the Florida Research Commercialization Matching Grant Program, to be managed by the Institute for the Commercialization of Public Research.

State funding in the amount of \$3 million total is appropriated for Phase I and Phase II grants for small, entrepreneurial companies trying to commercialize their discoveries.

- Appropriates \$2 million to the state university system for its State University Research Commercialization Assistance Grant program, which provides small grants to young companies trying to commercialize their institutional research into marketable products.

Economic Development Provisions

- Appropriates \$19.8 million to Space Florida for infrastructure improvements, aerospace-business recruitment; and retraining of aerospace workers, as a way to keep Florida's space industry viable through the transition from the Space Shuttle to the next NASA spaceflight program.
- Makes a number of accountability and structural changes to the spring-training baseball certification process for receiving state funds to build facilities. OTTED is able to decertify local governments that no longer have teams and have not encumbered the state funds, in order to recruit new teams from Arizona. It creates an opportunity for currently certified local governments that have lost their teams to recruit new franchises, before they are decertified by OTTED and must return state funds. It also requires all certified local governments with spring training teams to annually report on how the state funds are being used and the economic impacts of the teams, and directs OTTED and its partners to develop a strategic plan to help guide the future of spring training baseball in Florida.
- Recreates, with some changes, the Qualified Target Industry (QTI) Tax Refund Program, the state's most popular general economic incentive program, until June 30, 2020.
- Makes technical revisions to Florida's New Markets Development Tax Credit program to make the state law more compatible with federal law, and by doing so attract more private investors to Florida economic development projects in low-income communities.
- Appropriates \$15 million for the state's Quick Action Closing (QAC) Fund, contingent on Florida receiving an enhanced Federal Medical Assistance Percentage (FMAP). QAC is the incentive program designed to "close the deal" with relocating businesses that are deciding whether to choose Florida over other states.
- Appropriates \$2.9 million to the Florida Export Finance Corporation to capitalize a collateralized, self-sustaining loan fund to help small exporters get loans. This new fund must complement the corporation's current programs in Part V, of ch. 288, F.S. (An additional \$2 million is appropriated contingent on FMAP enhancements.)
- Appropriates \$1 million in FY 10-11 to DEP for beach renourishment.
- Appropriates \$1 million in FY 10-11 for the Economic Gardening Technical Assistance program, created last year by the Legislature and housed at the University of Central Florida's business incubator. (An additional \$1 million is appropriated contingent on Florida receiving FMAP funding.)
- Appropriates \$2 million to the Defense Infrastructure Grant Program to assist communities located near military installations with economic development opportunities. (An additional \$2 million is appropriated contingent on FMAP enhancements.)
- Modifies the state's High Impact Business Incentive Program to create a new category of eligible projects – businesses that create 50 jobs and make a capital investment of \$50 million – and makes them eligible for a \$500,000 to \$1 million grant.

- Amends s. 288.018, F.S., to allow rural infrastructure dollars to be spent for technical assistance to small rural communities.
- Extends Florida's "Homebuyer Opportunity Program" an additional year, to July 1, 2011, to take advantage of the federal first-time homebuyer program.

Government Transparency/Accountability

- Requires counties and municipalities to report data on their economic development incentives in excess of \$25,000.
- Requires any economic development entity that receives funds from a county or municipality for economic development activities to submit an annual report, beginning January 15, 2011, to report back to the county detailing how the public funds were spent and the results of the expenditures on economic development within the county.
- Directs OTTED and its partners to review the state's Targeted Industry List and the High Impact Industry List every 3 years to determine if they should be modified, and to submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives with their findings. The first reports are due in 2011.
- Amends s. 288.1258, F.S., to modify a currently required Office of Film and Entertainment report related to film-related SUT exemptions to include return on investment calculations about the new film and entertainment tax credits.
- Requires the Office of Film and Entertainment to update its Statewide Master Plan every 5 years.
- Amends s. 373.441, F.S., to create a process for the Governor and Cabinet to review local-government permitting delegation decisions by the Florida Department of Environmental Protection (DEP).
- Directs the Office of Program Policy and Government Accountability to review the Florida Enterprise Zone Program and the new Florida Research Commercialization Grant Program, with reports due next year.

Miscellaneous Provisions

- *Preference for Hiring Floridians in State Construction Contracts*
The bill requires all contracts for construction funded by the state to contain a provision requiring the contractor to give preference to the employment of Florida residents in the performance of the work on the project if the residents have "substantially equal qualification" to those of non-residents (*substantially equal qualifications* is defined). Local construction contracts funded with local funds have the option to require such provisions. However, for work involving federal aid funds, the contract provision may not be enforceable to the extent it conflicts with federal law. Contractors required to hire Floridians must contact the Agency for Workforce Innovation to post the jobs on the state's job bank system (www.employflorida.com).
- Repeals the eligibility of condominium projects to receive an SUT exemption for building materials used in an enterprise zone.
- Amends s. 403.061, F.S., to allow DEP to expand the use of online self-certification for certain types of permits, to reduce unnecessary delays and paperwork.
- Extends to September 30, 2011, a deadline to upgrade underground fuel tank containment systems for those persons who have entered into consent agreements with DEP before July 1, 2010.

- Revisits the permit-extension provisions in ch. 2009-96, L.O.F., to allow, under certain conditions, an additional 2-year extension. Also, new permit applicants may be able to get a 2-year extension of their permits, under certain conditions.
- Modifies the definition of “jobs” in the state’s economic development incentive programs to include leased employees, which reflects the changing employment market and is consistent with the federal definition.
- Grants OTTED the flexibility to renegotiate QAC contracts for FY 10-11 for projects that materially met the conditions of their agreement but fell short in some requirements because of adverse economic conditions.
- Potentially accelerates the QAC approval process by allowing QAC project awards of less than \$2 million to be approved by the Legislature’s Presiding Officers, rather than the full Legislative Budget Commission (LBC), which typically meets quarterly. However, if either the Chair or Vice-chair of the LBC, the Senate President, or the Speaker of the House of Representatives objects to the QAC project, no funds will be released to that project until the LBC or the Legislature meets to review the project.
- Assigns OTTED one new FTE position to assist in the implementation of this act. The total appropriation associated with this position is \$98,127.

If approved by the Governor, these provisions take effect upon becoming law, except as otherwise provide.

Vote: Senate 39-0; House 115-0