The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

COMMERCE AND TOURISM
Senator Detert, Chair
Senator Dockery, Vice Chair

MEETING DATE: Thursday, January 19, 2012
TIME: 8:00 —10:00 a.m.
PLACE: *James E. "Jim" King, Jr. Committee Room,* 401 Senate Office Building

MEMBERS: Senator Detert, Chair; Senator Dockery, Vice Chair; Senators Flores, Lynn, Montford, and Ring

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**SB 1206** Commerce and Tourism	OGSR/Economic Development Agencies; Amending provisions which provide public records exemptions for information held by economic development agencies; saving from repeal the exemption concerning plans, intentions, or interests of a private corporation, partnership, or person to locate, relocate, or expand any of its business activities in this state; providing that the exemption applies if a request for confidentiality is made before an economic incentives agreement is signed; revising the duration of the period in which information may remain confidential and exempt from disclosure; providing that the taxes paid by businesses participating in an economic incentive program may be disclosed in the aggregate; authorizing the disclosure of specified information relating to a business 90 days after an economic incentive agreement is signed, etc. CM 01/19/2012 Fav/CS GO BC	Fav/CS Yeas 6 Nays 0
2	**SB 1204** Commerce and Tourism (Compare H 1083, H 7027, CS/S 582, S 842, S 1416, S 1440)	Governmental Reorganization; Correcting references to agency names and divisions and correcting cross-references to conform to the governmental reorganization resulting from the enactment of chapter 2011-142, Laws of Florida; authorizing Enterprise Florida, Inc., to contract with the Florida Tourism Industry Marketing Corporation for management and operation of welcome centers; adding the Governor or the Lieutenant Governor as the Governor's designee as a member and chair of the board of directors of Space Florida; repealing provisions relating to the designation of enterprise zones in communities suffering adverse impacts from the adoption of the constitutional amendment limiting the use of nets to harvest marine species, etc. CM 01/19/2012 Fav/CS BC	Fav/CS Yeas 6 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	**SB 888** Flores (Compare CS/H 749)	Consumer Protection; Changing the name of the Division of Consumer Services within the Department of Agriculture and Consumer Services to the "Division of Consumer Protection"; authorizing the Department of Agriculture and Consumer Services to waive firearms training requirements for the initial licensure of private investigative, private security, or repossession services under certain circumstances; providing that an applicant for a commercial telephone seller license may provide other valid forms of identification in lieu of a valid driver license number; removing the requirement that the applicant provide his or her social security number on the application; authorizing the department to temporarily waive certain requirements for generators at retail motor fuel outlets which are used in preparation or response to an emergency or major disaster in another state, etc. CM 01/19/2012 Fav/CS RI BC	Fav/CS Yeas 6 Nays 0
4	**SB 294** Bennett (Identical H 201)	Enterprise Zones/Charlotte County; Authorizing Charlotte County to apply to the Department of Economic Opportunity for designation of an enterprise zone; providing application requirements; authorizing the department to designate an enterprise zone in Charlotte County; requiring that the department establish the initial effective date for the enterprise zone, etc. CM 01/19/2012 Favorable CA BC	Favorable Yeas 6 Nays 0
5	**SB 102** Siplin (Identical H 303, Compare S 1356)	Employment Practices; Prohibiting the use of a job applicant's personal credit history as a hiring criterion; providing an exception, etc. CM 01/19/2012 Fav/CS BI GO	Fav/CS Yeas 6 Nays 0
6	**SB 806** Dean (Identical H 371)	Enterprise Zones; Authorizing Citrus County to apply to the Department of Economic Opportunity for designation of an enterprise zone; providing an application deadline and requirements; authorizing the department to designate an enterprise zone in Citrus County; requiring the department to establish the effective date of the enterprise zone, etc. CM 01/19/2012 Favorable CA BC	Favorable Yeas 6 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	**CS/SB 268** Transportation / Wise (Identical CS/H 181)	Sponsorship of State Greenways and Trails; Citing this act as the "John Anthony Wilson Bicycle Safety Act;" providing for the Department of Environmental Protection to enter into concession agreements for naming rights of state greenway and trail facilities or property or for commercial advertising to be displayed on state greenway and trail facilities or property; providing for distribution of proceeds from such concession agreements, etc. TR 12/07/2011 Fav/CS CM 01/19/2012 Fav/CS EP	Fav/CS Yeas 6 Nays 0
8	**SB 676** Smith (Identical H 307)	Workers' Compensation Certificate-of-exemption Process; Revising requirements relating to election of exemption from coverage to include applicability to members of limited liability companies; revising requirements for submitting a notice of election of exemption; revising duties of the Department of Financial Services relating to the expiration of certificates of exemption; expanding applicability of requirements relating to certificates of exemption, etc. BI 01/09/2012 Favorable CM 01/19/2012 Temporarily Postponed BC	Temporarily Postponed
9	**SB 678** Smith (Identical H 649)	State Contracts; Requiring all state contracts of more than a certain amount to require any call-center services to be staffed by persons located within the United States, etc. GO 01/09/2012 Favorable CM 01/19/2012 Temporarily Postponed BC	Temporarily Postponed
10	**SB 1150** Richter (Similar H 1119)	New Markets Development Program; Increasing the total amount of tax credits available during the existence of the New Markets Development Program; revising the limitation on the amount of cash interest payments that a qualified community development entity may make on a long-term debt security, etc. CM 01/19/2012 Fav/CS BC	Fav/CS Yeas 6 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
11	**SB 1090** Richter (Identical CS/H 483)	Uniform Commercial Code; Revising and providing provisions of the Uniform Commercial Code relating to secured transactions to conform to the revised Article 9 of the Uniform Commercial Code as prepared by the National Conference of Commissioners on Uniform State Laws; revising provisions relating to control of electronic chattel paper; providing rules that apply to certain collateral to which a security interest attaches; providing rules relating to certain financing statements; revising when a record of a mortgage satisfying the requirements of ch. 697, F.S., is effective as a filing statement; creating part VIII of ch. 679, F.S., relating to transition from prior law under the chapter to law under the chapter as amended by the act, etc. CM 01/19/2012 Favorable BI BC	Favorable Yeas 6 Nays 0
12	**SB 1274** Latvala (Identical H 1015)	Tourist Development Tax; Providing for the proceeds of the tourist development tax to be used for the benefit of certain aquariums, etc. CM 01/19/2012 Favorable BC	Favorable Yeas 6 Nays 0
13	Presentation by Enterprise Florida, Inc., on its Annual Incentives Report		Presented
	Workshop - Discussion and testimony only on the following (no vote to be taken):		
14	**SB 392** Bogdanoff (Identical H 225)	Ticket Sales; Defining the term “original ticket seller”; requiring an original ticket seller to provide advance public notice of its ticket policies for any event that takes place in a facility that receives any public funding; providing requirements for such notice; requiring an original ticket seller to comply with specified consumer protection standards for any event that takes place in a facility that receives any public funding; requiring each required public notice of event ticket practices to be accompanied by a specified certification; prohibiting specified practices by original ticket sellers; providing that specified violations are a violation of the Florida Deceptive and Unfair Trade Practices Act; providing exceptions; providing applicability, etc. CM 01/19/2012 Workshop-Discussed JU BC	Workshop-Discussed
	Other Related Meeting Documents		

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION

An electronic copy of the Appearance Request form is available to download from any Senate committee page on the Senate's website, www.flsenate.gov.

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 Commerce and Tourism Committee

BILL: CS/SB 1206

INTRODUCER: Commerce and Tourism Committee and Commerce and Tourism Committee

SUBJECT: OGSR/Economic Development Agencies

DATE: January 19, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hrdlicka	Hrdlicka	CM	**Fav/CS**
2.			GO	
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

Currently, certain business records are confidential and exempt from Florida's public records requirements when held by an economic development agency and requested to be exempt by the affected business. Examples of economic development agencies include the Department of Economic Opportunity (DEO), Enterprise Florida, Inc., (EFI), and public economic development agencies of local governments.

Section 288.075, F.S., is scheduled to be repealed October 2, 2012. CS/SB 1206 saves the exemption from repeal and removes the repeal date in statute.

The CS makes additional changes, including:

- Reducing the time that a business's plans, intentions, and interests in locating to Florida are exempted from public record by repealing the 12 month extension;
- Providing that a business's plans, intentions, and interests may become public record 180 days after a final project order for an economic incentive agreement is issued, or until a date specified in the final order; and

- Making certain wage, job, and tax information public 180 days after a final project order for an economic incentive agreement is issued, or until a date specified in the final order.

These changes do not expand the public records exemption currently in law.

II. Present Situation:

Public Records Exemptions for Economic Development Agencies

There has been a public records exemption in state law for records that contain information concerning the plans of a corporation to locate, relocate, or expand any of its business activities in this state since 1977.[1] The exemption has undergone several substantive and technical revisions over the years, and the last significant modification was in 2007, which merged specific provisions of a related public-records exemption, s. 288.1067, F.S. (2006), into s. 288.075, F.S.[2]

Currently, the exemption applies to information held by economic development agencies, including Department of Economic Opportunity (DEO), Enterprise Florida, Inc., (EFI), Space Florida, and public economic development agencies of local governments.[3]

There are five distinct categories of information that are exempt from public records:

Exempted Material	Timeframe
Plans, intentions, or interests of a private company, person or individual considering locating, relocating, or expanding its business operations in Florida[4]	Confidential and exempt for 12 months after the date an economic development agency receives a request for confidentiality or until the information is otherwise disclosed, whichever occurs first May be extended for up to an additional 12 months upon written request from the private company or individual upon a finding by the economic development agency that the entity is still actively seeking to locate, relocate, or expand in Florida

[1] Senate Committee on Commerce and Consumer Services, Interim Project Report 2006-205: Open Government Sunset Review of s. 288.075, F.S., Economic Development Agencies (September 2005), available at http://archive.flsenate.gov/data/Publications/2006/Senate/reports/interim_reports/pdf/2006-205cm.pdf (last visited 1/13/2012).
[2] Chapter 2007-203, L.O.F. This law also repealed s. 288.1067, F.S. See Senate Committee on Commerce, Interim Project Report 2007-103: Review of Public Records Exemptions Relating to Economic Development Agencies (October 2006), available at http://archive.flsenate.gov/data/Publications/2007/Senate/reports/interim_reports/pdf/2007-103cm.pdf (last visited 1/13/2012); and House of Representatives, Government Efficiency and Accountability Council, Staff Analysis for HB 7201 (April 23, 2007), available at http://archive.flsenate.gov/data/session/2007/House/bills/analysis/pdf/h7201.GEAC.pdf (last visited 1/13/2012).
[3] Section 288.075(1)(a), F.S.
[4] Section 288.075(2), F.S.

Exempted Material	Timeframe
Trade secrets[5]	Permanent
Proprietary confidential business information[6]	Confidential and exempt until such time as the information becomes otherwise publically available or is no longer treated by the proprietor as confidential
Federal employer identification number, unemployment compensation account number, or Florida sales tax registration number[7]	Permanent
Specific sales, employee wage, and tax information related to the administration of state economic development incentives[8]	Exempt for a period not to exceed the duration of the incentive agreement or upon termination of the incentive agreement

Generally, "proprietary confidential business information" is business information that would cause harm to the business's operations if disclosed and has not been previously disclosed to the public or pursuant to a court order or statutory provision. It includes information concerning business plans, internal auditing controls and reports, and reports of external auditors for privately held companies.[9]

Section 288.075(2)(c), F.S., states that a public officer or employee may not enter into a binding agreement with any corporation, partnership, or person who has requested confidentiality of information related to plans, intentions, or interests until 90 days after the information is made public unless:

- The public officer or employee is acting in an official capacity;
- The agreement does not accrue to the personal benefit of such public officer or employee; and
- In the professional judgment of the officer or employee, the agreement is necessary to effectuate an economic development project.

This section of law prevents public officers or employees from using confidential information to their personal benefit.

Any person who is an employee of an economic development agency who violates the provisions of s. 288.075, F.S., commits a second-degree misdemeanor, punishable by a maximum penalty of 60 days in jail and a $500 fine.[10]

[5] Section 288.075(3), F.S.
[6] Section 288.075(4), F.S.
[7] Section 288.075(5), F.S.
[8] Section 288.075(6), F.S.
[9] Section 288.075(1)(b), F.S.
[10] Section 288.075(7), F.S.

Interim Report 2012-302[11] involved a mandatory Open Government Sunset Review by the Senate Commerce and Tourism Committee of the public records exemption in s. 288.075, F.S. The report recommended re-enactment of this exemption, without changes.

General Background on Florida's Public Records Laws

Florida has a long history of providing public access to governmental records. The Florida Legislature enacted the first public records law in 1892.[12] One hundred years later, Floridians adopted an amendment to the State Constitution that raised the statutory right of access to public records to a constitutional level.[13]

Article I, s. 24, of the State Constitution, provides that:

> (a) Every person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board, and commission, or entity created pursuant to law or this Constitution.

In addition to the State Constitution, the Public Records Act,[14] which pre-dates the current State Constitution, specifies conditions under which public access must be provided to records of the executive branch and other agencies. Section 119.07(1)(a), F.S., states:

> Every person who has custody of a public record shall permit the record to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public records.

Unless specifically exempted, all agency[15] records are available for public inspection. The term "public record" is broadly defined to mean:

> "…all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form,

[11] Florida Senate Commerce and Tourism Committee, Interim Report 2012-302: Open Government Sunset Review of Section 288.075, F.S., Public Records Exemption for Information Held by Economic Development Agencies (September 2011), available at http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-302cm1.pdf (last visited 1/13/2012).
[12] Sections 1390 and 1391, F.S. (Rev. 1892).
[13] Article I, s. 24, of the State Constitution.
[14] Chapter 119, F.S.
[15] The word "agency" is defined in s. 119.011(2), F.S., to mean ". . . any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency."

> characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency."[16]

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business, which are used to perpetuate, communicate, or formalize knowledge.[17] All such materials, regardless of whether they are in final form, are open for public inspection unless made exempt.[18]

Only the Legislature is authorized to create exemptions to open government requirements.[19] An exemption must be created in general law, must state the public necessity justifying it, and must not be broader than necessary to meet that public necessity.[20] A bill enacting an exemption[21] may not contain other substantive provisions, although it may contain multiple exemptions that relate to one subject.[22]

There is a difference between records that the Legislature has made exempt from public inspection and those that are confidential and exempt. If the Legislature makes a record confidential and exempt, such information may not be released by an agency to anyone other than to the persons or entities designated in the statute.[23] If a record is simply made exempt from disclosure requirements, an agency is not prohibited from disclosing the record in all circumstances.[24]

Open Government Sunset Review Act

The Open Government Sunset Review Act (the act)[25] provides for the systematic review, through a 5-year cycle ending October 2 of the fifth year following enactment, of an exemption from the Public Records Act or the Sunshine Law. Each year, by June 1, the Division of Statutory Revision of the Office of Legislative Services is required to certify to the President of the Senate and the Speaker of the House of Representatives the language and statutory citation of each exemption scheduled for repeal the following year.

The act states that an exemption may be created, revised, or maintained only if it serves an identifiable public purpose and if the exemption is no broader than is necessary to meet the public purpose it serves. An identifiable public purpose is served if the exemption meets one of three specified criteria and if the Legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption. The three statutory criteria are that the exemption:

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[16] Section 119.011(12), F.S.
[17] Shevin v. Byron, Harless, Schaffer, Reid and Associates, Inc., 379 So.2d 633, 640 (Fla. 1980).
[18] Wait v. Florida Power & Light Company, 372 So.2d 420 (Fla. 1979).
[19] Article I, s. 24(c), of the State Constitution.
[20] Memorial Hospital-West Volusia v. News-Journal Corporation, 729 So. 2d 373, 380 (Fla. 1999); Halifax Hospital Medical Center v. News-Journal Corporation, 724 So.2d 567 (Fla. 1999).
[21] Under s. 119.15, F.S., an existing exemption may be considered a new exemption if the exemption is expanded to cover additional records.
[22] Article I, s. 24(c) of the State Constitution.
[23] Attorney General Opinion 85-62.
[24] Williams v. City of Minneola, 575 So.2d 683, 687 (Fla. 5th DCA), review denied, 589 So.2d 289 (Fla. 1991).
[25] Section 119.15, F.S.

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- Protects information of a sensitive personal nature concerning individuals, the release of which would be defamatory or cause unwarranted damage to the good name or reputation of such individuals, or would jeopardize their safety; or
- Protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information that is used to protect or further a business advantage over those who do not know or use it, the disclosure of which would injure the affected entity in the marketplace.[26]

The act also requires the Legislature to consider the following:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?[27]

III. Effect of Proposed Changes:

CS/SB 1206 saves the public records exemption for certain information held by economic development agencies from repeal.

Section 1 amends s. 288.075, F.S., by repealing the scheduled repeal date of October 2, 2012.

Additionally, the CS changes the current exemption for information related to the plans, intentions, or interests of a private company, person or individual considering locating, relocating, or expanding its business operations in Florida. The CS reduces the time that such information may be exempt from public records by repealing the optional 12 month extension of such exemption.

Under current law, information related to the plans, intentions, or interests is exempt for 12 months after the date an economic development agency receives a request for confidentiality or until the information is otherwise disclosed, whichever occurs first. The CS provides that the information may now become public record at the earlier of:

- 180 days after a final project order for an economic incentive agreement is issued,
- Until a date specified in the final order,
- 12 months after a request for confidentiality is received, or
- Until the information is publically disclosed.

[26] Section 119.15(6)(b), F.S.
[27] Section 119.15(6)(a), F.S.

The CS also makes changes to the exemption for information related to economic incentive programs. The CS provides that information related to certain wage, job, and tax information becomes public at the earlier of 180 days after a final project order for an economic incentive agreement is issued, until a date specified in the final order, or if the information is otherwise disclosed. For example, the amount of tax refunds, tax credits, incentives paid to the business, and monies refunded back to the state could become public record after the 180-day time period.

The CS also specifies that tax information that is still considered confidential and exempt may be reported in the aggregate in EFI's annual incentive report.

Section 2 provides that the CS is effective upon becoming a law.

Other Potential Implications:

If the Legislature chooses not to retain the public-records exemption for the information obtained by economic development agencies, then the exemption will expire on October 2, 2012. Without the exemption, certain types of proprietary business information will become public – at least, what is not otherwise protected under federal law. DEO, EFI, Space Florida, local economic development organizations, and other entities that rely on this exemption during the economic recruitment efforts contend the loss of the exemption would hamper their ability to recruit new businesses to Florida and to retain existing businesses.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

SB 1206 retains the substance of an existing public records exemption and existing public meetings exemption. It also complies with the requirement of Art. I, s. 24, of the Florida Constitution, that public-records exemptions be addressed in legislation separate from substantive law changes. Finally, the CS complies with s. 119.15(4)(c), F.S., which specifies that only existing exemptions that are substantially amended must undergo another scheduled repeal in 5 years.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. 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 1/19/2012:
The committee substitute (CS) changes the time that plans, intentions, and interests are exempt from public record from 90 days after the signing of an economic incentives agreement is signed to 180 days after a final project order for an economic incentive agreement is issued or until a date specified in the final order.

Additionally, the CS changes the time that information related to economic incentive programs becomes available from 90 days after the signing of an economic incentives agreement is signed to the earlier of 180 days after a final project order for an economic incentive agreement is issued, until a date specified in the final order, or if the information is otherwise disclosed.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

481514

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
01/19/2012	.	
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The Committee on Commerce and Tourism (Detert) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete lines 80 - 81
4 and insert:
5
6 confidentiality, for 180 days after a final project order for a
7 signed economic incentive agreement is issued, until a date
8 specified in the final project order, or until the information
9 is otherwise
10
11 ========== T I T L E A M E N D M E N T ==========
12 And the title is amended as follows:

481514

13 Delete lines 23 - 24
14 and insert:
15
16 of specified information relating to a business 180
17 days after a final project order for a signed economic
18 incentive agreement is issued, a date specified within
19 the final project order, or until the information is
20 otherwise disclosed, whichever occurs first;

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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
01/19/2012	.	
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The Committee on Commerce and Tourism (Detert) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete lines 164 - 165
4 and insert:
5
6 from disclosure 180 days after a final project order for an
7 economic incentive agreement is issued, until a date specified
8 in the final project order, or if the information is otherwise
9 disclosed, whichever occurs first ~~An economic development agency~~
10 ~~may~~
11
12 ========== T I T L E A M E N D M E N T ==========

746618

13 And the title is amended as follows:
14 Delete lines 23 - 24
15
16 and insert:
17
18 of specified information relating to a business 180
19 days after the final project order for an economic
20 incentive agreement is issued, until a date specified
21 in the final project order, or if the information is
22 otherwise disclosed, whichever occurs first;

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 Commerce and Tourism Committee

BILL: CS/SB 1204

INTRODUCER: Commerce and Tourism Committee and Commerce and Tourism Committee

SUBJECT: Governmental Reorganization

DATE: January 19, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hrdlicka	Hrdlicka	CM	**Fav/CS**
2.			BC	
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

CS/SB 1204 is the result of a review of the Florida Statutes for changes necessary due to the governmental reorganization provided by ch. 2011-142, L.O.F. The CS updates references to DCA, AWI, OTTED, the Black Business Investment Board, and the Florida Sports Foundation; updates provisions or references which were enacted by other chapter laws; revises provisions or references which were drafting errors; and repeals any remaining outdated provisions.

This CS amends the following sections of the Florida Statutes: 20.60, 68.096, 68.105, 159.81, 163.2517, 163.3178, 163.3191, 163.3204, 163.3221, 163.3246, 163.3247, 163.336, 163.458, 163.460, 163.461, 163.462, 163.5055, 163.506, 163.508, 163.511, 163.512, 212.096, 213.053, 215.55865, 218.411, 220.153, 220.183, 220.194, 258.501, 259.042, 259.101, 282.201, 288.021, 288.1045, 288.106, 288.108, 288.1083, 288.1089, 288.1097, 288.11621, 288.1168, 288.1171, 288.1254, 288.714, 288.7102, 288.987, 290.0055, 290.0065, 290.00726, 290.00727, 290.00728, 311.09, 320.08058, 320.080578, 339.135, 342.201, 377.703, 377.809, 380.06, 402.56, 403.0891, 420.503, 420.507, 420.101, 420.0005, 420.0006, 443.036, 443.091, 443.111, 443.141, 443.1715, 443.17161, 446.50, 450.261, 509.032, 624.5105, 1002.75, 1002.79, 259.035, 288.12265, 288.901, 288.980, and 331.3081.

This CS repeals ss. 163.03, 373.461(5), and 379.2353, F.S.

II. Present Situation:

Governmental Reorganization[1]

Chapter 2011-142, L.O.F. (the law), reorganized the land planning and community development, workforce development, and economic development functions of state government. Many of the functions and responsibilities of the Department of Community Affairs (DCA), the Agency for Workforce Innovation (AWI), and the Office of Tourism, Trade, and Economic Development within the Executive Office of the Governor (OTTED) were transferred into a new state agency called the Department of Economic Opportunity (DEO).

Public/Private Partnerships

The law also reorganized several public/private partnerships. The Florida Sports Foundation and the Black Business Investment Board were merged into Enterprise Florida, Inc (EFI). The Florida Commission on Tourism was abolished and much of its responsibilities and functions were transferred to the Division of Tourism Promotion within EFI. The Florida Tourism Industry Marketing Corporation (Visit Florida) was directed to contract with EFI. Further, the appointed members of the board of directors for EFI now also serve as the board of directors of Space Florida, which is still an independent special district.

Other Transfers

Other functions of DCA, AWI, and OTTED were transferred to more appropriate state agencies, including:

- The Florida Building Code Commission was transferred from DCA to the Department of Business and Professional Regulation.
- The Division of Emergency Management (DEM) was administratively housed within DCA, but was a separate budget entity and was not subject to control, supervision, or direction by DCA. DEM was transferred to the Executive Office of the Governor, while retaining its status as a separate budget entity.
- The Florida Communities Trust, the Parks and Open Space Florida Forever Grant Program, and the Stan Mayfield Working Waterfronts Florida Forever Grant Program were transferred from DCA to the Department of Environmental Protection.
- The Office of Early Learning within AWI was transferred to the Department of Education as a separate budget entity and is not subject to control, supervision, or direction by the department.

[1] For further information see Committee on Commerce and Tourism, the Florida Senate, Identification, Review, and Recommendation Relating to Statutory Changes Necessary to Implement the Governmental Reorganization Required by ch. 2011-142, L.O.F. (October 2011), Interim Report 2012-112, available at http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-112cm.pdf (last visited 1/13/2012).

Office of Energy

Additionally, the law reorganized a portion of the state's energy policy, by abolishing the Florida Energy and Climate Commission (FECC) and transferring the majority of its functions and responsibilities to the Department of Agriculture and Consumer Services (DACS). There is now an Office of Energy within DACS.[2] Additionally, FECC's emergency management responsibilities were transferred to the Division of Emergency Management and administration of the Costal Energy Impact Program was transferred to the Department of Environmental Protection.

Ready to Work

The law also transferred the administration of the Florida Ready to Work Program from the Department of Education to DEO.[3] However, the program must be implemented by DEO in coordination with the Department of Education.

Interim Report 2012-112

The Legislature recognized the need to conform the Florida Statutes to the policy decisions reflected in ch. 2011-142, L.O.F., and resolve apparent conflicts between any other legislation passed during the 2011 Regular Session and the transfer of duties made by the law.[4] Interim Report 2012-112 reviewed the reorganization provided for in ch. 2011-142, L.O.F., and Florida Statutes for any statutory changes necessary to implement the law.

This included review of the Florida Statutes for obsolete references, inconsistencies, or statutory notes by the Division of Statutory Revision related to the reorganization.[5] Additionally, staff contacted the transition coordinators for the various affected agencies for input.

Committee staff found several references remaining in statute to DCA, AWI, and OTTED. Some of these references exist due to other laws passed in the 2011 Regular Session. Additionally, committee staff discovered some idiosyncrasies due to multiple revisions of the original bill. Some agencies and transition coordinators also directed staff to inappropriate changes in references.

III. Effect of Proposed Changes:

Based upon the review of the Florida Statutes, Interim Report 2012-112 recommended that draft legislation be developed to:

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[2] See the Office of Energy website, which includes a history of state entities dealing with Florida energy policy, available at http://www.freshfromflorida.com/offices/energy/ (last visited 1/13/2012).

[3] Florida Ready to Work is an employee credentialing program that is funded by the state. The program allows participants to take a skills test and credentialing classes online to earn a "career readiness certificate."

[4] Section 10, ch. 2011-142, L.O.F., also directs the Division of Statutory Revision to assist substantive committees to identify issues.

[5] The Division of Statutory Revision of the Office of Legislative Services reviews Florida Statutes, in part, to remove inconsistencies and otherwise improve the clarity and facilitate the correct and proper interpretation of the statutes. Any revision the division makes to a statute, either complete, partial, or topical, is accompanied by revision and history notes, showing the changes made and the reason for such recommended change.

- Update references to DCA, AWI, OTTED, the Black Business Investment Board, and the Florida Sports Foundation;
- Update provisions or references which were enacted by other chapter laws;
- Revise provisions or references which were drafting errors; and
- Repeal any remaining outdated provisions.

Specifically, CS/SB 1204 implements these recommendations in the following manner:

Update references to the former Department of Community Affairs

Sections 1 and 2 update references in the Florida Access to Civil Legal Assistance Act in ss. 68.096 and 68.105, F.S., related to administration of the program from DCA to the Department of Legal Affairs. This program was funded through the Department of Legal Affairs in the FY 2011-12 budget.[6]

References in the following sections are updated to refer to DEO or the "state land planning agency," which is currently DEO:

- s. 163.2517(6), F.S. (**Section 4**);
- s. 163.3178(3), F.S. (**Section 5**);
- s. 163.3204, F.S. (**Section 7**);
- s. 163.3221(14), F.S. (**Section 8**);
- s. 163.3246(1), F.S. (**Section 9**);
- s. 163.3247(5), F.S. (**Section 10**);
- s. 163.336(2), F.S. (**Section 11**);
- s. 163.458, F.S. (**Section 12**);
- s. 163.460, F.S. (**Section 13**);
- s. 163.461, F.S. (**Section 14**);
- s. 163.462, F.S. (**Section 15**);
- s. 163.5055(1), F.S. (**Section 16**);
- s. 163.506(1), F.S. (**Section 17**);
- s. 163.508(1), F.S. (**Section 18**);
- s. 163.511(1), F.S. (**Section 19**);
- s. 163.512(1), F.S. (**Section 20**);
- s. 218.411(1), F.S. (**Section 24**);
- s. 258.501, F.S. (**Section 28**);
- s. 259.042(3), F.S. (**Section 29**);
- s. 282.201(4), F.S. (**Section 31**);
- s. 311.09, F.S. (**Section 51**);
- s. 320.08058(62), F.S. (**Section 52**);
- s. 377.703(2), F.S. (**Section 55**);
- s. 403.0891(6), F.S. (**Section 59**); and
- s. 509.032(7), F.S. (**Section 73**).

[6] Line 1294A, ch. 2011-69, L.O.F. The Legislature appropriated $1 million from general revenue for the program.

Section 5 also amends s. 163.3178, F.S., to remove obsolete language related to county marina siting plans and a defunct Coastal Resources Interagency Management Committee.

Section 23 amends s. 215.55865, F.S., to update a reference from DCA to the Florida Building Commission.

Section 30 amends s. 259.101(3), F.S., to update a reference from DCA to the Department of Environmental Protection.

Section 54 amends s. 342.201, F.S., to correct a reference for the administration of the Waterfronts Florida Program. This program had been administered by DCA, but is currently administered by DEO.

References in the following sections are updated to refer to the executive director of DEO instead of the secretary of DCA:

- s. 420.503(8), F.S. (**Section 60**);
- s. 420.507(30), F.S. (**Section 61**);
- s. 420.101(1), F.S. (**Section 62**);
- s. 420.0005, F.S. (**Section 63**);
- s. 420.0006, F.S. (**Section 64**); and
- s. 450.261, F.S. (**Section 72**).

Section 77 amends s. 259.035, F.S., to correct a reference to the number of members of the Acquisition and Restoration Council. The secretary of DCA was removed from the council by s. 119, ch. 2011-142, L.O.F.

Section 83 repeals s. 163.03, F.S., which deals specifically with the powers and duties of the secretary of DCA and functions of DCA. Much of these powers, duties, and functions have been transferred to DEO.[7]

Update references to the former Agency for Workforce Innovation

References in the following sections are updated to refer to DEO:

- s. 212.096(1), F.S. (**Section 21**);
- s. 220.194(3), F.S. (**Section 27**);
- s. 288.021(1), F.S. (**Section 32**);
- s. 443.036(26), F.S. (**Section 65**);
- s. 443.091(1), F.S. (**Section 66**);
- s. 443.111(5), F.S. (**Section 67**);
- s. 443.141(1), F.S. (**Section 68**);
- s. 443.1715(2), F.S. (**Section 69**);
- s. 443.17161, F.S. (**Section 70**);
- s. 446.50(2), F.S. (**Section 71**);
- s. 1002.75(4), F.S. (**Section 75**); and

[7] See s. 20.60, F.S.

- s. 1002.79(2), F.S. (**Section 76**).

Section 58 amends s. 402.56(4), F.S., to correct a reference to the Office of Early Learning.

Update references to the former Office of Tourism, Trade, and Economic Development

References in the following sections are updated to refer to DEO:

- s. 159.81(1), F.S. (**Section 3**);
- s. 213.053(8), F.S. (**Section 22**);
- s. 220.153, F.S. (**Section 25**);
- s. 220.183(2), F.S. (**Section 26**);
- s. 220.194, F.S. (**Section 27**);
- s. 288.1045, F.S. (**Section 33**);
- s. 288.106, F.S. (**Section 34**);
- s. 288.108(3), F.S. (**Section 35**);
- s. 288.1083(3), F.S. (**Section 36**);
- s. 288.1089(2), F.S. (**Section 37**);
- s. 288.1097(2), F.S. (**Section 38**);
- s. 288.11621(3), F.S. (**Section 39**);
- s. 288.1168(6), F.S. (**Section 40**);
- s. 288.1171(4), F.S. (**Section 41**);
- s. 288.1254(8), F.S. (**Section 42**);
- s. 288.987, F.S. (**Section 45**);
- s. 290.0055(6), F.S. (**Section 46**);
- s. 290.0065(4), F.S. (**Section 47**);
- s. 290.00726, F.S. (**Section 48**);
- s. 290.00727, F.S. (**Section 49**);
- s. 290.00728, F.S. (**Section 50**);
- s. 339.135(5), F.S. (**Section 53**);
- s. 377.809(4), F.S. (**Section 56**);
- s. 380.06(19), F.S. (**Section 57**); and
- s. 624.5105(3), F.S. (**Section 74**).

Section 80 amends s. 288.980, F.S., to correct a reference to the number of grant programs relating to the Florida Economic Reinvestment Initiative. It also updates a reference to the former OTTED.

Section 84 repeals s. 373.461(5), F.S., which deals with the purchase of land for the restoration of the Lake Apopka Basin and certain requirements which had to be met in 1997.

Section 85 repeals s. 379.2353, F.S., which deals with enterprise zone designations for communities suffering adverse impacts from the adoption of the 1995 constitutional amendment limiting the use of nets to harvest marine species. The statute states that any enterprise zone that designated under the paragraph which was effective on or before January 1, 2005, would cease to

exist after December 31, 2005. Redesignated enterprise zones after that date were required to comply with the Florida Enterprise Zone Act in ch. 290, F.S.

Update references to Public/Private Partnerships

Sections 43 and 44 amend ss. 288.714(2) and 288.7102(7), F.S., to update references to the former Black Business Investment Board.

Section 52 amends s. 320.08058(9) and (35), F.S., to update references from the former Florida Sports Foundation to EFI.

Section 78 amends s. 288.12265, F.S., to authorize EFI to contract with the Florida Tourism Industry Marketing Corporation (Visit Florida) for the management and operation of the welcome centers.

Section 79 amends s. 288.901(5), F.S., to limit the requirement that members of the board of directors of EFI be confirmed by the Senate to those members who are appointed by the Governor. Members appointed by the President of the Senate or the Speaker of the House of Representatives would not be confirmed by the Senate.

Section 81 amends s. 331.3081, F.S., to add the Governor or the Governor's designee as a member and chair of the board of directors of Space Florida. This increases the number of members on the board from an even 12 to 13-members. Historically, the Governor or Lieutenant Governor has served on the board as the chair. Additionally, the CS eliminates the advisory board for Space Florida.

Department of Economic Opportunity

Section 82 amends s. 20.60, F.S., to add the Division of Information Technology to DEO. This division already exists within the organizational structure of DEO.

Cross-References

Section 6 amends s. 163.3191(3), F.S., to update a cross-reference.

Section 57 amends s. 380.06(6), (24), and (29), F.S., to update cross-references.

Effective Date

Section 86 provides an effective date of upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. 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 1/19/2012:
The committee substitute makes the following changes to the bill as originally filed:

- Removes obsolete language related to county marina siting plans and a defunct Coastal Resources Interagency Management Committee;
- Eliminates the advisory board for Space Florida; and
- Adds the Division of Information Technology to DEO.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
01/19/2012	.	
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	.	
	.	

The Committee on Commerce and Tourism (Detert) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete lines 118 - 135
4 and insert:
5 Section 5. Paragraph (h) of subsection (d) and subsections
6 (3) and (6) of section 163.3178, Florida Statutes, are amended,
7 and present subsections (7) through (9) of that section are
8 renumbered as subsections (6) through (8), respectively, to
9 read:
10 163.3178 Coastal management.—
11 (2) Each coastal management element required by s.
12 163.3177(6)(g) shall be based on studies, surveys, and data; be

792172

13 consistent with coastal resource plans prepared and adopted
14 pursuant to general or special law; and contain:
15 (h) Designation of coastal high-hazard areas and the
16 criteria for mitigation for a comprehensive plan amendment in a
17 coastal high-hazard area as defined in subsection (8) ~~(9)~~. The
18 coastal high-hazard area is the area below the elevation of the
19 category 1 storm surge line as established by a Sea, Lake, and
20 Overland Surges from Hurricanes (SLOSH) computerized storm surge
21 model. Application of mitigation and the application of
22 development and redevelopment policies, pursuant to s.
23 380.27(2), and any rules adopted thereunder, shall be at the
24 discretion of local government.
25 (3) Expansions to port harbors, spoil disposal sites,
26 navigation channels, turning basins, harbor berths, and other
27 related inwater harbor facilities of ports listed in s.
28 403.021(9); port transportation facilities and projects listed
29 in s. 311.07(3)(b); intermodal transportation facilities
30 identified pursuant to s. 311.09(3); and facilities determined
31 by the state land planning agency ~~Department of Community~~
32 ~~Affairs~~ and applicable general-purpose local government to be
33 port-related industrial or commercial projects located within 3
34 miles of or in a port master plan area which rely upon the use
35 of port and intermodal transportation facilities may ~~shall~~ not
36 be designated as developments of regional impact if such
37 expansions, projects, or facilities are consistent with
38 comprehensive master plans that are in compliance with this
39 section.
40 ~~(6) Local governments are encouraged to adopt countywide~~
41 ~~marina siting plans to designate sites for existing and future~~

792172

42 ~~marinas. The Coastal Resources Interagency Management Committee,~~
43 ~~at the direction of the Legislature, shall identify incentives~~
44 ~~to encourage local governments to adopt such siting plans and~~
45 ~~uniform criteria and standards to be used by local governments~~
46 ~~to implement state goals, objectives, and policies relating to~~
47 ~~marina siting. These criteria must ensure that priority is given~~
48 ~~to water-dependent land uses. Countywide marina siting plans~~
49 ~~must be consistent with state and regional environmental~~
50 ~~planning policies and standards. Each local government in the~~
51 ~~coastal area which participates in adoption of a countywide~~
52 ~~marina siting plan shall incorporate the plan into the coastal~~
53 ~~management element of its local comprehensive plan.~~
54
55 ========== T I T L E A M E N D M E N T ==========
56 And the title is amended as follows:
57 Delete line 22
58 and insert:
59 technical and grammatical changes; amending s.
60 163.3178, F.S.; deleting obsolete provisions related
61 to countywide marina siting plans; conforming a cross-
62 reference; amending s.

354014

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
01/19/2012	.	
	.	
	.	
	.	

The Committee on Commerce and Tourism (Detert) recommended the following:

Senate Amendment (with title amendment)

Delete lines 2531 - 2555
and insert:
Section 81. Section 331.3081, Florida Statutes, is amended to read:
331.3081 Board of directors~~; advisory board~~.~~—~~
~~(1)~~ Space Florida shall be governed by a 13-member ~~12-member~~ independent board of directors that consists of the members appointed to the board of directors of Enterprise Florida, Inc., by the Governor, the President of the Senate, and the Speaker of the House of Representatives pursuant to s.

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13 288.901(5)(a)5. The Governor or the Governor's designee shall be
14 an ex officio voting member and shall serve as the chair of the
15 board.
16 ~~(2) Space Florida shall have a 15-member advisory council,~~
17 ~~appointed by the Governor from a list of nominations submitted~~
18 ~~by the board of directors. The advisory council shall be~~
19 ~~composed of Florida residents with expertise in the space~~
20 ~~industry, and each of the following areas of expertise or~~
21 ~~experience must be represented by at least one advisory council~~
22 ~~member: human space-flight programs, commercial launches into~~
23 ~~space, organized labor with experience working in the aerospace~~
24 ~~industry, aerospace-related industries, a commercial company~~
25 ~~working under Federal Government contracts to conduct space-~~
26 ~~related business, an aerospace company whose primary client is~~
27 ~~the United States Department of Defense, and an alternative~~
28 ~~energy enterprise with potential for aerospace applications. The~~
29 ~~advisory council shall elect a member to serve as the chair of~~
30 ~~the council.~~
31 ~~(3) The advisory council shall make recommendations to the~~
32 ~~board of directors of Enterprise Florida, Inc., on the operation~~
33 ~~of Space Florida, including matters pertaining to ways to~~
34 ~~improve or enhance Florida's efforts to expand its existing~~
35 ~~space and aerospace industry, to improve management and use of~~
36 ~~Florida's state-owned real property assets related to space and~~
37 ~~aerospace, how best to retain and, if necessary, retrain~~
38 ~~Florida's highly skilled space and aerospace workforce, and how~~
39 ~~to strengthen bonds between this state, NASA, the Department of~~
40 ~~Defense, and private space and aerospace industries.~~
41 ~~(4) The term for an advisory council member is 4 years. A~~

354014

42 ~~member may not serve more than two consecutive terms. The~~
43 ~~Governor may remove any member for cause and shall fill all~~
44 ~~vacancies that occur.~~
45 ~~(5) Advisory council members shall serve without~~
46 ~~compensation but may be reimbursed for all reasonable,~~
47 ~~necessary, and actual expenses as determined by the board of~~
48 ~~directors of Enterprise Florida, Inc.~~
49 Section 83. Paragraph (e) is added to subsection (3) of
50 section 20.60, Florida Statutes, to read:
51 20.60 Department of Economic Opportunity; creation; powers
52 and duties.—
53 (3) The following divisions of the Department of Economic
54 Opportunity are established:
55 (e) The Division of Information Technology.
56
57 ========== T I T L E A M E N D M E N T ==========
58 And the title is amended as follows:
59 Delete lines 37 - 44
60 and insert:
61 amending s. 331.3081, F.S.; adding the Governor or the
62 Governor's designee as a member and chair of the board
63 of directors of Space Florida; deleting provisions
64 establishing the Space Florida advisory council;
65 amending s. 20.60, F.S.; establishing the Division of
66 Information Technology within the Department of
67 Economic Opportunity; repealing s.
68

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 Commerce and Tourism Committee

BILL: CS/SB 888

INTRODUCER: Commerce and Tourism Committee and Senator Flores

SUBJECT: Relating to Consumer Protection

DATE: January 19, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Juliachs	Hrdlicka	CM	**Fav/CS**
2.			RI	
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

CS/SB 888 amends several statutes concerning consumer protection provisions that fall under the purview of the Department of Agriculture and Consumer Services. Specifically, the CS merges the responsibilities and duties of the Division of Standards into the Division of Consumer Services. The CS also amends statutory provisions relating to professional surveyors and mappers, business opportunities, motor vehicle repair shops, pawnshops, health studios, sellers of travel, intrastate movers, telemarketing, brake fluid and anti-freeze products, fair rides, and licensing.

This CS amends the following sections of the Florida Statutes: ss. 20.14, 472.005, 472.006, 472.011, 472.0131, 472.015, 472.018, 472.0202, 472.0203, 472.025, 472.0351, 493.6105, 493.6113, 493.6118, 493.6120, 501.015, 501.017, 501.059, 501.605, 501.607, 501.911, 501.913, 507.04, 525.07, 526.143, 526.50, 526.51, 526.52, 526.53, 526.55, 539.001, 559.805, 559.904, 559.928, 559.9285, 559.935, 570.29, 570.544, 616.242, F.S.

This CS creates the following sections of the Florida Statutes: ss. 472.0337 and 472.0357, F.S.

This CS repeals the following sections of the Florida Statutes: **ss.** 366.85, 559.922, 570.46 and 570.47, F.S.

II. Present Situation:

The Florida Department of Agriculture and Consumer Services (department) is charged with the responsibility of supporting Florida's agricultural economy, as well as protecting consumers from unsafe products and from deceptive business practices. To assist with carrying out its mission of protecting Florida's general public, the department is organized under the divisions of Consumer Service, Licensing, and Standards.[1]

Presently, the Division of Consumer Services is responsible for overseeing and regulating the following activities and entities: business opportunities, motor vehicle repair shops, charitable organizations, Florida Do Not Call, dance studios, pawnshops, health studios, sellers of travel, intrastate movers, game promotions, telemarketing, and professional surveyors and mappers. The Division of Standards protects consumers from unfair and unsafe business practices and products, including gasoline, brake fluid, antifreeze, liquefied petroleum gas, amusement rides, and weighing and measuring devices. Finally, the Division of Licensing is responsible for regulating private security and investigative industries, along with issuing concealed weapon and firearm licenses.

Notably, in 2009, the Division of Consumer Services underwent a significant change when the Legislature transferred[2] the Board of Professional Surveyors and Mappers (board) from the Department of Business and Professional Regulation to the Department of Agriculture of Consumer Services.[3] The effect was to transfer the operations of the board from ch. 455, F.S., to ch. 472, F.S.

III. Effect of Proposed Changes:

Department of Agriculture and Consumer Services

Sections 43 amends s. 570.544, F.S., by providing that the director of the division shall supervise, direct, and coordinate the activities of the division and shall, under the direction of the department, enforce the provisions of chs. 472, 496, 501, 507, 525, 526, 527, 531, 539, 559, 616, and 849, F.S.

The effect is to shift the duties and responsibilities of the Division of Standards to the Division of Consumer Services.

The following is a list of statutes that are amended to remove statutory reference to the Division of Standards:

Section 24 amends s. 501.911, F.S.

---

[1] Section 20.14, F.S. (2011).
[2] The definition of a "type two transfer" is provided in s. 20.06(2), F.S.
[3] Chapter 2009-66, L.O.F. (2009)

Section 1 amends s. 20.14, F.S.

Section 41 amends s. 570.29, F.S.

Section 42 repeals ss. 570.46 and 570.47, F.S.

Division of Consumer Services

Section 2 repeals s. 366.85, F.S., dealing with consumer conciliatory conferences.

Professional Surveyors and Mappers[4, 5]

Section 3 amends s. 472.005, F.S., to redefine "license" and introduce the terms "consumer member" and "licensee." The term "license" means a registration, certificate, or license issued by the department pursuant to the chapter.

"Consumer member" is defined as a person appointed to serve on the board who is not, and never has been, a professional surveyor or mapper in any jurisdiction or a member of any closely related profession regulated by the board.

"Licensee" means any person or business entity that has been issued, pursuant to this chapter, a registration, certificate, or license by the department.[6]

Section 4 amends s. 472.006, F.S., by instructing the department to work with the Department of Revenue regarding the suspension or denial of the license of any licensee found to be in violation of a support order, subpoena, order to show cause, or written agreement; providing a basis for reinstating a denied or suspended license; and relieving the department of certain liability associated with the denial or suspension of a license.[7]

It should be noted that the provisions above are mandated under federal law under the current federal matching funds scheme concerning state child support enforcement programs.[8] In 1996, Congress passed the Personal Responsibility and Work Opportunity Reconciliation Act, which required states to target parents who owed overdue child support by enacting license restriction laws. As such, the provisions reflected in section 7 both comply with federal law and further the declared public policy of this state, which is that "children shall be maintained from the resources of their parents, thereby relieving, at least in part, the burden presently borne by the general citizenry through public assistance programs."[9]

---

[4] The term "Board" refers to the Board of Professional Surveyors and Mappers.
[5] The provisions found under this section transfers existing statutory language that was inadvertently omitted during the transfer of the Board of Professional Surveyors and Mappers from the Department of Business and Professional Regulation to the Department of Agriculture and Consumer Services.
[6] The inclusion of the terms "licensee" and "consumer member" derives from identical language contained in s. 455.01, F.S.
[7] This provision derives from identical language contained in s. 455.203(9), F.S.
[8] 42 U.S.C. 666(a)(16) (2006).
[9] Section 409.2551, F.S. (2011).

Section 5 amends s. 472.011, F.S., to authorize the department to waive license renewal fees by rule when the General Inspection Trust Fund[10] contains funds that exceed the amount required to cover the necessary functions of the board. This section also authorizes the board to collect a special assessment for the purpose of eliminating a cash deficit, or if there is not a cash deficit, in the amount sufficient to maintain the financial integrity of the profession.[11]

Section 6 amends s. 472.0131, F.S., to specify that applicants who have taken and failed an examination developed by the department or a contracted vendor may review their last exam.[12]

Section 7 amends s. 472.015, F.S., to permit the department to require applicants to provide social security numbers when applying for an initial or renewal license. As already discussed in section 7, this requirement originates from federal law which provides that the use of a social security number is limited to administering child support enforcement activities. [13]

This section also specifies that an application is considered to be received upon receipt by the department of the application in its proper format and with any additional documentation or fee prescribed either by law or rule. Furthermore, the department may not issue a license by endorsement to any applicant who is under investigation in this state, any other state, or any other jurisdiction for any act that would constitute a violation under this chapter until the investigation is complete and disciplinary proceedings have been terminated.[14]

Section 8 amends s. 472.018, F.S., by authorizing the board to use the standard recognized by the Federal Poverty Income Guidelines as produced by the United States Department of Health and Human Services when determining indigency.

Additionally, the section requires that each continuing education provider must provide to the department, in an electronic format, information regarding the continuing education status of licensees. After a licensee completes a course, the information must be submitted electronically by the continuing education provider to the department within 30 calendar days after completion. However, on the 30th day before the renewal deadline, the time period for a continuing education provider to submit such information to the department is reduced to 10 business days after completion of the course.[15]

Finally, this section also directs the department to establish a system for monitoring license compliance with continuing education requirements, as well as authorized the department to refuse to renew a license until the licensee has satisfied all applicable continuing education

[10] Section 570.20, F.S. (2011) (All donations and all inspection fees and other funds authorized and received from in the enforcement of the inspection laws administered by the department are paid into the General Inspection Trust Fund of Florida.).
[11] This provision derives from identical language contained in s. 455.219, F.S.
[12] This provision derives from identical language contained in s. 455.217, F.S.
[13] 42 U.S.C. 666(a)(13)(a) (2006).
[14] This provision derives from identical language contained in s. 455.213, F.S. Current law provides for denial to any applicant who also is under investigation in another state for acts that would violate ch. 455, F.S.
[15] This provision derives from identical language contained in s. 455.2178, F.S.

requirements. Further, the department is not precluded from imposing additional penalties pursuant to this chapter or rules adopted pursuant to this chapter.

Section 9 amends s. 472.0202, F.S., to correct a statutory citation and clarify when a licensee is subject to discipline for practicing without an active license.

Section 10 amends s. 472.0203, F.S., to allow the department to communicate with a licensee via electronic communication concerning license renewal.

Section 11 amends s. 472.025, F.S., to make technical changes concerning the regulation of seals so that it is now surrendered to the executive director of the board.

Section 12 creates s. 472.0337, F.S., which grants the department powers with respect to investigations, administration of oaths, taking depositions, and other powers.[16]

Section 13 amends s. 472.0351, F.S., by clarifying the grounds for commencing disciplinary actions for licensure violations and specifying the manner that a licensee may be disciplined, as well as repealing provisions that contain duplicative violations. This section further clarifies the ability of the board to discipline licenses and impose license restrictions as disciplinary penalties.[17]

Section 14 creates s. 472.0357, F.S., to provide that a person giving false information when applying for a license commits a third degree felony.[18]

Business Opportunities

Section 35 amends s. 559.805, F.S., by removing the requirement that every seller of a business opportunity provide the department with the social security number of every independent agent who will engage in the offer or sale of business opportunities on behalf of the seller in this state. The seller of a business opportunity, however, must still provide the name, home and business address, telephone number, present employer, and birth date for each independent agent.

Motor Vehicle Repair Shops

Section 36 amends s. 559.904, F.S., by removing the term "occupational license" and replacing it with "business tax receipt" as it relates to motor vehicle repair shops.[19]

Section 37 repeals s. 559.922, F.S., with the effect of eliminating a financial assistance program to undertake technical training or courses of study in motor vehicle repair.

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[16] This provision derives from identical language contained in s. 455.233, F.S.
[17] This provision derives from identical language contained in s. 455.227, F.S.
[18] This provision derives from identical language contained in s. 455.0357, F.S. A third degree felony is punishable by up to 5 years imprisonment and a fine of $5,000. *See* ss. 775.082(3)(d) and 775.083(1)(c).
[19] The Legislature enacted ch. 2006-152, L.O.F., which reclassified "local occupational license" to "local business tax." This change proposes to match the statute, as amended by this bill, to its modern term as codified in s. 205.022(2), F.S.

Pawnshops

Section 34 amends s. 539.001, F.S., by requiring that a licensee who seeks to move a pawnshop to another location must give written notice to the agency at least 30 days before the move. However, the requirement for the notice to be sent via certified or registered mail with return receipt requested is removed from the statute.

Health Studios

Section 19 amends s. 501.015, F.S., by removing the term "occupational license" and replacing it with "business tax receipt" as it relates to health studios.[20]

Section 20 amends s. 501.017, F.S., to provide for "at least" 10-point boldfaced font in health studio contracts, which are required to include the language stipulated in s. 501.017(1)(a), F.S. As currently written, the statute requires exactly 10-point boldfaced type.

Sellers of Travel

Section 38 amends. s. 559.928, F.S., by removing the term "occupational license" and replacing it with "business tax receipt" as it relates to sellers of travel.[21] Additionally, an independent agent representing a seller of travel is no longer required to submit their social security number when filing their annual affidavit. However, they are still required to submit their name, legal business or trade name, mailing address, business address, telephone number, and address of each seller of travel represented by the independent agent.

Section 39 amends s. 559.9285, F.S., by correcting a cross-reference.

Section 40 amends s. 559.935, F.S., by removing the term "occupational license" and replacing it with "business tax receipt" as it relates to sellers of travel.[22]

Intrastate Movers

Section 26 amends s. 507.04, F.S., to reduce the period of notification of cancellation of insurance coverage for household moving services required to be provided to the department from at least 30 to 10 days prior to cancellation of coverage.

Telemarketing

Section 21 amends s. 501.059, F.S., by removing the "Public Service Commission" from the definition's portion of the statute; requiring the department to keep a telephone subscriber who notifies the department of his or her desire not to receive unsolicited telephone sales calls to be

[20] *Id.*
[21] *Id.*
[22] *Id.*

placed on the "do not call" list for 5 years; removing fees related to placement on the do not call list; authorizing the department to include the phone number listings of Florida subscribers from a national "do not call list" should the Federal Trade Commission establish such a national database; and authorizes the department to impose an administrative fine not to exceed $1,000 for every violation.

Section 22 amends s. 501.605, F.S., by removing the requirement to submit a social security number for an application to become a commercial telephone seller for applicant, principal officers, managers, and salespersons.

Section 23 amends s. 501.607, F.S., by removing the requirement to submit a social security number for an application to become a salesperson for applicant, principal officers, managers, and salespersons.

Division of Standards

Section 25 amends s. 501.913, F.S., to require that a registrant of a brand of antifreeze, who is no longer producing for distribution such brand, to submit a notarized affidavit on company letterhead stating the following: that the brand is no longer in production; that the brand will not be distributed in the state; and that all existing products of the brand will be removed by the registrant from the state within 30 days after expiration of the registration or the registrant will reregister the brand for 2 subsequent registration periods.

Section 27 amends s. 525.07, F.S., to prohibit a person from removing, using, selling, offering for sale, distributing, offering for distribution, or disposing of petroleum fuel that has been placed under a stop-sale order without receiving permission from the department.

Section 28 amends s. 526.143, F.S., to authorize the department to temporarily waive requirements for maintaining generators at retail motor fuel outlets that are used in preparation for, or response to, an emergency or major disaster in another state.

Section 29 amends s. 526.50, F.S., to define the terms "brand" and "formula" as they relate to brake fluid. As such, "brand" means the product name appearing on the label of a container of brake fluid while "formula" means the name of the chemical mixture or composition of the brake fluid product.

Section 30 amends s. 526.51, F.S., to require that to reregister a previously registered brand and formula combination of brake fluid, an applicant must submit a completed application to the department before the first day of the permit year. Any late submissions will incur a penalty of $25 that will be in addition to the standard fee.

This section also requires a registrant of a brand of brake fluid, who is no longer producing for distribution such brand, to submit a notarized affidavit on company letterhead stating the following: that the brand is no longer in production; that the brand will not be distributed in the state; and that all existing products of the brand will be removed by the registrant from the state within 30 days after expiration of the registration or the registrant will reregister the brand for 2 subsequent registration periods.

Furthermore, all first-time applicants for a brand and formula combination must be accompanied by a certified report from an independent testing laboratory demonstrating that the quality of the brake fluid is not less than the specifications established by the department.

Section 31 amends s. 526.52, F.S., to clarify quality standards for brake fluid products by referring to the United States Department of Transportation Motor Vehicle Safety Standard No. 116, or other specified standard identified in department rule.

Section 32 amends s. 526.53, F.S., to require that stop-sale orders for brake fluid be served by the department on the owner of the brand name, the distributor, or other entity responsible for selling or distributing the brake fluid product.

The section also requires that unregistered brake fluid held by the department or its representative that has not been registered within 30 days after the issuance of a stop-sale order may be given to any tax-supported institution or agency of the state, if the product satisfies legal specifications. If the product does not satisfy legal specifications, then the product may be disposed of as authorized by rule of the department.

Section 33 amends s. 526.55, F.S., by enumerating the penalties for violating provisions relating to brake fluid and replacing criminal sanctions with administrative and monetary sanctions, including an administrative fine of up to $5,000.

Section 44 amends s. 616.242, F.S., by removing language referring to the "Bureau of Fair Rides Inspection" and replacing it with "fair rides inspection program." As such, the department shall by rule establish fees to cover the costs and expenditures associated with the fair rides inspection program, as opposed to the Bureau of Fair Rides Inspection.

Division of Licensing

Section 15 amends s. 493.6105, F.S., to allow the department to waive the firearms training requirement for a first-time applicant of a Class "G"[23] license under the following conditions: the applicant provides proof that he or she is currently certified as a law enforcement officer or correctional officer pursuant to the requirements of the Criminal Justice Standards and Training Commission or has successfully completed the training required for certification within the last 12 months; the applicant provides proof that he or she is currently certified as a federal law enforcement officer and has received law enforcement firearms training administered by a federal law enforcement agency; or the applicant submits a valid firearm certificate among those specified in s. 493.6105(6)(a), F.S.[24]

Section 16 amends s. 493.6113, F.S., to allow the department to waive the firearms training requirement for an applicant who is renewing their Class "G" license under the following

[23] Class "G" license refers to the license required for an armed security guard.
[24] Certificates include the following: The Florida Criminal Justice Standards and Training Commission Instructor Certificate and written confirmation by the commission that the applicant possesses an active firearms certification; The National Rifle Association Private Security Firearm Instructor Certificate; or a firearms instructor certificate issued by a federal law enforcement agency.

conditions: the applicant provides proof that he or she is currently certified as a law enforcement officer or correctional officer pursuant to the requirements of the Criminal Justice Standards and Training Commission and has completed law enforcement firearms requalification training annually during the preceding 2 years of the licensure period; the applicant provides proof that he or she is currently certified as a federal law enforcement officer and has received law enforcement firearms training administered by a federal law enforcement agency annually during the preceding 2 years of the licensure period; or the applicant submits a valid firearm certificate among those specified in s. 493.6105(6)(a), F.S., and provides poof of having completed requalification training during the preceding 2 years of the licensure period.

Section 17 amends s. 493.6118, F.S., to expand the group of licensees subject to disciplinary action to include Class "DS"[25] and "RS"[26] schools. As such, upon entry of a final order imposing an administrative fine against owners, as well as corporate or agency officers or partners, of a class "DS" and "RS" agency, school, or training facility, the license or pending requests for approval of a license for the school, its owners, and officers are automatically suspended if 30 days have elapsed since the entry of the final order and the fine has not been paid. All parties are jointly and severally liable[27] for fines levied against the agency, school, or training facility.

Section 18 amends s. 493.6120, F.S., to state that any owner, officer, partner, or manager of a school or training facility that knew or should have known of an activity that resulted in the revocation of the school or training facility license shall have their personal license suspended for 3 years and may not have any financial interest or be employed by the school or training facility during suspension.

Section 45 provides that this act shall take effect July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

A strict separation of powers doctrine is found in Article II, Section 3 of the Florida Constitution. Accordingly, two tenets encompassing separation of powers are that no

[25] Class "DS" license refers to a security officer school or training facility.
[26] Class "RS" license refers to a recovery agent school or training facility.
[27] The effect of joint and several liability is to make each party liable for the entire amount of the fine regardless of that individual party's relative degree of fault or responsibility for the violation.

branch of government may encroach on another branch's power and that no branch may delegate its constitutionally assigned powers to another branch.[28] For these reasons, the doctrine of separation of powers is inextricably linked to agency operations and may potentially raise constitutional issues when dealing with statutes that authorize agency action.

As such, "the Legislature may not delegate the power to enact a law or the right to exercise unrestricted discretion in applying the law," but is required to delineate "ascertainable minimal standards and guidelines" when authorizing agency actions. [29] As amended by this CS, the agency action authorized by the Legislature will likely satisfy constitutional requirements.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not yet determined the impact of this CS.

B. Private Sector Impact:

According to the Department of Agriculture and Consumer Services, the waiver of the firearms training requirement for a first time or renewing applicant of a Class "G" license who is either a retired law enforcement officer or federal law enforcement officer that has undergone proper firearms training will allow such groups to qualify and remain eligible for a Class "G" license at a minimum expense and inconvenience. As such, the effect of these changes will provide greater opportunities for employment in the private investigation and security industries. [30] Similarly, the removal of the $10 listing charge fee and $5 renewal assessment associated with the "do not call list" will create a positive private sector impact.

The CS also imposes a $25 late fee for any late submissions of applications to reregister a previously registered brand and formulation combination of brake fluid, as well as imposes an administrative fine of up to $5,000 for any violations of law regarding the regulation of brake fluid. Additionally, this CS also gives the department the option to impose an administrative fine, not to exceed $1,000, for every violation of the telephone solicitation and "do not call" statutes.

Lastly, the repeal of s. 559.922, F.S., resulting in the elimination of the department's financial assistance program for technical training or courses of study in motor vehicle repair will also create a private sector impact.

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[28] *Sloban v. Fla. Bd. of Pharmacy*, 982 So. 2d 26, 29 (Fla. 1st DCA 2008) (quoting *Chiles v. Children A, B, C, D, E, & F*, 589 So. 2d 260, 264 (Fla. 1991).
[29] *Id*.
[30] Memorandum to Senate Committee on Commerce and Tourism from Department of Agriculture and Consumer Services (on file with the Senate Committee on Commerce and Tourism).

C. Government Sector Impact:

According to the Department of Agriculture and Consumer Services, the merger of the divisions of Consumer Services and Standards would reduce expenses by approximately $800,000.[31]

Conversely, with respect to telephone solicitation, the removal of the $10 listing charge fee and $5 renewal assessment associated with the "do not call list" will reduce revenue to the department.

VI. Technical Deficiencies

None.

VII. Related Issues

None.

VIII. 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 January 19, 2012:

- Retracted on renaming of Division of Consumer Services to Division of Consumer Protection.
- Repealed s. 559.922, F.S., with the effect of eliminating the department's financial assistance program for technical training or courses of study in motor vehicle repair.
- Repealed s. 366.85, F.S., dealing with consumer conciliatory conferences.
- Inserted the following provisions relating to the regulation of telephone solicitation:
  - Removed "Public Service Commission" from definition portion of the statute.
  - Required the department to keep a telephone subscriber who notified the department of his or her desire not to receive unsolicited telephone sales calls to be placed on the "do not call" list for 5 years.
  - Removed fees relating to placement on the "do not call list." Specifically, there is no longer an initial $10 listing charge or $5 renewal assessment.
  - Authorized the department to include the phone number listings of Florida subscribers from any national "do not call list" if the Federal Trade Commission, pursuant to 15 U.S.C. s. 6102(a), established such a national database.
  - Authorized the department, as an alternative to the civil penalties already provided, to impose an administrative fine not to exceed $1,000 for every violation. The administrative proceeding must be conducted in accordance with ch. 120, F.S.

[31] Memorandum to Senate Committee on Commerce and Tourism from Department of Agriculture and Consumer Services (on file with the Senate Committee on Commerce and Tourism).

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
01/19/2012	.	
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The Committee on Commerce and Tourism (Flores) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (l) of subsection (2) of section 20.14, Florida Statutes, is amended to read:

20.14 Department of Agriculture and Consumer Services.—There is created a Department of Agriculture and Consumer Services.

(2) The following divisions of the Department of Agriculture and Consumer Services are established:

~~(l) Standards.~~

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13 Section 2. Section 366.85, Florida Statutes, is repealed.
14 Section 3. Subsection (7) of section 472.005, Florida
15 Statutes, is amended, and subsections (15) and (16) are added to
16 that section, to read:
17 472.005 Definitions.—As used in ss. 472.001-472.037:
18 (7) The term "license" means a registration, certificate,
19 or license issued by the department pursuant to this chapter ~~the~~
20 ~~registration of surveyors and mappers or the certification of~~
21 ~~businesses to practice surveying and mapping in this state~~.
22 (15) "Consumer member" means a person appointed to serve on
23 the board who is not, and never has been, a professional
24 surveyor or mapper in any jurisdiction or a member of any
25 closely related profession regulated by the board.
26 (16) "Licensee" means any person or business entity that
27 has been issued, pursuant to this chapter, a registration,
28 certificate, or license by the department.
29 Section 4. Subsection (12) is added to section 472.006,
30 Florida Statutes, to read:
31 472.006 Department; powers and duties.—The department
32 shall:
33 (12) Work cooperatively with the Department of Revenue to
34 implement an automated method for periodically disclosing
35 information relating to current licensees to the Department of
36 Revenue in order to further the public policy of reducing the
37 state's financial burden as a result of family desertion and
38 nonsupport of dependent children as provided in s. 409.2551. The
39 department shall, if directed by the court or the Department of
40 Revenue, pursuant to s. 409.2598, suspend or deny the license of
41 any licensee who is found to not be in compliance with a support

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42 order, subpoena, order to show cause, or written agreement
43 entered into by the licensee with the Department of Revenue. The
44 department shall issue or reinstate the license without
45 additional charge to the licensee if notified by the court or
46 the Department of Revenue that the licensee has complied with
47 the terms of the support order. The department is not liable for
48 any license denial or suspension resulting from the discharge of
49 its duties under this subsection.
50 Section 5. Subsections (1) and (12) of section 472.011,
51 Florida Statutes, are amended to read:
52 472.011 Fees.—
53 (1) The board, by rule, may establish fees to be paid for
54 applications, examination, reexamination, licensing and renewal,
55 inactive status application and reactivation of inactive
56 licenses, recordmaking and recordkeeping, and applications for
57 providers of continuing education. The board may also establish
58 by rule a delinquency fee. The board shall establish fees that
59 are adequate to ensure the continued operation of the board.
60 Fees shall be based on department estimates of the revenue
61 required to implement ss. 472.001-472.037 and the provisions of
62 law with respect to the regulation of surveyors and mappers. If
63 the department determines, based on estimates of available
64 revenue collected pursuant to this section, that the General
65 Inspection Trust Fund contains funds that exceed the amount
66 required to cover the necessary functions of the board, the
67 department shall, by rule, waive the license renewal fees for
68 licensees under this chapter for a period not to exceed 2 years.
69 (12) The board may, by rule, assess and collect a special
70 assessment ~~one-time fee~~ from each active, inactive, and

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71 delinquent ~~each voluntary inactive~~ licensee in an amount
72 necessary to eliminate a cash deficit or, if there is not a cash
73 deficit, in an amount sufficient to maintain the financial
74 integrity of this profession as required in this subsection.
75 Section 6. Subsection (3) of section 472.0131, Florida
76 Statutes, is amended to read:
77 472.0131 Examinations; development; administration.—
78 (3) Except for national examinations approved and
79 administered pursuant to paragraph (1)(d), the department shall
80 provide procedures for applicants who have taken and failed an
81 examination developed by the department or a contracted vendor
82 to review their examination questions, answers, papers, grades,
83 and grading key for the questions the candidate answered
84 incorrectly on his or her last examination or, if not feasible,
85 the parts of the examination failed. Applicants shall bear the
86 actual cost for the department to provide examination review
87 pursuant to this subsection. An applicant may waive in writing
88 the confidentiality of his or her examination grades.
89 Section 7. Subsection (1) and paragraph (b) of subsection
90 (6) of section 472.015, Florida Statutes, are amended, and
91 subsection (15) is added to that section, to read:
92 472.015 Licensure.—
93 (1) Notwithstanding any other law, the department is the
94 sole authority for determining the contents of any documents to
95 be submitted for initial licensure and licensure renewal. The
96 ~~Such~~ documents may contain information including, as
97 appropriate: demographics, social security number, education,
98 work history, personal background, criminal history, finances,
99 business information, complaints, inspections, investigations,

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100 discipline, bonding, signature notarization, photographs,
101 performance periods, reciprocity, local government approvals,
102 supporting documentation, periodic reporting requirements,
103 continuing education requirements, and ongoing education
104 monitoring. The applicant shall supplement his or her
105 application ~~may be supplemented~~ as needed to reflect any
106 material change in any circumstance or condition stated in the
107 application which takes place between the initial filing of the
108 application and the final grant or denial of the license and
109 which might affect the decision of the department. An
110 application is received for the purposes of s. 120.60 upon
111 receipt by the department of the application, submitted in the
112 format prescribed by the department, the application fee set by
113 the board, and any other documentation or fee required by law or
114 rule to be submitted with the application in order for the
115 application to be complete.
116 (6)
117 (b) The department may ~~shall~~ not issue a license by
118 endorsement to any applicant who is under investigation in this
119 state or any other state or any other jurisdiction ~~another state~~
120 for any act that would constitute a violation of this ~~ss.~~
121 ~~472.001-472.037 or~~ chapter ~~455~~ until ~~such time as~~ the
122 investigation is complete and disciplinary proceedings have been
123 terminated.
124 (15) Pursuant to the federal Personal Responsibility and
125 Work Opportunity Reconciliation Act of 1996, each person
126 applying for initial licensure or license renewal shall provide
127 his or her social security number. Use of social security
128 numbers obtained through this requirement is limited to the

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129 purpose of administering the Title IV-D program for child
130 support enforcement, use by the department, and use as otherwise
131 provided by law.
132 Section 8. Subsection (1) of section 472.018, Florida
133 Statutes, is amended, and subsections (13), (14), and (15) are
134 added to that section, to read:
135 472.018 Continuing education.—The department may not renew
136 a license until the licensee submits proof satisfactory to the
137 board that during the 2 years before ~~prior to~~ her or his
138 application for renewal the licensee has completed at least 24
139 hours of continuing education.
140 (1) The board shall adopt rules to establish the criteria
141 and course content for continuing education courses. The rules
142 may provide that up to a maximum of 25 percent of the required
143 continuing education hours may ~~can~~ be fulfilled by the
144 performance of pro bono services to the indigent or to
145 underserved populations or in areas of critical need within the
146 state where the licensee practices. The board must require that
147 any pro bono services be approved in advance in order to receive
148 credit for continuing education under this section. The board
149 shall use the standard ~~for determining indigency shall be that~~
150 recognized by the Federal Poverty Income Guidelines produced by
151 the United States Department of Health and Human Services in
152 determining indigency. The board may adopt rules that may
153 provide ~~for approval by the board~~ that a part of the continuing
154 education hours may ~~can~~ be fulfilled by performing research in
155 critical need areas or for training leading to advanced
156 professional certification. The board~~, or the department when~~
157 ~~there is no board,~~ may adopt ~~make~~ rules to define underserved

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158 and critical need areas. The department shall adopt rules for
159 the administration of continuing education requirements adopted
160 by the board ~~or the department when there is no board~~.
161 (13) Each continuing education provider shall provide to
162 the department, in an electronic format determined by the
163 department, information regarding the continuing education
164 status of licensees which the department determines is necessary
165 to carry out its duties under this chapter. After a licensee
166 completes a course, the information must be submitted
167 electronically by the continuing education provider to the
168 department within 30 calendar days after completion. However,
169 beginning on the 30th day before the renewal deadline or before
170 the renewal date, whichever occurs sooner, the continuing
171 education provider shall electronically report such information
172 to the department within 10 business days after completion.
173 (14) The department shall establish a system to monitor
174 licensee compliance with continuing education requirements and
175 to determine the continuing education status of each licensee.
176 As used in this subsection, the term “monitor” means the act of
177 determining, for each licensee, whether the licensee is in full
178 compliance with applicable continuing education requirements as
179 of the date of the licensee’s application for license renewal.
180 (15) The department may refuse to renew a license until the
181 licensee has satisfied all applicable continuing education
182 requirements. This subsection does not preclude the department
183 or board from imposing additional penalties pursuant to this
184 chapter or rules adopted pursuant this chapter.
185 Section 9. Subsection (1) of section 472.0202, Florida
186 Statutes, is amended to read:

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187 472.0202 Inactive and delinquent status.—
188 (1) A licensee may practice a profession only if the
189 licensee has an active status license. A licensee who practices
190 a profession without an active status license is in violation of
191 this section and s. 472.0351 ~~472.033~~, and the board may impose
192 discipline on the licensee.
193 Section 10. Subsection (3) is added to section 472.0203,
194 Florida Statutes, to read:
195 472.0203 Renewal and cancellation notices.—
196 (3) Notwithstanding any other law, a licensure renewal
197 notification required to be sent to the last known address of
198 record may be sent by the department to the licensee by
199 electronic means if the licensee has provided an e-mail address
200 to the department.
201 Section 11. Subsection (2) of section 472.025, Florida
202 Statutes, is amended to read:
203 472.025 Seals.—
204 (2) It is unlawful for a ~~any~~ person to stamp, seal, or
205 digitally sign a ~~any~~ document with a seal or digital signature
206 after his or her certificate of registration has expired or been
207 revoked or suspended, unless such certificate of registration
208 has been reinstated or reissued. When a ~~the~~ certificate of
209 registration ~~of a registrant~~ has been revoked or suspended by
210 the board, the registrant shall, within ~~a period of~~ 30 days
211 after the revocation or suspension has become effective,
212 surrender his or her seal to the executive director ~~secretary~~ of
213 the board and confirm to the executive director ~~secretary~~ the
214 cancellation of the registrant's digital signature in accordance
215 with ss. 668.001-668.006. If ~~In the event~~ the registrant's

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216 certificate has been suspended for a period of time, his or her
217 seal shall be returned to him or her upon expiration of the
218 suspension period.
219 Section 12. Section 472.0337, Florida Statutes, is created
220 to read:
221 472.0337 Power to administer oaths, take depositions, and
222 issue subpoenas.—For the purpose of an investigation or
223 proceeding conducted by the department, the department shall
224 administer oaths, take depositions, make inspections, issue
225 subpoenas which must be supported by affidavit, serve subpoenas
226 and other process, and compel the attendance of witnesses and
227 the production of books, papers, documents, and other evidence.
228 Challenges to, and enforcement of, the subpoenas and orders
229 shall be conducted as provided in s. 120.569.
230 Section 13. Section 472.0351, Florida Statutes, is amended
231 to read:
232 472.0351 Grounds for discipline; penalties; enforcement.—
233 (1) The following acts ~~shall~~ constitute grounds for which
234 the disciplinary actions specified in subsection (2) may be
235 taken:
236 (a) Violation of any provision of s. 472.031;
237 (b) Attempting to procure a license to practice surveying
238 and mapping by bribery or fraudulent misrepresentations;
239 (c) Having a license to practice surveying and mapping
240 revoked, suspended, or otherwise acted against, including the
241 denial of licensure, by the licensing authority of another
242 state, territory, or country, for a violation that constitutes a
243 violation under the laws of this state. The acceptance of a
244 relinquishment of licensure, stipulation, consent order, or

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245 other settlement offered in response to or in anticipation of
246 the filing of charges against the license by a licensing
247 authority is an action against the license;
248 (d) Being convicted or found guilty of, or entering a plea
249 of guilty, no contest, or nolo contendere to, regardless of
250 adjudication, a crime in any jurisdiction which directly relates
251 to the practice of surveying and mapping or the ability to
252 practice surveying and mapping;
253 (e) Making or filing a report or record that the licensee
254 knows to be false, willfully failing to file a report or record
255 required by state or federal law, willfully impeding or
256 obstructing such filing, or inducing another person to impede or
257 obstruct such filing. Such reports or records ~~shall~~ include only
258 those that are signed in the capacity of a registered surveyor
259 and mapper;
260 (f) Advertising goods or services in a manner that is
261 fraudulent, false, deceptive, or misleading in form or content;
262 (g) Upon proof that the licensee is guilty of fraud or
263 deceit, or of negligence, incompetency, or misconduct, in the
264 practice of surveying and mapping;
265 (h) Failing to perform a ~~any~~ statutory or legal obligation
266 placed upon a licensed surveyor and mapper; violating a ~~any~~
267 provision of this chapter, a rule of the board or department, or
268 a lawful order of the board or department ~~previously entered in~~
269 ~~a disciplinary hearing~~; or failing to comply with a lawfully
270 issued subpoena of the department;
271 (i) Practicing on a revoked, suspended, inactive, or
272 delinquent license;
273 ~~(j) Making misleading, deceptive, or fraudulent~~

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274 ~~representations in or related to the practice of the licensee's~~
275 ~~profession;~~
276 ~~(k) Intentionally violating any rule adopted by the board~~
277 ~~or the department, as appropriate;~~
278 ~~(l) Having a license or the authority to practice the~~
279 ~~regulated profession revoked, suspended, or otherwise acted~~
280 ~~against, including the denial of licensure, by the licensing~~
281 ~~authority of any jurisdiction, including its agencies or~~
282 ~~subdivisions, for a violation that would constitute a violation~~
283 ~~under Florida law;~~
284 (j) ~~(m)~~ Having been found liable in a civil proceeding for
285 knowingly filing a false report or complaint with the department
286 against another licensee;
287 (k) ~~(n)~~ Failing to report to the department any person who
288 the licensee knows is in violation of this chapter or the rules
289 of the department or the board;
290 (l) ~~(o)~~ Aiding, assisting, procuring, employing, or advising
291 any unlicensed person or entity to practice surveying and
292 mapping contrary to this chapter or the rules of the department
293 or the board;
294 (m) ~~(p)~~ Making deceptive, untrue, or fraudulent
295 representations in or related to the practice of professional
296 surveying or mapping ~~a profession~~ or employing a trick or scheme
297 in or related to the practice of professional surveying or
298 mapping ~~a profession~~;
299 (n) ~~(q)~~ Exercising influence on the client for the purpose
300 of financial gain of the licensee or a third party;
301 (o) ~~(r)~~ Practicing or offering to practice beyond the scope
302 permitted by law or accepting and performing professional

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303 responsibilities the licensee knows, or has reason to know, the
304 licensee is not competent to perform;
305 (p) ~~(s)~~ Delegating or contracting for the performance of
306 professional responsibilities by a person when the licensee
307 delegating or contracting for performance of such
308 responsibilities knows, or has reason to know, such person is
309 not qualified by training, experience, and authorization when
310 required to perform them; or
311 ~~(t) Violating this chapter, the applicable professional~~
312 ~~practice act, a rule of the department or the board, or a lawful~~
313 ~~order of the department or the board, or failing to comply with~~
314 ~~a lawfully issued subpoena of the department; or~~
315 (q) ~~(u)~~ Improperly interfering with an investigation or
316 inspection authorized by statute, or with any disciplinary
317 proceeding.
318 (2) If ~~When~~ the board finds a ~~any~~ surveyor or mapper guilty
319 of any of the grounds set forth in subsection (1) or a violation
320 of this chapter which occurred before obtaining a license, the
321 board ~~it~~ may enter an order imposing one or more of the
322 following penalties:
323 (a) Denial of an application for licensure, or approval of
324 an application for licensure with restrictions.
325 (b) Revocation or suspension of a license.
326 (c) Imposition of an administrative fine not to exceed
327 $1,000 for each count or separate offense.
328 (d) Issuance of a reprimand.
329 (e) Placement of the surveyor or mapper on probation for a
330 period of time and subject to such conditions as the board may
331 specify. Those conditions may include, but are not limited to,

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332 requiring the licensee to undergo treatment, attend continuing
333 education courses, submit to be reexamined, work under the
334 supervision of another licensee, or satisfy any terms which are
335 reasonably tailored to the violations found.
336 (f) Restriction of the authorized scope of practice by the
337 surveyor or mapper.
338 (g) Corrective action.
339 (3) The department shall reissue the license of a
340 disciplined surveyor or mapper upon certification by the board
341 that he or she has complied with all of the terms and conditions
342 set forth in the final order.
343 (4)(a) In addition to any other discipline imposed pursuant
344 to this section, the board may assess costs and attorney
345 ~~attorneys~~ fees related to the investigation and prosecution of
346 the case.
347 (b) In any case where the board or the department imposes a
348 fine or assessment and the fine or assessment is not paid within
349 a reasonable time, which may ~~such reasonable time to~~ be
350 prescribed in the rules of the board or in the order assessing
351 such fines or costs, the department or the Department of Legal
352 Affairs may contract for the collection of, or bring a civil
353 action to recover, the fine or assessment.
354 (c) The department may not issue to or renew the license of
355 any person or business entity against which the board has
356 assessed a fine, interest, costs, or attorney fees associated
357 with an investigation and prosecution until the person or
358 business entity has paid the full amount due or complies with or
359 satisfies all terms and conditions of the final order.
360 ~~(5) In addition to, or in lieu of, any other remedy or~~

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361 ~~criminal prosecution, the department may file a proceeding in~~
362 ~~the name of the state seeking issuance of an injunction or a~~
363 ~~writ of mandamus against any person who violates any of the~~
364 ~~provisions of this chapter, or any provision of law with respect~~
365 ~~to professions regulated by the department, or any board~~
366 ~~therein, or the rules adopted pursuant thereto.~~
367 (5) ~~(6)~~ If the board determines that revocation of a license
368 is the appropriate penalty, the revocation shall be permanent.
369 However, the board may establish, by rule, requirements for
370 reapplication by applicants whose licenses have been permanently
371 revoked. Such requirements may include, but are ~~shall~~ not ~~be~~
372 limited to, satisfying current requirements for an initial
373 license.
374 Section 14. Section 472.0357, Florida Statutes, is created
375 to read:
376 472.0357 Penalty for giving false information.—In addition
377 to, or in lieu of, any other disciplinary action imposed
378 pursuant to s. 472.0351, a person who knowingly gives false
379 information in the course of applying for or obtaining a license
380 from the department or the board, or who attempts to obtain or
381 obtains a license from the department or the board by knowingly
382 providing misleading statements or misrepresentations commits a
383 felony of the third degree, punishable as provided in s.
384 775.082, s. 775.083, or s. 775.084.
385 Section 15. Subsection (5) of section 493.6105, Florida
386 Statutes, is amended to read:
387 493.6105 Initial application for license.—
388 (5) In addition to the requirements outlined in subsection
389 (3), an applicant for a Class "G" license must satisfy minimum

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390 training criteria for firearms established by rule of the
391 department, which training criteria includes, but is not limited
392 to, 28 hours of range and classroom training taught and
393 administered by a Class "K" licensee; however, no more than 8
394 hours of such training shall consist of range training. The
395 department may waive the foregoing firearms training requirement
396 if:
397 (a) The applicant provides proof that he or she is
398 currently certified as a law enforcement officer or correctional
399 officer pursuant to the requirements of the Criminal Justice
400 Standards and Training Commission or has successfully completed
401 the training required for certification within the last 12
402 months.
403 (b) The applicant provides proof that he or she is
404 currently certified as a federal law enforcement officer and has
405 received law enforcement firearms training administered by a
406 federal law enforcement agency.
407 (c) The applicant submits a valid firearm certificate among
408 those specified in paragraph (6)(a). ~~If the applicant submits~~
409 ~~proof that he or she is an active law enforcement officer~~
410 ~~currently certified under the Criminal Justice Standards and~~
411 ~~Training Commission or has completed the training required for~~
412 ~~that certification within the last 12 months, or if the~~
413 ~~applicant submits one of the certificates specified in paragraph~~
414 ~~(6)(a), the department may waive the foregoing firearms training~~
415 ~~requirement.~~
416 Section 16. Paragraph (b) of subsection (3) of section
417 493.6113, Florida Statutes, is amended to read:
418 493.6113 Renewal application for licensure.—

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419 (3) Each licensee is responsible for renewing his or her
420 license on or before its expiration by filing with the
421 department an application for renewal accompanied by payment of
422 the prescribed license fee.
423 (b) Each Class "G" licensee shall additionally submit proof
424 that he or she has received during each year of the license
425 period a minimum of 4 hours of firearms recertification training
426 taught by a Class "K" licensee and has complied with such other
427 health and training requirements which the department may adopt
428 by rule. If proof of a minimum of 4 hours of annual firearms
429 recertification training cannot be provided, the renewal
430 applicant shall complete the minimum number of hours of range
431 and classroom training required at the time of initial
432 licensure. The department may waive the foregoing firearms
433 training requirement if:
434 1. The applicant provides proof that he or she is currently
435 certified as a law enforcement officer or correctional officer
436 under the Criminal Justice Standards and Training Commission and
437 has completed law enforcement firearms requalification training
438 annually during the previous 2 years of the licensure period.
439 2. The applicant provides proof that he or she is currently
440 certified as a federal law enforcement officer and has received
441 law enforcement firearms training administered by a federal law
442 enforcement agency annually during the previous 2 years of the
443 licensure period.
444 3. The applicant submits a valid firearm certificate among
445 those specified in s. 493.6105(6)(a) and provides proof of
446 having completed requalification training during the previous 2
447 years of the licensure period.

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448 Section 17. Subsection (6) of section 493.6118, Florida
449 Statutes, is amended to read:
450 493.6118 Grounds for disciplinary action.—
451 (6) The agency or Class "DS" or "RS" license and the
452 approval or license of each officer, partner, or owner of the
453 agency, school, or training facility are automatically suspended
454 upon entry of a final order imposing an administrative fine
455 against the agency, school, or training facility, until the fine
456 is paid, if 30 calendar days have elapsed since the entry of the
457 final order. All owners and corporate or agency officers or
458 partners are jointly and severally liable for ~~agency~~ fines
459 levied against the agency, school, or training facility. ~~Neither~~
460 The agency or Class "DS" or "RS" license or the approval or
461 license of any officer, partner, or owner of the agency, school,
462 or training facility may not be renewed, and ~~nor may~~ an
463 application may not be approved, if the owner, licensee, or
464 applicant is liable for an outstanding administrative fine
465 imposed under this chapter. An individual's approval or license
466 becomes automatically suspended if a fine imposed against the
467 individual or his or her agency is not paid within 30 days after
468 the date of the final order, and remains suspended until the
469 fine is paid. Notwithstanding the provisions of this subsection,
470 an individual's approval or license may not be suspended and ~~nor~~
471 ~~may~~ an application may not be denied if ~~when~~ the licensee or the
472 applicant has an appeal from a final order pending in any
473 appellate court.
474 Section 18. Subsection (4) of section 493.6120, Florida
475 Statutes, is amended to read:
476 493.6120 Violations; penalty.—

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477 (4) A ~~Any~~ person who was an owner, officer, partner, or
478 manager of a licensed agency or a Class "DS" or "RS" school or
479 training facility at the time of any activity that is the basis
480 for revocation of the agency or branch office license or the
481 school or training facility license and who knew or should have
482 known of the activity, shall have his or her personal licenses
483 or approval suspended for 3 years and may not have any financial
484 interest in or be employed in any capacity by a licensed agency
485 or a school or training facility during the period of
486 suspension.
487 Section 19. Subsection (7) of section 501.015, Florida
488 Statutes, is amended to read:
489 501.015 Health studios; registration requirements and
490 fees.—Each health studio shall:
491 (7) A ~~Any~~ person applying for or renewing a local business
492 tax receipt ~~occupational license~~ to engage in business as a
493 health studio must exhibit an active registration certificate
494 from the Department of Agriculture and Consumer Services before
495 the local business tax receipt ~~occupational license~~ may be
496 issued or reissued.
497 Section 20. Subsection (1) of section 501.017, Florida
498 Statutes, is amended to read:
499 501.017 Health studios; contracts.—
500 (1) Each ~~Every~~ contract for the sale of future health
501 studio services which is paid for in advance or which the buyer
502 agrees to pay for in future installment payments shall be in
503 writing and shall contain, contractual provisions to the
504 contrary notwithstanding, in immediate proximity to the space
505 reserved in the contract for the signature of the buyer, and in

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506 at least 10-point boldfaced type, language substantially
507 equivalent to the following:
508 (a) A provision for the penalty-free cancellation of the
509 contract within 3 days, exclusive of holidays and weekends, of
510 its making, upon the mailing or delivery of written notice to
511 the health studio, and refund upon such notice of all moneys
512 paid under the contract, except that the health studio may
513 retain an amount computed by dividing the number of complete
514 days in the contract term or, if appropriate, the number of
515 occasions health studio services are to be rendered into the
516 total contract price and multiplying the result by the number of
517 complete days that have passed since the making of the contract
518 or, if appropriate, by the number of occasions that health
519 studio services have been rendered. A refund shall be issued
520 within 30 days after receipt of the notice of cancellation made
521 within the 3-day provision.
522 (b)1. A provision for the cancellation and refund of the
523 contract if the contracting business location of the health
524 studio goes out of business, or moves its facilities more than 5
525 driving miles from the business location designated in the ~~such~~
526 contract and fails to provide, within 30 days, a facility of
527 equal quality located within 5 driving miles of the business
528 location designated in the ~~such~~ contract at no additional cost
529 to the buyer.
530 2. A provision that notice of intent to cancel by the buyer
531 shall be given in writing to the health studio. The ~~Such a~~
532 notice of cancellation from the consumer terminates ~~shall also~~
533 ~~terminate~~ automatically the consumer's obligation to any entity
534 to whom the health studio has subrogated or assigned the

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535 consumer's contract. If the health studio wishes to enforce the
536 ~~such~~ contract after receipt of the notice ~~such showing~~, it may
537 request the department to determine the sufficiency of the
538 notice ~~showing~~.
539 3. A provision that if the department determines that a
540 refund is due the buyer, the refund shall be an amount computed
541 by dividing the contract price by the number of weeks in the
542 contract term and multiplying the result by the number of weeks
543 remaining in the contract term. The business location of a
544 health studio may ~~shall~~ not be deemed out of business when
545 temporarily closed for repair and renovation of the premises:
546 a. Upon sale, for not more than 14 consecutive days; or
547 b. During ownership, for not more than 7 consecutive days
548 and not more than two periods of 7 consecutive days in any
549 calendar year.
550
551 A refund shall be issued within 30 days after receipt of the
552 notice of cancellation made pursuant to this paragraph.
553 (c) A provision in the disclosure statement advising the
554 buyer to contact the department for information within 60 days
555 should the health studio go out of business.
556 (d) A provision for the cancellation of the contract if the
557 buyer dies or becomes physically unable to avail himself or
558 herself of a substantial portion of those services which he or
559 she used from the commencement of the contract until the time of
560 disability, with refund of funds paid or accepted in payment of
561 the contract in an amount computed by dividing the contract
562 price by the number of weeks in the contract term and
563 multiplying the result by the number of weeks remaining in the

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564 contract term. The contract may require a buyer or the buyer's
565 estate seeking relief under this paragraph to provide proof of
566 disability or death. A physical disability sufficient to warrant
567 cancellation of the contract by the buyer is ~~shall be~~
568 established if the buyer furnishes to the health studio a
569 certification of such disability by a physician licensed under
570 chapter 458, chapter 459, chapter 460, or chapter 461 to the
571 extent the diagnosis or treatment of the disability is within
572 the physician's scope of practice. A refund shall be issued
573 within 30 days after receipt of the notice of cancellation made
574 pursuant to this paragraph.
575 (e) A provision that the initial contract will not be for a
576 period in excess of 36 months, and thereafter shall only be
577 renewable annually. A ~~Such~~ renewal contract ~~contracts~~ may not be
578 executed and the fee therefor paid until 60 days or less before
579 the previous ~~preceding~~ contract expires.
580 (f) A provision that if the health studio requires a buyer
581 to furnish identification upon entry to the facility and as a
582 condition of using the services of the health studio, the health
583 studio shall provide the buyer with the means of such
584 identification.
585 Section 21. Paragraphs (e) through (i) of subsection (1) of
586 section 501.059, Florida Statutes, are redesignated as
587 paragraphs (d) through (h), respectively, and present paragraph
588 (d) of subsection (1) and subsections (3), (8), and (10) of that
589 section are amended to read:
590 501.059 Telephone solicitation.—
591 (1) As used in this section:
592 ~~(d) "Commission" means the Florida Public Service~~

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593 ~~Commission.~~
594 (3)(a) If any residential, mobile, or telephonic paging
595 device telephone subscriber notifies the department of his or
596 her desire ~~desiring~~ to be placed on a "no sales solicitation
597 calls" listing indicating that the subscriber does not wish to
598 receive unsolicited telephonic sales calls, ~~may notify~~ the
599 department shall place the subscriber ~~and be placed~~ on that
600 listing for 5 years ~~upon receipt by the department of a $10~~
601 ~~initial listing charge. This listing shall be renewed by the~~
602 ~~department annually for each consumer upon receipt of a renewal~~
603 ~~notice and a $5 assessment~~.
604 (b) The department shall update its "no sales solicitation
605 calls" listing upon receipt of initial consumer subscriptions or
606 renewals and provide this listing for a fee to telephone
607 solicitors upon request.
608 (c) All fees imposed pursuant to this section shall be
609 deposited in the General Inspection Trust Fund for the
610 administration of this section.
611 (d) If the Federal Trade Commission, pursuant to 15 U.S.C.
612 s. 6102(a), establishes a national database that lists the
613 telephone numbers of subscribers who object to receiving
614 telephone solicitations, the department shall include those
615 listings from the national database which relate to Florida in
616 the listing established under this section.
617 (8)(a) The department shall investigate any complaints
618 received concerning violations of this section. If, after
619 investigating any complaint, the department finds that there has
620 been a violation of this section, the department or the
621 Department of Legal Affairs may bring an action to impose a

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622 civil penalty and to seek other relief, including injunctive
623 relief, as the court deems appropriate against the telephone
624 solicitor. The civil penalty may ~~shall~~ not exceed $10,000 per
625 violation and shall be deposited in the General Inspection Trust
626 Fund if the action or proceeding was brought by the department,
627 or the Legal Affairs Revolving Trust Fund if the action or
628 proceeding was brought by the Department of Legal Affairs. This
629 civil penalty may be recovered in any action brought under this
630 part by the department, or the department may terminate any
631 investigation or action upon agreement by the person to pay a
632 stipulated civil penalty. The department or the court may waive
633 any civil penalty if the person has previously made full
634 restitution or reimbursement or has paid actual damages to the
635 consumers who have been injured by the violation.
636 (b) The department may, as an alternative to the civil
637 penalties provided in paragraph (a), impose an administrative
638 fine not to exceed $1,000 for each act or omission that
639 constitutes a violation of this section. An administrative
640 proceeding that could result in the entry of an order imposing
641 an administrative penalty must be conducted in accordance with
642 chapter 120.
643 (10) ~~The commission shall by rule ensure that~~
644 Telecommunications companies shall inform their customers of the
645 provisions of this section. The notification may be made by:
646 (a) Annual inserts in the billing statements mailed to
647 customers; and
648 (b) Conspicuous publication of the notice in the consumer
649 information pages of the local telephone directories.
650 Section 22. Paragraphs (a) and (l) of subsection (2) of

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651 section 501.605, Florida Statutes, are amended to read:
652 501.605 Licensure of commercial telephone sellers.—
653 (2) An applicant for a license as a commercial telephone
654 seller must submit to the department, in such form as it
655 prescribes, a written application for the license. The
656 application must set forth the following information:
657 (a) The true name, date of birth, driver ~~driver's~~ license
658 number or other valid form of identification, ~~social security~~
659 ~~number,~~ and home address of the applicant, including each name
660 under which he or she intends to do business.
661 (l) The true name, current home address, date of birth,
662 ~~social security number,~~ and all other names by which known, or
663 previously known, of each:
664 1. Principal officer, director, trustee, shareholder,
665 owner, or partner of the applicant, and of each other person
666 responsible for the management of the business of the applicant.
667 2. Office manager or other person principally responsible
668 for a location from which the applicant will do business.
669 3. Salesperson or other person to be employed by the
670 applicant.
671
672 The application shall be accompanied by a copy of any: Script,
673 outline, or presentation the applicant will require or suggest a
674 salesperson to use when soliciting, or, if no such document is
675 used, a statement to that effect; sales information or
676 literature to be provided by the applicant to a salesperson; and
677 sales information or literature to be provided by the applicant
678 to a purchaser in connection with any solicitation.
679 Section 23. Paragraph (a) of subsection (1) of section

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680 501.607, Florida Statutes, is amended to read:
681 501.607 Licensure of salespersons.—
682 (1) An applicant for a license as a salesperson must submit
683 to the department, in such form as it prescribes, a written
684 application for a license. The application must set forth the
685 following information:
686 (a) The true name, date of birth, driver ~~driver's~~ license
687 number or other valid form of identification, ~~social security~~
688 ~~number,~~ and home address of the applicant.
689 Section 24. Section 501.911, Florida Statutes, is amended
690 to read:
691 501.911 Administration of act.—Sections 501.91-501.923
692 shall be administered by ~~the Division of Standards of~~ the
693 Department of Agriculture and Consumer Services.
694 Section 25. Subsections (1) and (2) of section 501.913,
695 Florida Statutes, are amended to read:
696 501.913 Registration.—
697 (1) Each brand of antifreeze to be distributed in this
698 state shall be registered with the department before ~~prior to~~
699 distribution. The person whose name appears on the label, the
700 manufacturer, or the packager shall make application to the
701 department on forms provided by the department no later than
702 July 1 of each year. The registrant assumes, by application to
703 register the brand, full responsibility for the registration,
704 quality, and quantity of the product sold, offered, or exposed
705 for sale in this state. If a registered brand is not in
706 production for distribution in this state and to ensure any
707 remaining product that is still available for sale in the state
708 is properly registered, the registrant must submit a notarized

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709 affidavit on company letterhead to the department certifying
710 that:
711 (a) The stated brand is no longer in production;
712 (b) The stated brand will not be distributed in this state;
713 and
714 (c) All existing product of the stated brand will be
715 removed by the registrant from the state within 30 days after
716 expiration of the registration or the registrant will reregister
717 the brand for two subsequent registration periods.
718
719 If production resumes, the brand must be reregistered before it
720 is distributed in this state.
721 (2) The completed application shall be accompanied by:
722 (a) Specimens or facsimiles of the label for each brand of
723 antifreeze;
724 (b) An application fee of $200 for each brand; and
725 (c) A properly labeled sample of between 1 and 2 gallons
726 for each brand of antifreeze.
727 Section 26. Subsection (3) of section 507.04, Florida
728 Statutes, is amended to read:
729 507.04 Required insurance coverages; liability limitations;
730 valuation coverage.—
731 (3) INSURANCE COVERAGES.—The insurance coverages required
732 under paragraph (1)(a) and subsection (2) must be issued by an
733 insurance company or carrier licensed to transact business in
734 this state under the Florida Insurance Code as designated in s.
735 624.01. The department shall require a mover to present a
736 certificate of insurance of the required coverages before
737 issuance or renewal of a registration certificate under s.

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738 507.03. The department shall be named as a certificateholder in
739 the certificate and must be notified at least 10 ~~30~~ days before
740 cancellation of ~~any changes in~~ insurance coverage.
741 Section 27. Subsection (7) of section 525.07, Florida
742 Statutes, is amended to read:
743 525.07 Powers and duties of department; inspections;
744 unlawful acts.—
745 (7) It is unlawful for any person to break, cut, or remove
746 any seal applied by the department to a petroleum fuel measuring
747 device or container. If ~~When~~ it becomes necessary to repair and
748 adjust a petroleum fuel measuring device during the absence of
749 an inspector of the department, the seal on the meter adjustment
750 may be broken by a person who is registered with the department
751 as a meter mechanic. After repairs and adjustments have been
752 made, the adjusting mechanism must immediately be resealed by
753 the registered meter mechanic with a seal clasp bearing at least
754 ~~the name of the company or~~ the name or initials of the
755 registered mechanic. The registered mechanic shall immediately
756 notify the department of this action.
757 Section 28. Subsection (5) of section 526.143, Florida
758 Statutes, is amended to read:
759 526.143 Alternate generated power capacity for motor fuel
760 dispensing facilities.—
761 (5)(a) Each corporation or other entity that owns 10 or
762 more motor fuel retail outlets located within a single county
763 shall maintain at least one portable generator that is capable
764 of providing an alternate generated power source as required
765 under subsection (2) for every 10 outlets. If an entity owns
766 more than 10 outlets or a multiple of 10 outlets plus an

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767 additional 6 outlets, the entity must provide one additional
768 generator to accommodate such additional outlets. Each portable
769 generator must be stored within this state, or may be stored in
770 another state if located within 250 miles of this state, and
771 must be available for use in an affected location within 24
772 hours after a disaster.
773 (b) Each corporation or other entity that owns 10 or more
774 motor fuel retail outlets located within a single domestic
775 security region, as determined pursuant to s. 943.0312(1), and
776 that does not own additional outlets located outside the
777 domestic security region shall maintain a written document of
778 agreement with one or more similarly equipped entities for the
779 use of portable generators that may be used to meet the
780 requirements of paragraph (a) and that are located within this
781 state but outside the affected domestic security region. The
782 agreement may be reciprocal, may allow for payment for services
783 rendered by the providing entity, and must guarantee the
784 availability of the portable generators to an affected location
785 within 24 hours after a disaster.
786 (c) Upon written request, the department may temporarily
787 waive the requirements in paragraphs (a) and (b) if the
788 generators are used in preparation for or response to an
789 emergency or major disaster in another state. The waiver shall
790 be in writing and include a beginning and ending date. The
791 waiver may provide additional conditions as deemed necessary by
792 the department. The waiver may be modified or terminated by the
793 department if the Governor declares an emergency.
794 (d) ~~(c)~~ For purposes of this section, ownership of a motor
795 fuel retail outlet is ~~shall be~~ the owner of record of the fuel

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796 storage systems operating at the location, as identified in the
797 Department of Environmental Protection underground storage
798 facilities registry pursuant to s. 376.303(1).
799 Section 29. Subsections (8) and (9) are added to section
800 526.50, Florida Statutes, to read:
801 526.50 Definition of terms.—As used in this part:
802 (8) "Brand" means the product name appearing on the label
803 of a container of brake fluid.
804 (9) "Formula" means the name of the chemical mixture or
805 composition of the brake fluid product.
806 Section 30. Subsections (1) and (3) of section 526.51,
807 Florida Statutes, are amended to read:
808 526.51 Registration; renewal and fees; departmental
809 expenses; cancellation or refusal to issue or renew.—
810 (1)(a) Application for registration of each brand of brake
811 fluid shall be made on forms ~~to be~~ supplied by the department.
812 The applicant shall give his or her name and address and the
813 brand name of the brake fluid, state that he or she owns the
814 brand name and has complete control over the product sold
815 thereunder in this state ~~Florida~~, and provide the name and
816 address of the resident agent in this state ~~Florida~~. If the
817 applicant does not own the brand name but wishes to register the
818 product with the department, a notarized affidavit that gives
819 the applicant full authorization to register the brand name and
820 that is signed by the owner of the brand name must accompany the
821 application for registration. The affidavit must include all
822 affected brand names, the owner's company or corporate name and
823 address, the applicant's company or corporate name and address,
824 and a statement from the owner authorizing the applicant to

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825 register the product with the department. The owner of the brand
826 name shall maintain complete control over each product sold
827 under that brand name in this state. All first-time ~~new product~~
828 applications for a brand and formula combination must be
829 accompanied by a certified report from an independent testing
830 laboratory, setting forth the analysis of the brake fluid which
831 shows ~~shall show~~ its quality to be not less than the
832 specifications established by the department for brake fluids. A
833 sample of not less than 24 fluid ounces of brake fluid shall be
834 submitted, in a container or containers, with labels
835 representing exactly how the containers of brake fluid will be
836 labeled when sold, and the sample and container shall be
837 analyzed and inspected by the department ~~Division of Standards~~
838 in order that compliance with the department's specifications
839 and labeling requirements may be verified. Upon approval of the
840 application, the department shall register the brand name of the
841 brake fluid and issue to the applicant a permit authorizing the
842 registrant to sell the brake fluid in this state during the
843 permit year specified in the permit.
844 (b) Each applicant shall pay a fee of $100 with each
845 application. A permit may be renewed by application to the
846 department, accompanied by a renewal fee of $50 on or before the
847 last day of the permit year immediately preceding the permit
848 year for which application is made for renewal of registration.
849 To reregister a previously registered brand and formula
850 combination, an applicant must submit a completed application
851 and all materials as required in this section to the department
852 before the first day of the permit year. A brand and formula
853 combination for which a completed application and all materials

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854 required in this section are not received before the first day
855 of the permit year may not be registered with the department
856 until a completed application and all materials required in this
857 section have been received and approved. If the brand and
858 formula combination was previously registered with the
859 department and a fee, application, or materials required in this
860 section are received after the first day of the permit year, ~~To~~
861 ~~any fee not paid when due, there shall accrue~~ a penalty of $25
862 accrues, which shall be added to the ~~renewal~~ fee. Renewals shall
863 ~~will~~ be accepted only on brake fluids that have no change in
864 formula, composition, or brand name. Any change in formula,
865 composition, or brand name of any brake fluid constitutes a new
866 product that must be registered in accordance with this part.
867 (c) In order to ensure that any remaining product still
868 available for sale in this state is properly registered, if a
869 registered brand and formula combination is no longer in
870 production for distribution in this state, the registrant must
871 submit a notarized affidavit on company letterhead to the
872 department certifying that:
873 1. The stated brand and formula combination is no longer in
874 production;
875 2. The stated brand and formula combination will not be
876 distributed in this state; and
877 3. All existing product of the stated brand and formula
878 combination will be removed by the registrant from the state
879 within 30 days after the expiration of the registration or that
880 the registrant will reregister the brand and formula combination
881 for two subsequent registration periods.
882

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883 If production resumes, the brand and formula combination must be
884 reregistered before it is again distributed in this state.
885 (3) The department may cancel or~~,~~ refuse to issue ~~or refuse~~
886 ~~to renew~~ any registration and permit after due notice and
887 opportunity to be heard if it finds that the brake fluid is
888 adulterated or misbranded or that the registrant has failed to
889 comply with the provisions of this part or the rules adopted
890 pursuant to this section ~~and regulations promulgated thereunder~~.
891 Section 31. Paragraph (a) of subsection (3) of section
892 526.52, Florida Statutes, is amended to read:
893 526.52 Specifications; adulteration and misbranding.—
894 (3) Brake fluid is deemed to be misbranded:
895 (a) If its container does not bear on its side or top a
896 label on which is printed the name and place of business of the
897 registrant of the product, the words “brake fluid,” and a
898 statement that the product therein equals or exceeds the minimum
899 specification of the Society of Automotive Engineers for brake
900 fluid, heavy-duty-type, the United States Department of
901 Transportation Motor Vehicle Safety Standard No. 116, or other
902 specified standard identified in department rule. ~~By regulation~~
903 The department may require by rule that the duty-type
904 classification appear on the label.
905 Section 32. Subsections (1) and (2) of section 526.53,
906 Florida Statutes, are amended to read:
907 526.53 Enforcement; inspection and analysis, stop-sale and
908 disposition, regulations.—
909 (1) The department shall enforce the provisions of this
910 part through the department ~~Division of Standards~~, and may
911 sample, inspect, analyze, and test any brake fluid manufactured,

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912 packed, or sold within this state. The department shall have
913 free access during business hours to all premises, buildings,
914 vehicles, cars, or vessels used in the manufacture, packing,
915 storage, sale, or transportation of brake fluid, and may open
916 any box, carton, parcel, or container of brake fluid and take
917 samples for inspection and analysis or for evidence.
918 (2)(a) If ~~When~~ any brake fluid is sold in violation of any
919 of the provisions of this part, all such brake fluid of the same
920 brand name ~~on the same premises on which the violation occurred~~
921 shall be placed under a stop-sale order by the department by
922 serving the owner of the brand name, the distributor, or other
923 entity responsible for selling or distributing the product in
924 this state with the stop-sale order. The department shall
925 withdraw its stop-sale order upon the removal of the violation
926 or upon voluntary destruction of the product, or other disposal
927 approved by the department, under the supervision of the
928 department.
929 (b) In addition to being subject to the stop-sale
930 procedures ~~above~~, unregistered brake fluid shall be held by the
931 department or its representative, at a place to be designated in
932 the stop-sale order, until properly registered and released in
933 writing by the department or its representative. If application
934 has not been made for registration of such product within 30
935 days after issue of the stop-sale order, the department or, with
936 the consent of the department, the representative may give the
937 product that meets legal specifications ~~such product shall be~~
938 ~~disposed of by the department~~ to any tax-supported institution
939 or agency of the state. If application has not been made for
940 registration of the product within 30 days after issuance of the

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941 stop-order sale and the product fails to meet legal
942 specifications, the product may be disposed of as ~~if the brake~~
943 ~~fluid meets legal specifications or by other disposal~~ authorized
944 by rule of the department ~~if it fails to meet legal~~
945 ~~specifications~~.
946 Section 33. Section 526.55, Florida Statutes, is amended to
947 read:
948 526.55 Violation and penalties.—
949 (1) It is unlawful:
950 (a) ~~(1)~~ To sell any brake fluid that is adulterated or
951 misbranded, not registered or on which a permit has not been
952 issued.
953 (b) ~~(2)~~ For anyone to remove any stop-sale order placed on a
954 product by the department, or any product upon which a stop-sale
955 order has been placed.
956 (2) If the department finds that a person has violated or
957 is operating in violation of ss. 526.50-526.56 or the rules or
958 orders adopted thereunder, the department may, by order:
959 (a) Issue a notice of noncompliance pursuant to s. 120.695;
960 (b) Impose an administrative fine not to exceed $5,000 for
961 each violation;
962 (c) Direct that the person cease and desist specified
963 activities;
964 (d) Revoke or suspend a registration, or refuse to register
965 a product; or
966 (e) Place the registrant on probation for a period of time,
967 subject to conditions as the department may specify.
968 (3) The administrative proceedings seeking entry of an
969 order imposing any of the penalties specified in subsection (2)

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970 are governed by chapter 120.
971 (4) If a registrant is found to be in violation of ss.
972 526.50-526.56 and fails to pay a fine within 30 days after
973 imposition of the fine, the department may suspend all
974 registrations issued to the registrant by the department until
975 the fine is paid.
976 (5) All fines collected by the department under this
977 section shall be deposited into the General Inspection Trust
978 Fund.
979 ~~(3) Any person who violates any of the provisions of this~~
980 ~~part or any rule or regulation promulgated thereunder shall, for~~
981 ~~the first offense, be guilty of a misdemeanor of the second~~
982 ~~degree, punishable as provided in s. 775.082 or s. 775.083, and,~~
983 ~~for a second or subsequent offense, shall be guilty of a~~
984 ~~misdemeanor of the first degree, punishable as provided in s.~~
985 ~~775.082 or s. 775.083.~~
986 Section 34. Paragraph (b) of subsection (3) of section
987 539.001, Florida Statutes, is amended to read:
988 539.001 The Florida Pawnbroking Act.—
989 (3) LICENSE REQUIRED.—
990 (b) A licensee who seeks to move a pawnshop to another
991 location must give written notice ~~30 days' prior written notice~~
992 to the agency at least 30 days before the move ~~by certified or~~
993 ~~registered mail, return receipt requested~~, and the agency must
994 ~~then~~ amend the license to indicate the new location. The
995 licensee must also give such written notice to the appropriate
996 law enforcement official.
997 Section 35. Subsection (1) of section 559.805, Florida
998 Statutes, is amended to read:

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999 559.805 Filings with the department; disclosure of
1000 advertisement identification number.—
1001 (1) Every seller of a business opportunity shall annually
1002 file with the department a copy of the disclosure statement
1003 required by s. 559.803 before ~~prior to~~ placing an advertisement
1004 or making any other representation designed to offer to, sell
1005 to, or solicit an offer to buy a business opportunity from a
1006 prospective purchaser in this state and shall update this filing
1007 by reporting any material change in the required information
1008 within 30 days after the material change occurs. An
1009 advertisement is not placed in the state merely because the
1010 publisher circulates, or there is circulated on his or her
1011 behalf in the state, any bona fide newspaper or other
1012 publication of general, regular, and paid circulation which has
1013 had more than two-thirds of its circulation during the past 12
1014 months outside the state or because a radio or television
1015 program originating outside the state is received in the state.
1016 If the seller is required by s. 559.807 to provide a bond or
1017 establish a trust account or guaranteed letter of credit, he or
1018 she shall contemporaneously file with the department a copy of
1019 the bond, a copy of the formal notification by the depository
1020 that the trust account is established, or a copy of the
1021 guaranteed letter of credit. Every seller of a business
1022 opportunity shall file with the department a list of independent
1023 agents who will engage in the offer or sale of business
1024 opportunities on behalf of the seller in this state. This list
1025 must be kept current and shall include the following
1026 information: name, home and business address, telephone number,
1027 present employer, ~~social security number,~~ and birth date. A ~~No~~

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1028 person may not ~~shall be allowed to~~ offer or sell business
1029 opportunities unless the required information has been provided
1030 to the department.
1031 Section 36. Subsection (7) of section 559.904, Florida
1032 Statutes, is amended to read:
1033 559.904 Motor vehicle repair shop registration;
1034 application; exemption.—
1035 (7) Any person applying for or renewing a local business
1036 tax receipt ~~occupational license on or after October 1, 1993,~~ to
1037 engage in business as a motor vehicle repair shop must exhibit
1038 an active registration certificate from the department before
1039 the local business tax receipt ~~occupational license~~ may be
1040 issued or renewed.
1041 Section 37. Section 559.922, Florida Statutes, is repealed.
1042 Section 38. Subsections (1), (3), and (4) of section
1043 559.928, Florida Statutes, are amended to read:
1044 559.928 Registration.—
1045 (1) Each seller of travel shall annually register with the
1046 department, providing: its legal business or trade name, mailing
1047 address, and business locations; the full names, addresses, and
1048 telephone numbers of its owners or corporate officers and
1049 directors and the Florida agent of the corporation; a statement
1050 whether it is a domestic or foreign corporation, its state and
1051 date of incorporation, its charter number, and, if a foreign
1052 corporation, the date it registered with this state ~~the State of~~
1053 ~~Florida~~, and business tax receipt ~~occupational license~~ where
1054 applicable; the date on which a seller of travel registered its
1055 fictitious name if the seller of travel is operating under a
1056 fictitious or trade name; the name of all other corporations,

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1057 business entities, and trade names through which each owner of
1058 the seller of travel operated, was known, or did business as a
1059 seller of travel within the preceding 5 years; a list of all
1060 authorized independent agents, including the agent's trade name,
1061 full name, mailing address, business address, and telephone
1062 numbers; the business location and address of each branch office
1063 and full name and address of the manager or supervisor; the
1064 certification required under s. 559.9285; and proof of purchase
1065 of adequate bond as required in this part. A certificate
1066 evidencing proof of registration shall be issued by the
1067 department and must be prominently displayed in the seller of
1068 travel's primary place of business.
1069 (3) Each independent agent shall annually file an affidavit
1070 with the department prior to engaging in business in this state.
1071 This affidavit must include the independent agent's full name,
1072 legal business or trade name, mailing address, business address,
1073 telephone number, ~~social security number,~~ and the name ~~or names~~
1074 and address ~~addresses~~ of each seller of travel represented by
1075 the independent agent. A letter evidencing proof of filing must
1076 be issued by the department and must be prominently displayed in
1077 the independent agent's primary place of business. Each
1078 independent agent must also submit an annual registration fee of
1079 $50. All moneys collected pursuant to the imposition of the fee
1080 shall be deposited by the Chief Financial Officer into the
1081 General Inspection Trust Fund of the Department of Agriculture
1082 and Consumer Services for the sole purpose of administrating
1083 this part. As used in this subsection, the term "independent
1084 agent" means a person who represents a seller of travel by
1085 soliciting persons on its behalf; who has a written contract

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1086 with a seller of travel which is operating in compliance with
1087 this part and any rules adopted thereunder; who does not receive
1088 a fee, commission, or other valuable consideration directly from
1089 the purchaser for the seller of travel; who does not at any time
1090 have any unissued ticket stock or travel documents in his or her
1091 possession; and who does not have the ability to issue tickets,
1092 vacation certificates, or any other travel document. The term
1093 "independent agent" does not include an affiliate of the seller
1094 of travel, as that term is used in s. 559.935(3), or the
1095 employees of the seller of travel or of such affiliates.
1096 (4) Any person applying for or renewing a local business
1097 tax receipt ~~occupational license~~ to engage in business as a
1098 seller of travel must exhibit a current registration certificate
1099 from the department before the local business tax receipt
1100 ~~occupational license~~ may be issued or reissued.
1101 Section 39. Paragraph (c) of subsection (3) of section
1102 559.9285, Florida Statutes, is amended to read:
1103 559.9285 Certification of business activities.—
1104 (3) The department shall specify by rule the form of each
1105 certification under this section which shall include the
1106 following information:
1107 (c) The legal name, any trade names or fictitious names,
1108 mailing address, physical address, telephone number or numbers,
1109 facsimile number or numbers, and all Internet and electronic
1110 contact information of every other commercial entity with which
1111 the certifying party engages in business or commerce that is
1112 related in any way to the certifying party's business or
1113 commerce with any terrorist state. The information disclosed
1114 pursuant to this paragraph does not constitute customer lists,

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1115 customer names, or trade secrets protected under s. 570.544(8)
1116 ~~570.544(7)~~.
1117 Section 40. Subsection (6) of section 559.935, Florida
1118 Statutes, is amended to read:
1119 559.935 Exemptions.—
1120 (6) The department shall request from the Airlines
1121 Reporting Corporation any information necessary to implement the
1122 provisions of subsection (2). Persons claiming an exemption
1123 under subsection (2) or subsection (3) must show a letter of
1124 exemption from the department before a local business tax
1125 receipt ~~occupational license~~ to engage in business as a seller
1126 of travel may be issued or reissued. If the department fails to
1127 issue a letter of exemption on a timely basis, the seller of
1128 travel shall submit to the department, through certified mail,
1129 an affidavit containing her or his name and address and an
1130 explanation of the exemption sought. Such affidavit may be used
1131 in lieu of a letter of exemption for the purpose of obtaining a
1132 business tax receipt ~~an occupational license~~. In any civil or
1133 criminal proceeding, the burden of proving an exemption under
1134 this section is ~~shall be~~ on the person claiming such exemption.
1135 A letter of exemption issued by the department may ~~shall~~ not be
1136 used in, and has ~~shall have~~ no bearing on, such proceedings.
1137 Section 41. Subsection (12) of section 570.29, Florida
1138 Statutes, is amended to read:
1139 570.29 Departmental divisions.—The department shall include
1140 the following divisions:
1141 ~~(12) Standards.~~
1142 Section 42. Sections 570.46 and 570.47, Florida Statutes,
1143 are repealed.

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1144 Section 43. Section 570.544, Florida Statutes, is amended
1145 to read:
1146 570.544 Division of Consumer Services; director; powers;
1147 processing of complaints; records.—
1148 (1) The director of the Division of Consumer Services shall
1149 be appointed by and serve at the pleasure of the commissioner.
1150 (2) The director shall supervise, direct, and coordinate
1151 the activities of the division and shall, under the direction of
1152 the department, enforce the provisions of chapters 472, 496,
1153 501, 507, 525, 526, 527, 531, 539, 559, 616, and 849.
1154 (3) ~~(2)~~ The Division of Consumer Services may:
1155 (a) Conduct studies and make analyses of matters affecting
1156 the interests of consumers.
1157 (b) Study the operation of laws for consumer protection.
1158 (c) Advise and make recommendations to the various state
1159 agencies concerned with matters affecting consumers.
1160 (d) Assist, advise, and cooperate with local, state, or
1161 federal agencies and officials in order to promote the interests
1162 of consumers.
1163 (e) Make use of the testing and laboratory facilities of
1164 the department for the detection of consumer fraud.
1165 (f) Report to the appropriate law enforcement officers any
1166 information concerning violation of consumer protection laws.
1167 (g) Assist, develop, and conduct programs of consumer
1168 education and consumer information through publications and
1169 other informational and educational material prepared for
1170 dissemination to the public, in order to increase the competence
1171 of consumers.
1172 (h) Organize and hold conferences on problems affecting

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1173 consumers.
1174 (i) Recommend programs to encourage business and industry
1175 to maintain high standards of honesty, fair business practices,
1176 and public responsibility in the production, promotion, and sale
1177 of consumer goods and services.
1178 (4) ~~(3)~~ In addition to the powers, duties, and
1179 responsibilities authorized by this or any other chapter, the
1180 Division of Consumer Services shall serve as a clearinghouse for
1181 matters relating to consumer protection, consumer information,
1182 and consumer services generally. It shall receive complaints and
1183 grievances from consumers and promptly transmit them to the ~~that~~
1184 agency most directly concerned in order that the complaint or
1185 grievance may be expeditiously handled in the best interests of
1186 the complaining consumer. If no agency exists, the Division of
1187 Consumer Services shall seek a settlement of the complaint using
1188 formal or informal methods of mediation and conciliation and may
1189 seek any other resolution of the matter in accordance with its
1190 jurisdiction.
1191 (5) ~~(4)~~ If any complaint received by the Division of
1192 Consumer Services concerns matters that ~~which~~ involve concurrent
1193 jurisdiction in more than one agency, duplicate copies of the
1194 complaint shall be referred to those offices deemed to have
1195 concurrent jurisdiction.
1196 (6) ~~(5)~~ (a) Any agency, office, bureau, division, or board of
1197 state government receiving a complaint that ~~which~~ deals with
1198 consumer fraud or consumer protection and that ~~which~~ is not
1199 within the jurisdiction of the receiving agency, office, bureau,
1200 division, or board originally receiving it, shall immediately
1201 refer the complaint to the Division of Consumer Services.

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1202 (b) Upon receipt of such a complaint, the Division of
1203 Consumer Services shall make a determination of the proper
1204 jurisdiction to which the complaint relates and shall
1205 immediately refer the complaint to the agency, office, bureau,
1206 division, or board that ~~which~~ does have the proper regulatory or
1207 enforcement authority to deal with it.
1208 (7) ~~(6)~~ The office or agency to which a complaint has been
1209 referred shall within 30 days acknowledge receipt of the
1210 complaint. If an office or agency receiving a complaint
1211 determines that the matter presents a prima facie case for
1212 criminal prosecution or if the complaint cannot be settled at
1213 the administrative level, the complaint together with all
1214 supporting evidence shall be transmitted to the Department of
1215 Legal Affairs or other appropriate enforcement agency with a
1216 recommendation for civil or criminal action warranted by the
1217 evidence.
1218 (8) ~~(7)~~ The records of the Division of Consumer Services are
1219 public records. However, customer lists, customer names, and
1220 trade secrets are confidential and exempt from the provisions of
1221 s. 119.07(1). Disclosure necessary to enforcement procedures
1222 does ~~shall~~ not violate ~~be construed as violative of~~ this
1223 prohibition.
1224 (9) ~~(8)~~ ~~It shall be the duty of~~ The Division of Consumer
1225 Services shall ~~to~~ maintain records and compile summaries and
1226 analyses of consumer complaints and their eventual disposition,
1227 which data may serve as a basis for recommendations to the
1228 Legislature and to state regulatory agencies.
1229 Section 44. Paragraph (a) of subsection (8) of section
1230 616.242, Florida Statutes, is amended to read:

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1231 616.242 Safety standards for amusement rides.—
1232 (8) FEES.—
1233 (a) The department shall by rule establish fees to cover
1234 the costs and expenditures associated with the fair rides
1235 inspection program ~~Bureau of Fair Rides Inspection~~, including
1236 all direct and indirect costs. If there is not sufficient
1237 general revenue appropriated by the Legislature, the industry
1238 shall pay for the remaining cost of the program. The fees must
1239 be deposited in the General Inspection Trust Fund.
1240 Section 45. This act shall take effect July 1, 2012.
1241
1242 ========== T I T L E A M E N D M E N T ==========
1243 And the title is amended as follows:
1244 Delete everything before the enacting clause
1245 and insert:
1246 A bill to be entitled
1247 An act relating to consumer services; amending s.
1248 20.14, F.S.; deleting provisions establishing the
1249 Division of Standards within the Department of
1250 Agriculture and Consumer Services; repealing s.
1251 366.85, F.S., relating to responsibilities of the
1252 department for compliance with certain federal
1253 requirements related to consumer conciliatory
1254 conferences and energy conservation products,
1255 services, and loans; amending s. 472.005, F.S.;
1256 redefining the term “license” and defining the terms
1257 “consumer member” and “licensee” for purposes of
1258 provisions governing surveyors and mappers; amending
1259 s. 472.006, F.S.; directing the Department of

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1260 Agriculture and Consumer Services to work
1261 cooperatively with the Department of Revenue to
1262 implement an automated method of disclosing
1263 information related to licensees; authorizing the
1264 Department of Agriculture and Consumer Services to
1265 suspend or deny the license of any licensee found not
1266 to be in compliance with a support order, subpoena,
1267 order to show cause, or written agreement; providing
1268 for reinstatement of a denied or suspended license;
1269 relieving the department of certain liability
1270 associated with the denial or suspension of a license;
1271 amending s. 472.011, F.S.; authorizing the department
1272 to waive license renewal fees for land surveyors and
1273 mappers under certain circumstances; authorizing the
1274 collection of an existing special assessment from
1275 inactive and delinquent licensees; amending s.
1276 472.0131, F.S., relating to examinations; making
1277 technical changes; amending s. 472.015, F.S.;
1278 authorizing the department to require land surveyors
1279 or mappers to submit their social security numbers
1280 when applying for initial licensure or license
1281 renewal; providing conditions under which an
1282 application is deemed received; providing conditions
1283 under which the department may issue a license by
1284 endorsement; requiring an applicant to provide his or
1285 her social security number as required pursuant to
1286 federal law; specifying how a social security number
1287 may be used; amending s. 472.018, F.S., relating to
1288 continuing education; making technical changes;

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1289 requiring that continuing education providers
1290 electronically provide certain information to the
1291 department; providing timeframes for reporting;
1292 requiring that the department establish a system to
1293 monitor licensee compliance with continuing education
1294 requirements; defining the term “monitor”; authorizing
1295 the department to refuse to renew a license until the
1296 applicant satisfies continuing education requirements;
1297 authorizing the department or board to impose
1298 additional penalties against applicants who fail to
1299 satisfy additional requirements; amending s. 472.0202,
1300 F.S.; conforming a cross-reference; amending s.
1301 472.0203, F.S.; providing for license renewal
1302 notification by the department to be sent
1303 electronically to the licensee’s last known e-mail
1304 address; amending s. 472.025, F.S.; providing that a
1305 professional surveyor or mapper whose license is
1306 revoked or suspended must return his or her seal to
1307 the executive director of the board, rather than to
1308 the secretary; creating s. 472.0337, F.S.; authorizing
1309 the department to administer oaths, take depositions,
1310 make inspections, issue and serve subpoenas and other
1311 process, and compel the attendance of witnesses and
1312 production of certain documents; providing for
1313 challenges to and enforcement of subpoenas and orders;
1314 amending s. 472.0351, F.S.; revising grounds for
1315 discipline; eliminating certain actions by a licensee
1316 which are grounds for disciplinary action; specifying
1317 what constitutes an action against a license in

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1318 another state, territory, or country; specifying that
1319 the board may enter an order against a surveyor or
1320 mapper who committed certain violations before
1321 obtaining a license; authorizing the board to require
1322 corrective action; prohibiting the department from
1323 issuing to or renewing the license of a person or
1324 business entity that has been assessed a fine,
1325 interest, costs, or attorney fees associated with an
1326 investigation or prosecution until the person pays
1327 them in full or complies with or satisfies all terms
1328 and conditions of the final order; creating s.
1329 472.0357, F.S.; providing penalties for knowingly
1330 giving false information in the course of applying for
1331 or obtaining a license; amending s. 493.6105, F.S.;
1332 authorizing the Department of Agriculture and Consumer
1333 Services to waive firearms training requirements for
1334 the initial licensure of private investigative,
1335 private security, or repossession services under
1336 certain circumstances; amending s. 493.6113, F.S.;
1337 authorizing the department to waive firearms training
1338 requirements for license renewal of private
1339 investigative, private security, and repossession
1340 services under certain circumstances; amending s.
1341 493.6118, F.S.; providing for disciplinary action to
1342 be taken against certain additional license classes
1343 and schools or training facilities for private
1344 investigators and private security and repossession
1345 services; amending s. 493.6120, F.S.; providing for
1346 penalty provisions to apply to certain additional

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1347 license classes and schools or training facilities for
1348 private investigators and private security and
1349 repossession services; amending s. 501.015, F.S.,
1350 relating to the regulation of health studios;
1351 substituting the term “local business tax receipt” for
1352 the term “local occupational license”; amending s.
1353 501.017, F.S.; making technical changes; clarifying
1354 that certain notice be provided in a health studio
1355 contract in at least 10-point boldface type; amending
1356 s. 501.059, F.S.; deleting requirement that telephone
1357 subscribers pay an initial listing charge for
1358 including their telephone numbers on the state’s no
1359 sales solicitation calls listing; specifying the
1360 period that a subscriber’s listing remains active;
1361 requiring the department to include certain listings
1362 from a national database on the state’s listing;
1363 authorizing the department to impose administrative
1364 fines for violations; specifying that administrative
1365 proceedings are subject to the Administrative
1366 Procedure Act; requiring telecommunications companies
1367 to inform their customers of certain telephone
1368 solicitation requirements; deleting the requirement
1369 that the Florida Public Service Commission adopt
1370 certain rules; amending s. 501.605, F.S.; providing
1371 that an applicant for a commercial telephone seller
1372 license may provide other valid forms of
1373 identification in lieu of a valid driver license
1374 number; removing the requirement that the applicant
1375 provide his or her social security number on the

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1376 application; amending s. 501.607, F.S.; providing that
1377 an applicant for a telemarketing salesperson's license
1378 may provide other valid forms of identification in
1379 lieu of a driver license number; amending s. 501.911,
1380 F.S.; revising provisions for administration of the
1381 Antifreeze Act of 1978, to conform; amending s.
1382 501.913, F.S.; requiring the registrant of a brand of
1383 antifreeze to assume full responsibility for the
1384 registration; requiring that a registrant of a brand
1385 of antifreeze not in production for distribution in
1386 this state must submit a notarized affidavit attesting
1387 to specified information; requiring that a certain
1388 sample size of each brand of antifreeze accompany the
1389 application for registration; amending s. 507.04,
1390 F.S.; requiring that the Department of Agriculture and
1391 Consumer Services be notified at least 10 days before
1392 any changes are made in the insurance coverage of a
1393 household moving service; amending s. 525.07, F.S.;
1394 revising required contents of seal clasps applied by
1395 meter mechanics after repair and adjustment of
1396 petroleum fuel measuring devices; amending s. 526.143,
1397 F.S.; authorizing the department to temporarily waive
1398 certain requirements for generators at retail motor
1399 fuel outlets which are used in preparation or response
1400 to an emergency or major disaster in another state;
1401 amending s. 526.50, F.S., relating to the sale of
1402 brake fluid; defining the terms "brand" and "formula";
1403 amending s. 526.51, F.S.; conforming terminology;
1404 providing criteria for reregistering a previously

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1405 registered brand and formula combination of brake
1406 fluid; providing for a fine for late submission of the
1407 application for reregistration and required materials;
1408 requiring a registrant to submit a notarized affidavit
1409 attesting that specified conditions have been
1410 satisfied if a registered brand and formula
1411 combination is not in production for distribution in
1412 this state; amending s. 526.52, F.S.; providing
1413 alternative criteria under which a brand of brake
1414 fluid may satisfy branding requirements; amending s.
1415 526.53, F.S.; conforming terminology; requiring that
1416 stop-sale orders be served by the department on the
1417 owner of the brand name, the distributor, or other
1418 entity responsible for selling or distributing the
1419 product; providing that the department's
1420 representative, with the consent of the department,
1421 may dispose of certain unregistered brake fluid;
1422 amending s. 526.55, F.S.; replacing criminal sanctions
1423 with administrative and monetary sanctions for
1424 violations of laws regulating the sale of brake fluid;
1425 amending s. 539.001, F.S.; eliminating the requirement
1426 that a pawnshop provide the Department of Agriculture
1427 and Consumer Services notice of a change in its
1428 location by certified or registered mail; amending s.
1429 559.805, F.S.; eliminating a requirement that sellers
1430 of business opportunities provide the department with
1431 the social security numbers of their independent
1432 agents; amending s. 559.904, F.S., relating to the
1433 regulation of motor vehicle repair shops; substituting

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1434 the term “business tax receipt” for the term
1435 “occupational license”; repealing s. 559.922, F.S.,
1436 relating to the use of motor vehicle repair shop
1437 registration fees to provide financial assistance to
1438 motor vehicle repair shop employees who undertake
1439 certain technical training or courses; amending s.
1440 559.928, F.S., relating to the regulation of sellers
1441 of travel; substituting the term “business tax
1442 receipt” for the term “occupational license”;
1443 eliminating a requirement that an independent travel
1444 agent provide his or her social security number to the
1445 department; amending s. 559.9285, F.S.; conforming a
1446 cross-reference; amending s. 559.935, F.S., relating
1447 to an exemption from regulation provided for certain
1448 sellers of travel; substituting the term “business tax
1449 receipt” for the term “occupational license”; amending
1450 s. 570.29, F.S., relating to departmental divisions;
1451 conforming terminology; repealing ss. 570.46 and
1452 570.47, F.S., relating to the powers and duties of the
1453 Division of Standards and the qualifications and
1454 duties of the director of the division; amending s.
1455 570.544, F.S.; revising the powers and duties of the
1456 director of the Division of Consumer Services;
1457 amending s. 616.242, F.S.; removing an obsolete
1458 reference to the Bureau of Fair Rides Inspection;
1459 providing an effective date.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Judiciary, *Chair*
Budget
Budget - Subcommittee on Education Pre-K - 12 Appropriations
Commerce and Tourism
Communications, Energy, and Public Utilities
Governmental Oversight and Accountability
Reapportionment
Rules

SENATOR ANITERE FLORES
Majority Whip
38th District

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COMMERCE

December 7, 2011

The Honorable Nancy C. Detert
Chair of Committee on Commerce and Tourism
318 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairwoman Detert:

I respectfully request that you place SB 888, regarding consumer protection, on the next Committee on Commerce and Tourism. This proposed legislation changes the name of the Division of Consumer Services within the Department of Agriculture and Consumer Services to the "Division of Consumer Protection."

I look forward to presenting this bill before your committee.

Please do not hesitate to contact me should you have any questions. Thank you for your consideration.

Sincerely,

Anitere Flores

Anitere Flores

CC: Ms. Jennifer Hrdlicka, Committee on Commerce and Tourism, 310 Knott Building

posted 12/9/11
RSB

REPLY TO:
☐ 10691 North Kendall Drive, Suite 309, Miami, Florida 33176 (305) 270-6550
☐ 316 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5130

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

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 Commerce and Tourism Committee

BILL: SB 294

INTRODUCER: Senator Bennett

SUBJECT: Enterprise Zone/Charlotte County

DATE: January 18, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Tell	Hrdlicka	CM	**Favorable**
2.			CA	
3.			BC	
4.				
5.				
6.				

I. Summary:

Florida has 62 enterprise zones, which are designed to encourage economic development and restoration in blighted or economically depressed communities. A combination of state and local business incentives is intended to encourage economic activity in these zones.

SB 294 creates an opportunity for Charlotte County to apply for and receive an enterprise zone designation. Charlotte County officials are considering locating the proposed enterprise zone in the unincorporated midsection of the county, in an area of up to 20 square miles in size.

Charlotte County is directed to file its enterprise zone application to the Department of Economic Opportunity (DEO) by December 31, 2012. The application must comply with the nominating procedure in s. 290.0055, F.S. DEO has the discretion to designate an enterprise zone for Charlotte County, and if that happens, must establish the enterprise zone's effective date.

SB 294 creates s. 290.00729, F.S.

II. Present Situation:

Enterprise zones in Florida

The Florida Enterprise Zone Program was created in 1982 to encourage economic development in economically distressed areas of the state by providing incentives and inducing private investment. Currently, Florida has 62 enterprise zones.[1]

The Department of Economic Opportunity (DEO) reported that 7,559 new businesses moved into or were created in state enterprise zones between October 1, 2009, and September 30, 2010 – more than double the number the previous fiscal year.[2] However, fewer jobs were created – 6,784 last fiscal year, compared to 9,073 in the prior period.[3] More than $67 million in state and nearly $20 million in local-government financial incentives were approved during FY 09-10, $30 million more than in the prior period.[4]

Over the last 5 years (FY 05-06 through FY 09-10), some 21,682 new businesses have moved into or were created in enterprise zones and 49,403 new jobs have been created.[5]

Designation process

Sections 290.001-290.016, F.S., authorize the creation of enterprise zones and establish criteria and goals for the program. Prior to submitting an application for an enterprise zone, a local government body must determine that an area: [6]

- Has chronic extreme and unacceptable levels of poverty, unemployment, physical deterioration, and economic disinvestment;
- Needs rehabilitation or redevelopment for the public health, safety, and welfare of the residents in the county or municipality; and
- Can be revitalized through the inducement of the private sector.

DEO is responsible for approving applications for enterprise zones, and also approves changes in enterprise zone boundaries when authorized by the Florida Legislature. As part of the application process for an enterprise zone, the county or municipality in which the designation will be located also is responsible for creating an Enterprise Zone Development Agency and an enterprise zone development plan.

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[1] Ch. 2011-76, L.O.F., created the potential for three additional enterprise zones: in Martin County, in the City of Palm Bay, and in Lake County. DEO has since approved each community's application. These new enterprise zones became effective on January 1, 2012.

[2] Enterprise Florida, Inc., *Florida Enterprise Zone Program Annual Report, October 1, 2009 - September 30, 2010,*1 (Mar. 1, 2011), *available at* http://floridaenterprisezones.com/Zones/Org1/uploads/2011EZAnnualReport.pdf (last visited Jan. 12, 2012).

[3] Id.

[4] Id.

[5] Information compiled by committee staff from the Enterprise Florida's previous enterprise zone annual reports.

[6] Section 290.0055, F.S.

As outlined in s. 290.0056, F.S., an Enterprise Zone Development Agency is required to have a board of commissioners of at least eight, and no more than 13, members. The agency has the following powers and responsibilities:

- Assisting in the development, implementation, and annual review of the zone and updating the strategic plan or measurable goals;
- Identifying to the local government the financial needs of, and local resources or assistance available to, eligible businesses in the zone;
- Identifying ways to remove regulatory burdens;
- Promoting the incentives to residents and businesses;
- Recommending boundary changes;
- Working with nonprofit development organizations; and
- Ensuring the enterprise zone coordinator receives annual training and works with Enterprise Florida, Inc.

Pursuant to s. 290.0057, F.S., an enterprise zone development plan (or strategic plan) must accompany an application. At a minimum this plan must:

- Describe the community's goal in revitalizing the area;
- Describe how the community's social and human resources, transportation, housing, community development, public safety, and education and environmental concerns will be addressed in a coordinated fashion;
- Identify key community goals and barriers;
- Outline how the community is a full partner in the process of developing and implementing this plan;
- Describe the commitment from the local governing body in enacting and maintaining local fiscal and regulatory incentives;
- Identify the amount of local and private resources available and the private/public partnerships;
- Indicate how local, state, and federal resources will all be utilized;
- Identify funding requested under any state or federal program to support the proposed development; and
- Identify baselines, methods, and benchmarks for measuring success of the plan.

Available incentives

Florida's enterprise zones qualify for various incentives from corporate income tax and sales and use tax liabilities.[7] As noted above, DEO reported that $67.6 million in state incentives were approved by the Department of Revenue (DOR), between October 1, 2009, and September 30, 2010, for all state enterprise zones. During that same time period, $19.9 million in incentives were provided by local governing bodies, half of the FY 07-08 total. Examples of local incentives include: utility tax abatement, reduction of occupational license fees, reduced building permit fees or land development fees, and local funds for capital projects.[8]

[7] Section 290.007, F.S.
[8] Enterprise Florida, Inc., *supra*, note 2 at 3.

Available state sales tax incentives for enterprise zones include:

- Building Materials Used in the Rehabilitation of Real Property Located in an Enterprise Zone: Provides a refund for sales taxes paid on the purchase of certain building materials, up to $5,000 or 97 percent of the tax paid.[9]
- Business Equipment Used in Enterprise Zones: Provides a refund for sales taxes paid on the purchase of certain equipment, up to $5,000 or 97 percent of the tax paid.[10]
- Rural Enterprise Zone Jobs Credit against Sales Tax: Provides a sales and use tax credit for 30 or 45 percent of wages paid to new employees who live within a rural county.[11]
- Urban Enterprise Zone Jobs Credit against Sales Tax: Provides a sales and use tax credit for 20 or 30 percent of wages paid to new employees who live within the enterprise zone.[12]
- Business Property Used in an Enterprise Zone: Provides a refund for sales taxes paid on the purchase of certain business property, up to $5,000 or 97 percent of the tax paid per parcel of property, which is used exclusively in an enterprise zone for at least 3 years.[13]
- Community Contribution Tax Credit: Provides 50 percent sales tax refund for donations made to local community development projects.[14]
- Electrical Energy Used in an Enterprise Zone: Provides 50 percent sales tax exemption to qualified businesses located within an enterprise zone on the purchase of electrical energy.[15]

Available state corporate income tax incentives for enterprise zones include:

- Rural Enterprise Zone Jobs Credit against Corporate Income Tax: Provides a corporate income tax credit for 30 or 45 percent of wages paid to new employees who live within a rural county.[16]
- Urban Enterprise Zone Jobs Credit against Corporate Income Tax: Provides a corporate income tax credit for 20 or 30 percent of wages paid to new employees who live within the enterprise zone.[17]
- Enterprise Zone Property Tax Credit: Provides a credit against Florida corporate income tax equal to 96 percent of ad valorem taxes paid on the new or improved property.[18]
- Community Contribution Tax Credit: Provides a 50-percent credit on Florida corporate income tax or insurance premium tax, or a sales tax refund, for donations made to local community development projects.[19]

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[9] Section 9 of ch. 2010-147, L.O.F., removed the eligibility of condominium parcels or property, as defined in s. 718.103, F.S., for the sales tax exemption for building materials, pursuant to s. 212.08(5)(g), F.S.
[10] Section 212.08(5)(h), F.S.
[11] Section 212.096, F.S.
[12] Id.
[13] *Supra*, note 10.
[14] Section 212.08(5)(p), F.S.
[15] Section 212.08(15), F.S.
[16] Section 220.181, F.S.
[17] Id.
[18] Section 220.182, F.S.
[19] *See* ss. 220.183 and 624.5105, F.S.

5-Year Summary of State Incentives offered in the Enterprise Zone Program[20]

CATEGORY	FY 09-10	FY 08-09	FY 07-08	FY 06-07	FY 05-06
Jobs Tax Credit (SUT)	$5,683,252	$5,227,245	$5,732,605	$6,087,843	$6,777,250
Jobs Tax Credit (CIT)	$4,348,031	$5,072,555	$5,507,311	$5,919,236	$4,253,621
Property Tax Credit (CIT)	$1,384,668	$1, 910,708	$2,184,036	$2,291,961	$1,267,999
Building Materials (SUT Refund)	$54,012,915	$30,994,860	$25,665,025	$18,855,129	$7,415,711
Business Equipment (SUT Refund)	$1,035,562	$1,139,066	$1,269,955	$1,771,396	$2,940,864
Electrical Energy (SUT exempt)	$1,138,054	$1,007,007	$606	$793,179	$778,090
Total Value of State Incentives	$67,602,482	$45,351,441	$40,359,538	$35,718,744	$23,433,535
# of EZs	59	56	56	56	55

The total state incentives awarded over the last 5 years is $212.5 million. Of that amount, nearly $137 million, about 64 percent, has been in the form of refunds of sales and use tax on building materials used in enterprise zones.

Program evaluations

In the 29 years since enacted by the Legislature, the Florida Enterprise Zone Program has undergone numerous changes, many of them the result of two "sunset reviews" of the overall program, in 1994 and in 2005. A number of Senate and House interim project reports and program evaluations by the Office of Program Policy Analysis and Government Accountability (OPPAGA) and the Florida Auditor General have been written on the program.

The most recent program evaluation was prepared by OPPAGA last fall and published in January 2011.[21] Among OPPAGA's findings were:

- The most-used incentive, over the last 5 years, has been the sales and use tax refund on building materials because of claims from condominium developers.
- Applicants in 10 enterprise zones received 84 percent of the incentives, with applicants in Miami-Dade's enterprise zone receiving 55 percent of the total amount.
- Based on OPPAGA's review of the incentive applications over the last five years, there is a low participation rate among eligible businesses for the incentives. For example, only 402 businesses have taken advantage of the jobs tax credits, and they hired a total of 8,086 employees who lived within the zones.

[20] *Supra*, note 2 at 3.

[21] Office of Program Policy Analysis and Gov't Accountability, Florida Legislature, *Few Businesses Take Advantage of Enterprise Zone Benefits; the Legislature Could Consider Several Options to Modify the Program*, Report No. 11-01, (Jan. 1, 2011), *available at* http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1101rpt.pdf (last visited Jan. 12, 2012).

- DOR does not have consistent procedures for reviewing, validating, processing, and reporting the different tax credit and tax refund incentives. OPPAGA concluded that these inconsistencies may frustrate eligible businesses interested in applying for the incentives, prevents local zone coordinators and DEO from obtaining the most accurate information about program incentives taken, and makes it more difficult for OPPAGA and the Legislature to fully evaluate the incentives.

Charlotte County's enterprise zone proposal[22]
Charlotte County officials are pursuing an enterprise zone designation for up to 20 square miles in the county's mid-section, specifically in the Parkside and Murdock Village areas. The 850-acre Parkside, which previously was designated as a community redevelopment district, is envisioned as a "medical arts village" anchored by two existing hospitals that will include medical-related businesses, retailers, residential development, and recreational green space. Murdock Village, comprising about 1,200 acres, includes about 870 acres purchased by the county. Murdoch Village is envisioned as a multi-purpose area, including an "entertainment park," a youth baseball facility, and a research technology business park.

III. Effect of Proposed Changes:

Section 1 creates s. 290.00729, F.S., to allow Charlotte County to seek designation of an enterprise zone, of up to 20 square miles in area, within its boundary. Charlotte County has until December 31, 2012, to file its application with DEO. The application must meet the requirements of s. 290.0055, F.S., which establishes some of the criteria and details the process by which a local government seeks an enterprise zone designation.

The section also specifies that notwithstanding s. 290.0065, F.S., limiting the number of enterprise zones in Florida, DEO may designate one enterprise zone for Charlotte County. DEO also is directed to set the initial effective date for the new enterprise zone.

Section 2 provides that this act shall take effect July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

[22] Information provided by Debrah Forester, redevelopment manager for the Charlotte County Economic Development Office, in a Jan. 10, 2012, telephone conversation, and from information on the office's website, http://www.floridasinnovationcoast.com (last visited Jan. 12, 2012).

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference met on November 3, 2011, and determined that the passage of SB 294 would result in:

- A recurring negative fiscal impact of $200,000 to general revenue sales tax collections;
- A recurring insignificant negative fiscal impact to general revenue corporate income tax collections;
- A recurring insignificant negative fiscal impact to state trust funds; and
- A recurring insignificant negative fiscal impact to local governments.[23]

B. Private Sector Impact:

Indeterminate. However, the positive economic impact could be significant to the businesses that locate or already are within the enterprise zone, because of their potential tax savings. Job-seekers also could benefit from employment opportunities afforded them by businesses within the new zone. Finally, consumers could benefit because of the greater diversity of businesses and entertainment options within the enterprise zone.

C. Government Sector Impact:

Indeterminate, but likely minimal. Other than the initial review of Charlotte County's application and decision whether to approve or reject it, the workload on DEO staff likely will be insignificant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

[23] Office of Economic and Demographic Research, The Florida Legislature, *Revenue Estimating Conference for 2012 Regular Session – Enterprise Zone – Charlotte County, HB 201/SB 294* (Nov.3, 2011), *available at* http://edr.state.fl.us/content/conferences/revenueimpact/archives/2012/pdf/page45-47.pdf (last visited Jan. 12, 2012).

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Community Affairs, *Chair*
Banking and Insurance
Budget - Subcommittee on Criminal and Civil Justice Appropriations
Budget - Subcommittee on Transportation, Tourism, and Economic Development Appropriations
Criminal Justice
Military Affairs, Space, and Domestic Security

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OCT 05 2011
COMMERCE

SENATOR MICHAEL S. "MIKE" BENNETT
President Pro Tempore
21st District

October 5, 2011

The Honorable Nancy Detert
Chair, Commerce Committee
310 Knott Building
404 S. Monroe St.
Tallahassee, Fl 32399

Dear Chairman Detert:

I am requesting that you place S294, relating to Enterprise Zones/Charlotte County, on your committee agenda as soon as possible.

If you have any questions, please let me know. Thank you for your consideration.

Sincerely,

Michael S. "Mike" Bennett
/cre

Cc: Jennifer Hrdlicka, Staff Director
Patty Blackburn Administrative Assistant
Charlie Anderson

Posted 10/5/11

REPLY TO:
❒ Wildewood Professional Park, Suite 90, 3653 Cortez Road West, Bradenton, Florida 34210 (941) 727-6349
❒ 404 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5078

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

Charlotte County Government
"To exceed expectations in the delivery of public services."
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The Honorable Nancy Detert, Chair
Committee on Commerce and Tourism
318 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Senator Detert:

The Charlotte County Board of County Commissioners supports SB 294, sponsored by Senator Mike Bennett. Please support this bill which is scheduled as Item #4 on the Commerce and Tourism Committee agenda for Thursday, January 19.

Charlotte County is requesting the ability to establish one Enterprise Zone to encourage economic diversification and job creation. If approved, the Enterprise Zone designation would provide the County an additional tool to attract new business opportunities and to encourage the expansion and retention of existing businesses.

The County has conducted a preliminary analysis based on the Enterprise Zone criteria and the following data:

- The September 2011 unemployment numbers identified Charlotte County's unemployment rate at 11.2%, higher than the state (10.6%) and the nation (8.8%).
- New business development will increase job opportunities that will lead to a diversified labor force. While Charlotte County's workforce is strong, 34% of the population is over the age of 65. Charlotte County has the second oldest population in the state.
- Charlotte County's average annual wage is $30,569, far below the state's average of $40,555 and 32% of Charlotte County's households earn less than $30,000 per year.

Please support SB 294. Thank you for your attention to this matter which is extremely important to the citizens of Charlotte County.

Sincerely,

Robert V. Skidmore
Charlotte County Board of County Commissioners

BOARD OF COUNTY COMMISSIONERS
18500 Murdock Circle, Suite 536 | Port Charlotte, FL 33948-1068
Phone: 941.743.1300 | Fax: 941.743.1310

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 Commerce and Tourism Committee

BILL: CS/SB 102

INTRODUCER: Commerce and Tourism Committee and Senator Siplin

SUBJECT: Employment Practices

DATE: January 20, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hrdlicka	Hrdlicka	CM	**Fav/CS**
2.			BI	
3.			GO	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

CS/SB 102 prohibits use of individuals' credit reports or history for employment or insurance purposes.

An employer is prohibited from using a job applicant's credit report or credit history to deny employment or determine compensation or privileges of employment. However, an employer may request and use an applicant's credit report or history if the employer has a bona fide purpose for requesting the information that is substantially related to the job, notifies the applicant of the employer's ability to request the information, and obtains permission from the applicant to request the information.

The CS defines positions for which an employer has a bona fide purpose to request an applicant's credit report or history, include positions that are managerial, involve access to personal information, and involve public safety, such as law enforcement officers.

The prohibition does not apply to employers expressly permitted to request credit reports or history under federal or state law, FDIC insured financial institutions, credit unions and state

chartered banks registered with the Florida Office of Financial Regulation, and entities registered with the U.S. Securities and Exchange Commission.

The CS provides for a private cause of action for individuals aggrieved by a violation of the prohibition, and permits for recovery of actual damages plus court costs. Additionally, any frivolous actions brought under the section will require the plaintiff to pay the defendant for any damages incurred plus attorneys' fees.

The CS also prohibits insurers from using credit history when making rate determinations.

This CS amends ss. 626.9541 and 626.9741, F.S.

This CS creates general law not contained in a designated section of the Florida Statutes.

II. Present Situation:

Employment Practices

Under current law, employers are prohibited from discriminating against applicants or employees on the basis of disabilities, race or color, gender, national origin, religion, age, or genetic information.[1] These prohibitions can be found in the Americans with Disabilities Act, the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, and the Genetic Information Nondiscrimination Act of 2008.

Employers may not ask job applicants about the existence, nature, or severity of a disability. Applicants may be asked about their ability to perform specific job functions. In some cases a job offer may be conditioned on the results of a medical examination, but only if the examination is required for all entering employees in similar jobs. Medical examinations of employees must be job related and consistent with the employer's business needs.

Employers are not specifically prohibited from asking an employee or applicant his or her age or date of birth, race, national origin, gender, or status of pregnancy. In fact, it can be necessary for employers to track information about race for affirmative action purposes or applicant flow; the U.S. Equal Employment Opportunity Commission (EEOC) suggests the use of separate forms to keep information about race separate from the application. However, in general, with regard to interview questions, requests for certain information will be closely scrutinized to make sure that the inquiry was made for a lawful purpose, rather than for a purpose prohibited by a federal law. If the information is used in the selection decision and members of particular groups are excluded from employment, the inquiries can constitute evidence of discrimination. For example, unless the information is for such a legitimate purpose, pre-employment questions about race can suggest that race will be used as a basis for making selection decisions.

[1] More information is available on the U.S. Equal Employment Opportunity Commission website, "Discrimination by Type," available at http://www.eeoc.gov/laws/types/index.cfm (lat visited 1/16/2012). Gender discrimination also includes issues related to pregnancy, childbirth, related medical conditions, sexual harassment, and equal pay.

Additionally the federal bankruptcy law makes it illegal for an employer to discriminate against an individual based on bankruptcy.[2]

Fair Credit Reporting Act – Employment

The Fair Credit Reporting Act (FCRA) permits employers to obtain a consumer report for "employment purposes." An employer may obtain a consumer report only for the limited purposes of evaluating a consumer for employment, promotion, or reassignment or retention as an employee.[3]

In order to obtain a report, the employer must disclose to the person that a consumer report may be obtained for employment purposes and the person has authorized in writing the employer to do so. The disclosure must be in a stand-alone document – it cannot be part of the employment application.[4]

The employer must certify to the consumer reporting agency that it has disclosed and obtained the written consent from the person, and that the employer will not use the information from the consumer report in violation of any applicable federal or state equal employment opportunity law or regulation. Additionally the consumer reporting agency must provide the employer with a summary of consumer's rights under FCRA.[5] The consumer reporting agency is responsible for taking reasonable measures to ensure that the report is being requested and used for permissible purposes under the law.

If the employer decides to take an adverse action because of the consumer report, then, <u>before</u> the employer takes such action, the employer must provide the person with a copy of the report and the Federal Trade Commission notice, "A Summary of Your Rights Under the Fair Credit Reporting Act," which is a description of the rights of the consumer under FCRA.[6] After the employer takes an adverse action, it must provide to the person:

- Notice of the action taken by the employer;
- Disclosure of the numerical credit score used in taking the adverse action and other related information;
- Notice of the contact information for the consumer reporting agency that the report was obtained from and a statement that the consumer reporting agency did not make the decision to take the adverse action and is unable to provide the person the specific reasons why the adverse action was taken; and

[2] 11 U.S.C. s. 525.
[3] "Consumer report" is defined as "any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of…credit or insurance…employment purposes; or…" any other authorized purpose. 15 U.S.C. 1681a(d). See also definition of "employment purposes" at 15 U.S.C. s. 1681a(h). See 15 U.S.C. s. 1681b(b) for permissible purposes of consumer reports.
[4] If the person is applying by mail, telephone, computer, or other similar means, then the consent may be given orally, in writing, or electronically. 15 U.S.C. s. 1681b(b)(2)(B).
[5] 15 U.S.C. s. 1681b(b)(1).
[6] 15 U.S.C. s. 1681b(b)(2). An "adverse action" is "a denial of employment or any other decision for employment purposes that adversely affects any current or prospective employee." 15 U.S.C. 1681a(k)(B)(ii).

- Notice that the person has the right to obtain a free copy of his or her consumer report and to dispute the accuracy or completeness of any information contained therein.[7]

FCRA also provides for penalties for employers who do not comply with the requirements of the law.[8] FCRA also allows the Federal Trade Commission, other federal agencies, and states to sue employers who do not comply with the law. Additionally, consumers can sue employers in state or federal court for certain violations.[9]

For the past several years, bills have been filed in Congress to prohibit the use of consumer reports in hiring decisions. The bills generally provide exceptions for employment that requires national security or FDIC clearance, state or local employment that requires use of a consumer report, employment in management positions at financial institutions, and when otherwise required by law.[10]

Other States – Employment

Seven states limit employers' use of credit information in employment decisions.[11] While the statutes differ, generally states limit or ban the use of reports with exceptions for employment in certain fields, such as the financial industry. Additionally some federal and state laws expressly permit or require the use of consumer reports in employment decisions.[12]

Current Use of Consumer Reports for Employment

It is unclear whether the recent recession and high number of unemployed have influenced employers to begin to use or increase their use of consumer reports for hiring. Some news reports indicate increased use, while an annual survey from the Society for Human Resource Management shows consistent responses since 2006 of about 60 percent of employers using credit background checks.

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[7] 15 U.S.C. s. 1681m(a). If an investigation by the consumer reporting agency reveals that a correction is warranted, the agency must send an updated report to the employer if requested by the person.

[8] For more information see also Federal Trade Commission, Bureau of Consumer Protection, Business Center, "Using Consumer Reports: What Employers Need to Know" (January 2012), available at http://business.ftc.gov/documents/bus08-using-consumer-reports-what-employers-need-know (last visited 1/12/12); and the Bureau's Facts for Consumers, "Employment Background Checks and Credit Reports" (May 2010), available at http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre36.shtm (last visited 1/12/12).

[9] Federal Trade Commission, FTC Facts for Consumers, "Employment Background Checks and Credit Reports" (May 2010). See 15 U.S.C. ss. 1681n – 1681s, imposing civil and administrative penalties, including fines, punitive damages, and attorneys' fees.

[10] See H.R. 321 (112th Congress).

[11] The states are: California, Connecticut, Hawaii, Illinois, Maryland, Oregon and Washington. Washington enacted legislation in 2007; Hawaii enacted legislation in 2009; Illinois and Oregon enacted legislation in 2010; and California, Connecticut, and Maryland enacted legislation in 2011. California's law was effective January 1, 2012. See National Conference of State Legislatures "Use of Credit Information in Employment 2011 Legislation," updated 12/19/2011, available at: http://www.ncsl.org/default.aspx?tabid=22043 (last visited 1/11/2012).

[12] For example, law enforcement positions and employment related to industries required to be registered with the Securities and Exchange Commission.

Even many federal agencies require credit history as part of its employment processes.[13]

Survey by the Society for Human Resource Management

Credit reporting bureaus provide consumer reporting services to business for employment decisions.[14] A survey by the Society for Human Resource Management in August 2010 found that 47 percent of employers conducted credit background checks on select job candidates and 13 percent conducted such checks on all job candidates; most employers stated that they conducted the tests after a contingent job offer or interview.[15] Employers must pay for every credit report that they request.

Employers indicated that they conduct the credit background checks to reduce/prevent theft and embezzlement and to reduce liability for negligent hiring. Additionally, 87 percent of the employers surveyed stated that they allow job candidates to explain the results of the credit background check.

Most employers indicated other reasons as being primary influences in hiring decisions, such as the candidate being a "good fit" with the business and the candidate's previous work experience and skills; only 9 percent of the employers surveyed indicated that favorable credit background check results were most influential in their hiring decisions.

Testimony Before the EEOC[16]

Consumer advocates oppose the practice because they say credit reports contain a high incidence of errors and the reports could be used in a way that is discriminatory.[17] In testimony before the EEOC, several individuals stated that African Americans and Hispanics have lower credit scores and are disproportionately affected by predatory credit practices which damage their credit history. They stated that credit reports "do not reflect the circumstances surrounding debts or reasons for late payments…[and] often include errors." For example, a bad credit report would not reflect identity theft or medical debt that arose due to circumstances outside of the individual's control. The credit reports do not specify the type of debt. They were concerned that

[13] See Presidential National Security Directive 63 (October 21, 1991), George Bush, Presidential Library and Museum, National Security Directives, available at http://bushlibrary.tamu.edu/research/pdfs/nsd/nsd63.pdf (last visited 1/16/2012); U.S. Department of Labor, Bureau of Labor Statistics, Career Guide to Industries 2010-11 Edition, Federal Government, available at http://www.bls.gov/oco/cg/cgs041.htm (last visited 1/16/2012); and Federal Deposit Insurance Corporation, FDIC: Conditions of Employment, available at http://www.fdic.gov/about/jobs/e.html (last visited 1/16/2012).

[14] For example, Experian offers the "Employment Insight" services to business; while Equifax provides such services through TALX. See Experian website at http://www.experian.com/consumer-information/employment-credit-checks.html (last visited 1/12/2012) and Equifax website at http://www.talx.com/Solutions/Compliance/Verifications/ (last visited 1/12/2012).

[15] Across most industries and types of jobs, employers looked at up to 6 – 7 years of an applicant's credit history. Society for Human Resource Management, "Background Checking: The Implications of Credit Background Checks on the Decision to Hire SHRM Poll" (September 2010), available at http://www.shrm.org/Research/SurveyFindings/Articles/Pages/BackgroundCheckingImplications.aspx (last visited 1/11/2012).

[16] See EEOC Meeting of October 20, 2010, "Employer Use of Credit History as a Screening Tool," testimony and information available at http://www.eeoc.gov/eeoc/meetings/10-20-10/index.cfm (last visited 1/16/2012).

[17] See Yipp, Pamela, "You seem qualified, but how's your credit?" Tampabay.com (October 2009), available at http://www.tampabay.com/news/business/personalfinance/article1044644.ece (last visited 1/12/2012).

the use of credit history would lead to violations of law prohibiting discriminatory employment practices.

On the other hand, employers use the information as a way to vet candidates and such background checks allow them to ensure that applicants are telling the truth.[18] In testimony before the EEOC, several individuals stated that employers do not receive or use a credit score as part of a consumer report received from a consumer reporting agency ("…the number standing by itself is meaningless to employers."). Employers were said to use the credit history for employees with direct access to company or client funds, sensitive information, social security numbers, banking information, trade secrets, confidential company property, or controlled substances. The individuals testified that employers use the credit histories to see if there was a pattern and history of debt, multiple sources of debt over a long period of time, and if the applicant attempted to repay or consolidate the debt.

Additionally, testimony was provided that credit histories can give employers information that they could not otherwise obtain. They cited concerns by employers in providing references about potential defamation or retaliation suits. Employers also fear negligent hiring suits. Further, the individuals testified to employers' fears of getting fake references; "[w]ebsites such as BuyAJobReference.com and careerexcuse.com specifically market [that] they will sell fake references."

On the other hand, testimony was provided that employers have stopped using credit reports because employers now have technology in place by which allow the employer to monitor employees and alert the employer of certain behaviors.

Fair Credit Reporting Act – Insurance

The Fair Credit Reporting Act (FCRA) permits insurers to obtain a consumer report to serve as a factor in establishing an individual's eligibility for insurance to be used primarily for personal, family, or household purposes.[19]

If the insurer decides to take an adverse action because of the consumer report, then, before the insurer takes such action, the insurer must provide the person with a copy of the report and the Federal Trade Commission notice, "A Summary of Your Rights Under the Fair Credit Reporting Act," which is a description of the rights of the consumer under FCRA.[20] An adverse action includes the denial or cancellation of, increase in any charge for, or a reduction or unfavorable change in terms of coverage or amount of, any insurance in connection with the underwriting of insurance.[21]

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[18] A 2009 article stated that a background check company found increased discrepancies in background checks, mostly involving falsehoods about previous employment, education, and criminal history. See Merritt, Athena D., "Know It All finds applicants are stretching the truth," South Florida Business Journal (September 2009), available at http://www.bizjournals.com/philadelphia/stories/2009/09/14/story7.html (last visited 1/12/2012).
[19] 15 U.S.C. s. 1681a(d). For more information see also Federal Trade Commission, Bureau of Consumer Protection, Business Center, "Consumer Reports: What Insurers Need to Know" (October 1998), available at http://business.ftc.gov/documents/bus07-consumer-reports-what-insurers-need-know (last visited 1/20/12).
[20] 15 U.S.C. s. 1681b(b)(2).
[21] 15 U.S.C. s. 1681a(k).

FCRA also provides for penalties for employers who do not comply with the requirements of the law. FCRA also allows the Federal Trade Commission, other federal agencies, and states to sue employers who do not comply with the law. Additionally, consumers can sue employers in state or federal court for certain violations.[22]

Current Use of Credit Reports for Insurance

For the last several years, insurance companies have been using credit information to determine a consumer's level of risk before selling or renewing auto, home, or renter insurance policies. Insurers believe that the use of credit reports, combined with traditional underwriting tools, can improve the insurers' ability to predict future losses and claims. The insurance companies believe that there is a direct correlation between a consumer's financial stability and risk of filing an insurance claim. Insurers may use a consumer's credit score as one factor in assigning premiums, deciding whether to accept or decline coverage or in the decision to place a consumer with a nonstandard (generally higher priced) insurer.

Several states regulate or limit insurers' use of credit information in rating decisions.[23]

Regulation of Use of Credit Reports by Insurers in Florida[24]

Section 626.9741, F.S., regulates and limits the use of credit reports and scores by insurers for underwriting and rating purposes. The regulations and limits only apply to personal lines motor vehicle insurance and personal lines residential insurance, which includes homeowners, mobile home owners' dwelling, tenants, condominium unit owners, cooperative unit owners, and similar types of insurance.

An insurer may use a credit report or score for underwriting or rating purposes under current law. The insurer must notify the individual that a credit report or score is being requested.

If the insurer makes an adverse decision the insurer must notify the individual and explain the four primary (or fewer) reasons for the adverse action and provide the individual with a copy of the credit report used or the contact information for the consumer reporting agency from which the report was obtained. Receiving a less favorable rate is not considered adverse action under the statute. However, the insurer may not make an adverse decision solely because of information contained in a credit report or score without consideration of any other underwriting or rating factor.

An insurer is also prohibited from making an adverse decision based on the following factors:

- The absence of, or an insufficient, credit history, under certain circumstances;
- Collection accounts with a medical industry code;

[22] See 15 U.S.C. ss. 1681n – 1681s, imposing civil and administrative penalties, including fines, punitive damages, and attorneys' fees.
[23] See National Conference of State Legislatures "Use of Credit Information in Insurance 2011 Legislation," updated 12/20/2011, available at, http://www.ncsl.org/issues-research/banking-insurance-financial-services/use-of-credit-information-in-insurance-2011-legisl.aspx#NV (last visited 1/20/2012).
[24] See Senate Staff Analysis and Economic Impact Statement for SB 40-A (2003), available at http://archive.flsenate.gov/data/session/2003A/Senate/bills/analysis/pdf/2003s0040A.bi.pdf (lat visited 1/20/2012).

- Place of residence; or
- Any other special circumstances that the Financial Services Commission determines, by rule, lacks sufficient statistical correlation and actuarial justification as a predictor of insurance risk.

The insurer must provide a means of appeal for an individual whose credit report or credit score is unduly influenced by the death of a spouse, the dissolution of a marriage, or temporary loss of employment. An insurer must complete a review of an adverse decision upon request of an individual who supplies an insurer with reasonable documentation of a temporary loss of employment, dissolution of marriage, or death of a spouse. If an insurer determines that a credit report or credit score was unduly influenced by either of such factors, it shall either exclude the credit information or treat the credit information as neutral, whichever is more favorable to the individual.

Additionally, an insurer is required to establish procedures to review the credit history of an individual who was adversely affected by the use of the insured's credit history at the initial rating of the policy, or at a subsequent renewal thereof.

A rate filing that uses credit reports or credit scores must comply with the requirements of ss. 627.062 and 627.0651, F.S., to ensure that rates are not excessive, inadequate, or unfairly discriminatory.

III. Effect of Proposed Changes:

CS/SB 102 prohibits use of individuals' credit reports or history for employment purposes, and credit reports or scores for insurance purposes.

Section 1 prohibits an employer from using a job applicant's credit report or credit history to deny employment or determine compensation or privileges of employment.

However, an employer may request and use an applicant's credit report or history if the employer has a bona fide purpose for requesting the information that is substantially related to the job, notifies the applicant of the employer's ability to request the information, and obtains permission from the applicant to request the information.

The CS defines positions for which an employer has a bona fide purpose to request an applicant's credit report or history, include positions that are managerial, involve access to personal information, and involve public safety, such as law enforcement officers.

The prohibition does not apply to employers expressly permitted to request credit reports or history under federal or state law, FDIC insured financial institutions, credit unions and state chartered banks registered with the Florida Office of Financial Regulation, and entities registered with the U.S. Securities and Exchange Commission.

The CS provides for a private cause of action for individuals aggrieved by a violation of the prohibition, and permits for recovery of actual damages plus court costs. Additionally, any

frivolous actions brought under the section will require the plaintiff to pay the defendant for any damages incurred plus attorneys' fees.

Section 2 amends s. 626.9541, F.S., to prohibit an insurer from using any rate, schedule, manual, or underwriting rule not contained in a rating manual and determined in whole or part on the basis of an insured's credit report or score. Further an insurer may not refuse to insure or continue to insure any individual solely on the basis of the insured's or applicant's credit report or score.

Section 3 amends s. 626.9741, F.S., to specifically prohibit an insurer from using credit reports or scores in making rate determinations.

Section 4 provides an effective date of July 1, 2012.

Other Potential Implications:

Florida businesses that currently use consumer reports in their hiring practices or in making rate determination may be subject to penalties and lawsuits under FCRA, which requires that employers and insurers comply with state laws when using consumer reports.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. 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 January 19, 2012:
The committee substitute made the following changes:

- Allows use of a credit report for certain jobs such as financial jobs, jobs where people have access to personal information, and law enforcement;
- Provides for damages for people who suffer a loss for violations of the statute by an employer; and
- Prohibits insurers from using credit history when making rate determinations.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
01/19/2012	.	
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The Committee on Commerce and Tourism (Detert) recommended the following:

1 **Senate Amendment (with title amendment)**
2
3 Delete everything after the enacting clause
4 and insert:
5 Section 1. Use of a job applicant’s credit report or credit
6 history.—
7 (1) Except as provided in subsection (2), an employer may
8 not use an applicant’s credit report or credit history for the
9 purpose of denying employment to the applicant or for
10 determining the applicant’s compensation or the terms,
11 conditions, or privileges of employment.
12 (2) An employer may request or use an applicant’s credit

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13 report or credit history if:
14 (a) The information will be used for a purpose other than
15 one prohibited by this section;
16 (b) The employer has a bona fide purpose for requesting or
17 using information in the credit report or credit history which
18 is substantially related to the job; and
19 (c) The ability to request such information was disclosed
20 to the applicant and the employer obtained permission from the
21 applicant to request the information.
22 (3) For purposes of this section, a position for which an
23 employer has a bona fide purpose includes a position that:
24 (a) Is managerial or supervisory;
25 (b) Involves access to personal information of a customer,
26 employee, or employer, except for personal information
27 customarily provided in a retail transaction;
28 (c) Involves a fiduciary responsibility to the employer,
29 including the authority to issue payments, collect debts,
30 transfer money, or enter into contracts;
31 (d) Involves the use of an expense account or a corporate
32 debit or credit card;
33 (e) Authorizes the employee to have access to information,
34 including a trade secret, formula, pattern, compilation,
35 program, device, method, technique, or process that derives
36 actual or potential independent economic value from not being
37 generally known to, and not being readily ascertainable by
38 proper means by, other persons who can obtain economic value
39 from the disclosure or use of the information and is the subject
40 of efforts that are reasonable under the circumstances to
41 maintain its secrecy; or

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42 (f) Involves public safety, such as a law enforcement
43 officer, peace officer, or other position involving enforcement
44 of state or federal criminal laws.
45 (4) As used in paragraph (3)(a), the term:
46 (a) “Managerial” means a position that requires an
47 individual to formulate and effectuate management policies by
48 expressing and making operative the decisions of the employer.
49 (b) “Supervisory” means a position in which an individual
50 has the authority, in the interest of the employer, to hire,
51 transfer, suspend, lay off, recall, promote, discharge, assign,
52 reward, or discipline other employees, or the responsibility to
53 direct them, adjust their grievances, or recommend such action
54 where the authority or responsibility is not merely routine or
55 clerical, but requires the use of independent judgment.
56 (5) This section does not apply to an employer that is:
57 (a) Expressly permitted or required to inquire into an
58 applicant’s credit report or credit history for employment
59 purposes pursuant to a federal or state law.
60 (b) A financial institution that accepts deposits that are
61 insured by a federal agency, or an affiliate or subsidiary of
62 the financial institution.
63 (c) A credit union or state-chartered bank registered with
64 the Office of Financial Regulation.
65 (d) An entity that is registered as an investment advisor
66 with the United States Securities and Exchange Commission, or an
67 affiliate of the entity.
68 (6)(a) Without regard to any other remedy or relief to
69 which a person is entitled, a person aggrieved by a violation of
70 this section may bring an action to obtain a declaratory

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71 judgment that an act or practice violates this section and to
72 enjoin the violator from further violations.
73 (b) A person who has suffered a loss as a result of a
74 violation of this section and prevails may recover actual
75 damages, plus court costs.
76 (c) In any action brought under this section, upon motion
77 of the defendant, alleging that the action is frivolous, without
78 legal or factual merit, or brought for the purpose of
79 harassment, the court may, after hearing evidence as to the
80 necessity therefor, require the plaintiff to post bond in an
81 amount that the court finds reasonable to indemnify the
82 defendant for any damages incurred, including reasonable
83 attorney fees. This subsection does not apply to any action
84 initiated by the enforcing authority.
85 Section 2. This act shall take effect July 1, 2012.
86
87 ========== T I T L E A M E N D M E N T ==========
88 And the title is amended as follows:
89 Delete everything before the enacting clause
90 and insert:
91 A bill to be entitled
92 An act relating to credit reports; prohibiting an
93 employer from using a job applicant's credit report or
94 credit history to make certain hiring, compensation,
95 or other employment decisions; providing specific
96 situations where an employer may use such information;
97 providing definitions; providing exemptions for
98 certain types of employers; providing remedies for
99 aggrieved persons; providing for court costs;

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100 providing for a plaintiff to post a bond in certain
101 situations; providing an effective date.

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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
01/19/2012	.	
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The Committee on Commerce and Tourism (Detert) recommended the following:

1 **Senate Amendment to Amendment (792042) (with title**
2 **amendment)**
3
4 Between lines 84 and 85
5 insert:
6 Section 2. Paragraphs (o) and (x) of subsection (1) of
7 section 626.9541, Florida Statutes, are amended to read:
8 626.9541 Unfair methods of competition and unfair or
9 deceptive acts or practices defined.—
10 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
11 ACTS.—The following are defined as unfair methods of competition
12 and unfair or deceptive acts or practices:

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13 (o) *Illegal dealings in premiums; excess or reduced charges*
14 *for insurance.*—
15 1. Knowingly collecting any sum as a premium or charge for
16 insurance, which is not then provided, or is not in due course
17 to be provided, subject to acceptance of the risk by the
18 insurer, by an insurance policy issued by an insurer as
19 permitted by this code.
20 2. Knowingly collecting as a premium or charge for
21 insurance any sum in excess of or less than the premium or
22 charge applicable to such insurance, in accordance with the
23 applicable classifications and rates as filed with and approved
24 by the office, and as specified in the policy; or, in cases when
25 classifications, premiums, or rates are not required by this
26 code to be so filed and approved, premiums and charges collected
27 from a Florida resident in excess of or less than those
28 specified in the policy and as fixed by the insurer. This
29 provision does ~~shall~~ not ~~be deemed to~~ prohibit the charging and
30 collection, by surplus lines agents licensed under part VIII of
31 this chapter, of the amount of applicable state and federal
32 taxes, or fees as authorized by s. 626.916(4), in addition to
33 the premium required by the insurer or the charging and
34 collection, by licensed agents, of the exact amount of any
35 discount or other such fee charged by a credit card facility in
36 connection with the use of a credit card, as authorized by
37 subparagraph (q)3., in addition to the premium required by the
38 insurer. This subparagraph does ~~shall~~ not ~~be construed to~~
39 prohibit collection of a premium for a universal life or a
40 variable or indeterminate value insurance policy made in
41 accordance with the terms of the contract.

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42 3.a. Imposing or requesting an additional premium for a
43 policy of motor vehicle liability, personal injury protection,
44 medical payment, or collision insurance or any combination
45 thereof or refusing to renew the policy solely because the
46 insured was involved in a motor vehicle accident unless the
47 insurer's file contains information from which the insurer in
48 good faith determines that the insured was substantially at
49 fault in the accident.
50 b. An insurer that ~~which~~ imposes and collects such a
51 surcharge or ~~which~~ refuses to renew such policy shall, in
52 conjunction with the notice of premium due or notice of
53 nonrenewal, notify the named insured that he or she is entitled
54 to reimbursement of such amount or renewal of the policy under
55 the conditions listed below and will subsequently reimburse him
56 or her or renew the policy, if the named insured demonstrates
57 that the operator involved in the accident was:
58 (I) Lawfully parked;
59 (II) Reimbursed by, or on behalf of, a person responsible
60 for the accident or has a judgment against such person;
61 (III) Struck in the rear by another vehicle headed in the
62 same direction and was not convicted of a moving traffic
63 violation in connection with the accident;
64 (IV) Hit by a "hit-and-run" driver, if the accident was
65 reported to the proper authorities within 24 hours after
66 discovering the accident;
67 (V) Not convicted of a moving traffic violation in
68 connection with the accident, but the operator of the other
69 automobile involved in such accident was convicted of a moving
70 traffic violation;

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71 (VI) Finally adjudicated not to be liable by a court of
72 competent jurisdiction;
73 (VII) In receipt of a traffic citation which was dismissed
74 or nolle prossed; or
75 (VIII) Not at fault as evidenced by a written statement
76 from the insured establishing facts demonstrating lack of fault
77 which are not rebutted by information in the insurer's file from
78 which the insurer in good faith determines that the insured was
79 substantially at fault.
80 c. In addition to the other provisions of this
81 subparagraph, an insurer may not fail to renew a policy if the
82 insured has had only one accident in which he or she was at
83 fault within the current 3-year period. However, an insurer may
84 nonrenew a policy for reasons other than accidents in accordance
85 with s. 627.728. This subparagraph does not prohibit nonrenewal
86 of a policy under which the insured has had three or more
87 accidents, regardless of fault, during the most recent 3-year
88 period.
89 4. Imposing or requesting an additional premium for, or
90 refusing to renew, a policy for motor vehicle insurance solely
91 because the insured committed a noncriminal traffic infraction
92 as described in s. 318.14 unless the infraction is:
93 a. A second infraction committed within an 18-month period,
94 or a third or subsequent infraction committed within a 36-month
95 period.
96 b. A violation of s. 316.183, when such violation is a
97 result of exceeding the lawful speed limit by more than 15 miles
98 per hour.
99 5. Upon the request of the insured, the insurer and

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100 licensed agent shall supply to the insured the complete proof of
101 fault or other criteria that ~~which~~ justifies the additional
102 charge or cancellation.
103 6. An ~~No~~ insurer may not ~~shall~~ impose or request an
104 additional premium for motor vehicle insurance, cancel or refuse
105 to issue a policy, or refuse to renew a policy because the
106 insured or the applicant is a handicapped or physically disabled
107 person, so long as such handicap or physical disability does not
108 substantially impair such person's mechanically assisted driving
109 ability.
110 7. An ~~No~~ insurer may not cancel or otherwise terminate any
111 insurance contract or coverage, or require execution of a
112 consent to rate endorsement, during the stated policy term for
113 the purpose of offering to issue, or issuing, a similar or
114 identical contract or coverage to the same insured with the same
115 exposure at a higher premium rate or continuing an existing
116 contract or coverage with the same exposure at an increased
117 premium.
118 8. An ~~No~~ insurer may not issue a nonrenewal notice on any
119 insurance contract or coverage, or require execution of a
120 consent to rate endorsement, for the purpose of offering to
121 issue, or issuing, a similar or identical contract or coverage
122 to the same insured at a higher premium rate or continuing an
123 existing contract or coverage at an increased premium without
124 meeting any applicable notice requirements.
125 9. An ~~No~~ insurer may not ~~shall~~, with respect to premiums
126 charged for motor vehicle insurance, unfairly discriminate
127 solely on the basis of age, sex, marital status, or scholastic
128 achievement.

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129 10. An insurer may not use any rate, rating schedule,
130 rating manual, or underwriting rule that is not contained in a
131 rating manual and that is determined in whole or in part on the
132 basis of an insured's credit report or credit score as defined
133 in s. 626.9741.
134 11.~~10.~~ Imposing or requesting an additional premium for
135 motor vehicle comprehensive or uninsured motorist coverage
136 solely because the insured was involved in a motor vehicle
137 accident or was convicted of a moving traffic violation.
138 12.~~11.~~ An ~~No~~ insurer may not ~~shall~~ cancel or issue a
139 nonrenewal notice on any insurance policy or contract without
140 complying with any applicable cancellation or nonrenewal
141 provision required under the Florida Insurance Code.
142 13.~~12.~~ An ~~No~~ insurer may not ~~shall~~ impose or request an
143 additional premium, cancel a policy, or issue a nonrenewal
144 notice on any insurance policy or contract because of any
145 traffic infraction when adjudication has been withheld and no
146 points have been assessed pursuant to s. 318.14(9) and (10).
147 However, this subparagraph does not apply to traffic infractions
148 involving accidents in which the insurer has incurred a loss due
149 to the fault of the insured.
150 (x) *Refusal to insure.*—In addition to other provisions of
151 this code, the refusal to insure, or continue to insure, any
152 individual or risk solely because of:
153 1. Race, color, creed, marital status, sex, or national
154 origin;
155 2. The residence, age, or lawful occupation of the
156 individual or the location of the risk, unless there is a
157 reasonable relationship between the residence, age, or lawful

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158 occupation of the individual or the location of the risk and the
159 coverage issued or to be issued;
160 3. The insured’s or applicant’s failure to agree to place
161 collateral business with any insurer, unless the coverage
162 applied for would provide liability coverage which is excess
163 over that provided in policies maintained on property or motor
164 vehicles;
165 4. The insured’s or applicant’s failure to purchase
166 noninsurance services or commodities, including automobile
167 services as defined in s. 624.124;
168 5. The fact that the insured or applicant is a public
169 official; or
170 6. The fact that the insured or applicant had been
171 previously refused insurance coverage by any insurer, when such
172 refusal to insure or continue to insure for this reason occurs
173 with such frequency as to indicate a general business practice.
174 7. The insured's or applicant's credit report or credit
175 score as defined in s. 626.9741.
176 Section 3. Section 626.9741, Florida Statutes, is amended
177 to read:
178 626.9741 Use of credit reports and credit scores by
179 insurers.—
180 (1) An insurer may not use credit reports or credit scores
181 in making rating determinations. ~~The purpose of this section is~~
182 ~~to regulate and limit the use of credit reports and credit~~
183 ~~scores by insurers for underwriting and rating purposes. This~~
184 ~~section applies only to personal lines motor vehicle insurance~~
185 ~~and personal lines residential insurance, which includes~~
186 ~~homeowners, mobile home owners’ dwelling, tenants, condominium~~

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187 ~~unit owners, cooperative unit owners, and similar types of~~
188 ~~insurance.~~
189 (2) As used in this section, the term:
190 ~~(a) "Adverse decision" means a decision to refuse to issue~~
191 ~~or renew a policy of insurance; to issue a policy with~~
192 ~~exclusions or restrictions; to increase the rates or premium~~
193 ~~charged for a policy of insurance; to place an insured or~~
194 ~~applicant in a rating tier that does not have the lowest~~
195 ~~available rates for which that insured or applicant is otherwise~~
196 ~~eligible; or to place an applicant or insured with a company~~
197 ~~operating under common management, control, or ownership which~~
198 ~~does not offer the lowest rates available, within the affiliate~~
199 ~~group of insurance companies, for which that insured or~~
200 ~~applicant is otherwise eligible.~~
201 (a) ~~(b)~~ "Credit report" means any written, oral, or other
202 communication of any information by a consumer reporting agency,
203 as defined in the federal Fair Credit Reporting Act, 15 U.S.C.
204 ss. 1681 et seq., bearing on a consumer's credit worthiness,
205 credit standing, or credit capacity, which is used or expected
206 to be used or collected as a factor to establish a person's
207 eligibility for credit or insurance, or any other purpose
208 authorized pursuant to the applicable provision of such federal
209 act. A credit score alone, as calculated by a credit reporting
210 agency or by or for the insurer, may not be considered a credit
211 report.
212 (b) ~~(c)~~ "Credit score" means a score, grade, or value that
213 is derived by using any or all data from a credit report in any
214 type of model, method, or program, whether electronically, in an
215 algorithm, computer software or program, or any other process,

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216 for the purpose of grading or ranking credit report data.
217 ~~(d) "Tier" means a category within a single insurer into~~
218 ~~which insureds with substantially similar risk, exposure, or~~
219 ~~expense factors are placed for purposes of determining rate or~~
220 ~~premium.~~
221 ~~(3) An insurer must inform an applicant or insured, in the~~
222 ~~same medium as the application is taken, that a credit report or~~
223 ~~score is being requested for underwriting or rating purposes. An~~
224 ~~insurer that makes an adverse decision based, in whole or in~~
225 ~~part, upon a credit report must provide at no charge, a copy of~~
226 ~~the credit report to the applicant or insured or provide the~~
227 ~~applicant or insured with the name, address, and telephone~~
228 ~~number of the consumer reporting agency from which the insured~~
229 ~~or applicant may obtain the credit report. The insurer must~~
230 ~~provide notification to the consumer explaining the reasons for~~
231 ~~the adverse decision. The reasons must be provided in~~
232 ~~sufficiently clear and specific language so that a person can~~
233 ~~identify the basis for the insurer's adverse decision. Such~~
234 ~~notification shall include a description of the four primary~~
235 ~~reasons, or such fewer number as existed, which were the primary~~
236 ~~influences of the adverse decision. The use of generalized terms~~
237 ~~such as "poor credit history," "poor credit rating," or "poor~~
238 ~~insurance score" does not meet the explanation requirements of~~
239 ~~this subsection. A credit score may not be used in underwriting~~
240 ~~or rating insurance unless the scoring process produces~~
241 ~~information in sufficient detail to permit compliance with the~~
242 ~~requirements of this subsection. It shall not be deemed an~~
243 ~~adverse decision if, due to the insured's credit report or~~
244 ~~credit score, the insured continues to receive a less favorable~~

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245 ~~rate or placement in a less favorable tier or company at the~~
246 ~~time of renewal except for renewals or reunderwriting required~~
247 ~~by this section.~~
248 ~~(4)(a) An insurer may not request a credit report or score~~
249 ~~based upon the race, color, religion, marital status, age,~~
250 ~~gender, income, national origin, or place of residence of the~~
251 ~~applicant or insured.~~
252 ~~(b) An insurer may not make an adverse decision solely~~
253 ~~because of information contained in a credit report or score~~
254 ~~without consideration of any other underwriting or rating~~
255 ~~factor.~~
256 ~~(c) An insurer may not make an adverse decision or use a~~
257 ~~credit score that could lead to such a decision if based, in~~
258 ~~whole or in part, on:~~
259 ~~1. The absence of, or an insufficient, credit history, in~~
260 ~~which instance the insurer shall:~~
261 ~~a. Treat the consumer as otherwise approved by the Office~~
262 ~~of Insurance Regulation if the insurer presents information that~~
263 ~~such an absence or inability is related to the risk for the~~
264 ~~insurer;~~
265 ~~b. Treat the consumer as if the applicant or insured had~~
266 ~~neutral credit information, as defined by the insurer;~~
267 ~~c. Exclude the use of credit information as a factor and~~
268 ~~use only other underwriting criteria;~~
269 ~~2. Collection accounts with a medical industry code, if so~~
270 ~~identified on the consumer's credit report;~~
271 ~~3. Place of residence; or~~
272 ~~4. Any other circumstance that the Financial Services~~
273 ~~Commission determines, by rule, lacks sufficient statistical~~

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274 ~~correlation and actuarial justification as a predictor of~~
275 ~~insurance risk.~~
276 ~~(d) An insurer may use the number of credit inquiries~~
277 ~~requested or made regarding the applicant or insured except for:~~
278 ~~1. Credit inquiries not initiated by the consumer or~~
279 ~~inquiries requested by the consumer for his or her own credit~~
280 ~~information.~~
281 ~~2. Inquiries relating to insurance coverage, if so~~
282 ~~identified on a consumer's credit report.~~
283 ~~3. Collection accounts with a medical industry code, if so~~
284 ~~identified on the consumer's credit report.~~
285 ~~4. Multiple lender inquiries, if coded by the consumer~~
286 ~~reporting agency on the consumer's credit report as being from~~
287 ~~the home mortgage industry and made within 30 days of one~~
288 ~~another, unless only one inquiry is considered.~~
289 ~~5. Multiple lender inquiries, if coded by the consumer~~
290 ~~reporting agency on the consumer's credit report as being from~~
291 ~~the automobile lending industry and made within 30 days of one~~
292 ~~another, unless only one inquiry is considered.~~
293 ~~(e) An insurer must, upon the request of an applicant or~~
294 ~~insured, provide a means of appeal for an applicant or insured~~
295 ~~whose credit report or credit score is unduly influenced by a~~
296 ~~dissolution of marriage, the death of a spouse, or temporary~~
297 ~~loss of employment. The insurer must complete its review within~~
298 ~~10 business days after the request by the applicant or insured~~
299 ~~and receipt of reasonable documentation requested by the~~
300 ~~insurer, and, if the insurer determines that the credit report~~
301 ~~or credit score was unduly influenced by any of such factors,~~
302 ~~the insurer shall treat the applicant or insured as if the~~

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303 ~~applicant or insured had neutral credit information or shall~~
304 ~~exclude the credit information, as defined by the insurer,~~
305 ~~whichever is more favorable to the applicant or insured. An~~
306 ~~insurer shall not be considered out of compliance with its~~
307 ~~underwriting rules or rates or forms filed with the Office of~~
308 ~~Insurance Regulation or out of compliance with any other state~~
309 ~~law or rule as a result of granting any exceptions pursuant to~~
310 ~~this subsection.~~
311 ~~(5) A rate filing that uses credit reports or credit scores~~
312 ~~must comply with the requirements of s. 627.062 or s. 627.0651~~
313 ~~to ensure that rates are not excessive, inadequate, or unfairly~~
314 ~~discriminatory.~~
315 ~~(6) An insurer that requests or uses credit reports and~~
316 ~~credit scoring in its underwriting and rating methods shall~~
317 ~~maintain and adhere to established written procedures that~~
318 ~~reflect the restrictions set forth in the federal Fair Credit~~
319 ~~Reporting Act, this section, and all rules related thereto.~~
320 ~~(7)(a) An insurer shall establish procedures to review the~~
321 ~~credit history of an insured who was adversely affected by the~~
322 ~~use of the insured's credit history at the initial rating of the~~
323 ~~policy, or at a subsequent renewal thereof. This review must be~~
324 ~~performed at a minimum of once every 2 years or at the request~~
325 ~~of the insured, whichever is sooner, and the insurer shall~~
326 ~~adjust the premium of the insured to reflect any improvement in~~
327 ~~the credit history. The procedures must provide that, with~~
328 ~~respect to existing policyholders, the review of a credit report~~
329 ~~will not be used by the insurer to cancel, refuse to renew, or~~
330 ~~require a change in the method of payment or payment plan.~~
331 ~~(b) However, as an alternative to the requirements of~~

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332 ~~paragraph (a), an insurer that used a credit report or credit~~
333 ~~score for an insured upon inception of a policy, who will not~~
334 ~~use a credit report or score for reunderwriting, shall~~
335 ~~reevaluate the insured within the first 3 years after inception,~~
336 ~~based on other allowable underwriting or rating factors,~~
337 ~~excluding credit information if the insurer does not increase~~
338 ~~the rates or premium charged to the insured based on the~~
339 ~~exclusion of credit reports or credit scores.~~
340 (3) ~~(8)~~ The commission may adopt rules to administer this
341 section. ~~The rules may include, but need not be limited to:~~
342 ~~(a) Information that must be included in filings to~~
343 ~~demonstrate compliance with subsection (3).~~
344 ~~(b) Statistical detail that insurers using credit reports~~
345 ~~or scores under subsection (5) must retain and report annually~~
346 ~~to the Office of Insurance Regulation.~~
347 ~~(c) Standards that ensure that rates or premiums associated~~
348 ~~with the use of a credit report or score are not unfairly~~
349 ~~discriminatory, based upon race, color, religion, marital~~
350 ~~status, age, gender, income, national origin, or place of~~
351 ~~residence.~~
352 ~~(d) Standards for review of models, methods, programs, or~~
353 ~~any other process by which to grade or rank credit report data~~
354 ~~and which may produce credit scores in order to ensure that the~~
355 ~~insurer demonstrates that such grading, ranking, or scoring is~~
356 ~~valid in predicting insurance risk of an applicant or insured.~~
357
358 ========== T I T L E A M E N D M E N T ==========
359 And the title is amended as follows:
360 Delete line 101

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361 and insert:
362 situations; amending s. 626.9541, F.S.; prohibiting an
363 insurer using a rate, rating schedule, rating manual,
364 or an underwriting rule that is not contained in a
365 rating manual and is determined in whole or in part on
366 the basis of a credit report or credit score of an
367 insured; including the refusal to insure or continue
368 to insure any individual or risk because of the
369 insured's or applicant's credit report or credit score
370 among the list of activities constituting unfair
371 methods of competition and unfair or deceptive acts;
372 amending s. 626.9741, F.S.; prohibiting the use by
373 insurers of credit reports and credit scores in making
374 rating determinations; deleting provisions limiting
375 and regulating the use of credit scores by insurers
376 when making rating determinations; deleting the
377 definition of “adverse decision” and “tier”; providing
378 an effective date.

The Florida Senate

Committee Agenda Request

RECEIVED
SEP 22 2011
COMMERCE

To: Senator Nancy C. Detert, Chair
Committee on Commerce and Tourism

Subject: Committee Agenda Request

Date: September 8, 2011

I respectfully request that **Senate Bill #102**, relating to Employment Practices, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Gary Siplin
Florida Senate, District 19

posted 9/22/11
psb

File signed original with committee office

S-020 (03/2004)

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 Commerce and Tourism Committee

BILL: SB 806

INTRODUCER: Senator Dean

SUBJECT: Enterprise Zones/Citrus County

DATE: January 18, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Tell	Hrdlicka	CM	**Favorable**
2.			CA	
3.			BC	
4.				
5.				
6.				

I. Summary:

Florida has 62 enterprise zones, which are designed to encourage economic development and restoration in blighted or economically depressed communities. A combination of state and local business incentives is intended to encourage economic activity in these zones.

SB 806 creates an opportunity for Citrus County to apply for and receive an enterprise zone designation. Citrus County officials are considering locating the proposed enterprise zone in the Inverness Airport Business Park. The Inverness Airport Business Park is located adjacent to the Inverness Airport on 88 acres of county-owned land.

Citrus County is directed to file its enterprise zone application to the Department of Economic Opportunity (DEO) by December 31, 2012. The application must comply with the nominating procedure in s. 290.0055, F.S. DEO has the discretion to designate an enterprise zone for Citrus County, and if that happens, must establish the enterprise zone's effective date.

SB 806 creates s. 290.00729, F.S.

II. Present Situation:

Enterprise zones in Florida

The Florida Enterprise Zone Program was created in 1982 to encourage economic development in economically distressed areas of the state by providing incentives and inducing private investment. Currently, Florida has 62 enterprise zones.[1]

The Department of Economic Opportunity (DEO) reported that 7,559 new businesses moved into or were created in state enterprise zones between October 1, 2009, and September 30, 2010 – more than double the number the previous fiscal year.[2] However, fewer jobs were created – 6,784 last fiscal year, compared to 9,073 in the prior period.[3] More than $67 million in state and nearly $20 million in local-government financial incentives were approved during FY 09-10, $30 million more than in the prior period.[4]

Over the last 5 years (FY 05-06 through FY 09-10), some 21,682 new businesses have moved into or were created in enterprise zones and 49,403 new jobs have been created.[5]

Designation process

Sections 290.001-290.016, F.S., authorize the creation of enterprise zones and establish criteria and goals for the program. Prior to submitting an application for an enterprise zone, a local government body must determine that an area: [6]

- Has chronic extreme and unacceptable levels of poverty, unemployment, physical deterioration, and economic disinvestment;
- Needs rehabilitation or redevelopment for the public health, safety, and welfare of the residents in the county or municipality; and
- Can be revitalized through the inducement of the private sector.

DEO is responsible for approving applications for enterprise zones, and also approves changes in enterprise zone boundaries when authorized by the Florida Legislature. As part of the application process for an enterprise zone, the county or municipality in which the designation will be located also is responsible for creating an Enterprise Zone Development Agency and an enterprise zone development plan.

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[1] Ch. 2011-76, L.O.F., created the potential for three additional enterprise zones: in Martin County, in the City of Palm Bay, and in Lake County. DEO has since approved each community's application. These new enterprise zones became effective on January 1, 2012.

[2] Enterprise Florida, Inc., *Florida Enterprise Zone Program Annual Report, October 1, 2009 - September 30, 2010,*1 (Mar. 1, 2011), *available at* http://floridaenterprisezones.com/Zones/Org1/uploads/2011EZAnnualReport.pdf (last visited Jan. 17, 2012).

[3] Id.

[4] Id.

[5] Information compiled by committee staff from the Enterprise Florida's previous enterprise zone annual reports.

[6] Section 290.0055, F.S.

As outlined in s. 290.0056, F.S., an Enterprise Zone Development Agency is required to have a board of commissioners of at least eight, and no more than 13, members. The agency has the following powers and responsibilities:

- Assisting in the development, implementation, and annual review of the zone and updating the strategic plan or measurable goals;
- Identifying to the local government the financial needs of, and local resources or assistance available to, eligible businesses in the zone;
- Identifying ways to remove regulatory burdens;
- Promoting the incentives to residents and businesses;
- Recommending boundary changes;
- Working with nonprofit development organizations; and
- Ensuring the enterprise zone coordinator receives annual training and works with Enterprise Florida, Inc.

Pursuant to s. 290.0057, F.S., an enterprise zone development plan (or strategic plan) must accompany an application. At a minimum this plan must:

- Describe the community's goal in revitalizing the area;
- Describe how the community's social and human resources, transportation, housing, community development, public safety, and education and environmental concerns will be addressed in a coordinated fashion;
- Identify key community goals and barriers;
- Outline how the community is a full partner in the process of developing and implementing this plan;
- Describe the commitment from the local governing body in enacting and maintaining local fiscal and regulatory incentives;
- Identify the amount of local and private resources available and the private/public partnerships;
- Indicate how local, state, and federal resources will all be utilized;
- Identify funding requested under any state or federal program to support the proposed development; and
- Identify baselines, methods, and benchmarks for measuring success of the plan.

Available incentives

Florida's enterprise zones qualify for various incentives from corporate income tax and sales and use tax liabilities.[7] As noted above, DEO reported that $67.6 million in state incentives were approved by the Department of Revenue (DOR), between October 1, 2009, and September 30, 2010, for all state enterprise zones. During that same time period, $19.9 million in incentives were provided by local governing bodies, half of the FY 07-08 total. Examples of local incentives include: utility tax abatement, reduction of occupational license fees, reduced building permit fees or land development fees, and local funds for capital projects.[8]

[7] Section 290.007, F.S.
[8] Enterprise Florida, Inc., *supra*, note 2 at 3.

Available state sales tax incentives for enterprise zones include:

- Building Materials Used in the Rehabilitation of Real Property Located in an Enterprise Zone: Provides a refund for sales taxes paid on the purchase of certain building materials, up to $5,000 or 97 percent of the tax paid.[9]
- Business Equipment Used in Enterprise Zones: Provides a refund for sales taxes paid on the purchase of certain equipment, up to $5,000 or 97 percent of the tax paid.[10]
- Rural Enterprise Zone Jobs Credit against Sales Tax: Provides a sales and use tax credit for 30 or 45 percent of wages paid to new employees who live within a rural county.[11]
- Urban Enterprise Zone Jobs Credit against Sales Tax: Provides a sales and use tax credit for 20 or 30 percent of wages paid to new employees who live within the enterprise zone.[12]
- Business Property Used in an Enterprise Zone: Provides a refund for sales taxes paid on the purchase of certain business property, up to $5,000 or 97 percent of the tax paid per parcel of property, which is used exclusively in an enterprise zone for at least 3 years.[13]
- Community Contribution Tax Credit: Provides 50 percent sales tax refund for donations made to local community development projects.[14]
- Electrical Energy Used in an Enterprise Zone: Provides 50 percent sales tax exemption to qualified businesses located within an enterprise zone on the purchase of electrical energy.[15]

Available state corporate income tax incentives for enterprise zones include:

- Rural Enterprise Zone Jobs Credit against Corporate Income Tax: Provides a corporate income tax credit for 30 or 45 percent of wages paid to new employees who live within a rural county.[16]
- Urban Enterprise Zone Jobs Credit against Corporate Income Tax: Provides a corporate income tax credit for 20 or 30 percent of wages paid to new employees who live within the enterprise zone.[17]
- Enterprise Zone Property Tax Credit: Provides a credit against Florida corporate income tax equal to 96 percent of ad valorem taxes paid on the new or improved property.[18]
- Community Contribution Tax Credit: Provides a 50-percent credit on Florida corporate income tax or insurance premium tax, or a sales tax refund, for donations made to local community development projects.[19]

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[9] Section 9 of ch. 2010-147, L.O.F., removed the eligibility of condominium parcels or property, as defined in s. 718.103, F.S., for the sales tax exemption for building materials, pursuant to s. 212.08(5)(g), F.S.
[10] Section 212.08(5)(h), F.S.
[11] Section 212.096, F.S.
[12] Id.
[13] *Supra*, note 10.
[14] Section 212.08(5)(p), F.S.
[15] Section 212.08(15), F.S.
[16] Section 220.181, F.S.
[17] Id.
[18] Section 220.182, F.S.
[19] *See* ss. 220.183 and 624.5105, F.S.

5-Year Summary of State Incentives offered in the Enterprise Zone Program[20]

CATEGORY	FY 09-10	FY 08-09	FY 07-08	FY 06-07	FY 05-06
Jobs Tax Credit (SUT)	$5,683,252	$5,227,245	$5,732,605	$6,087,843	$6,777,250
Jobs Tax Credit (CIT)	$4,348,031	$5,072,555	$5,507,311	$5,919,236	$4,253,621
Property Tax Credit (CIT)	$1,384,668	$1, 910,708	$2,184,036	$2,291,961	$1,267,999
Building Materials (SUT Refund)	$54,012,915	$30,994,860	$25,665,025	$18,855,129	$7,415,711
Business Equipment (SUT Refund)	$1,035,562	$1,139,066	$1,269,955	$1,771,396	$2,940,864
Electrical Energy (SUT exempt)	$1,138,054	$1,007,007	$606	$793,179	$778,090
Total Value of State Incentives	$67,602,482	$45,351,441	$40,359,538	$35,718,744	$23,433,535
# of EZs	59	56	56	56	55

The total state incentives awarded over the last 5 years is $212.5 million. Of that amount, nearly $137 million, about 64 percent, has been in the form of refunds of sales and use tax on building materials used in enterprise zones.

Program evaluations

In the 29 years since enacted by the Legislature, the Florida Enterprise Zone Program has undergone numerous changes, many of them the result of two "sunset reviews" of the overall program, in 1994 and in 2005. A number of Senate and House interim project reports and program evaluations by the Office of Program Policy Analysis and Government Accountability (OPPAGA) and the Florida Auditor General have been written on the program.

The most recent program evaluation was prepared by OPPAGA last fall and published in January 2011.[21] Among OPPAGA's findings were:

- The most-used incentive, over the last 5 years, has been the sales and use tax refund on building materials because of claims from condominium developers.
- Applicants in 10 enterprise zones received 84 percent of the incentives, with applicants in Miami-Dade's enterprise zone receiving 55 percent of the total amount.
- Based on OPPAGA's review of the incentive applications over the last 5 years, there is a low participation rate among eligible businesses for the incentives. For example, only 402 businesses have taken advantage of the jobs tax credits, and they hired a total of 8,086 employees who lived within the zones.

[20] *Supra*, note 2 at 3.

[21] Office of Program Policy Analysis and Gov't Accountability, Florida Legislature, *Few Businesses Take Advantage of Enterprise Zone Benefits; the Legislature Could Consider Several Options to Modify the Program*, Report No. 11-01, (Jan. 1, 2011), *available at* http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1101rpt.pdf (last visited Jan. 17, 2012).

- DOR does not have consistent procedures for reviewing, validating, processing, and reporting the different tax credit and tax refund incentives. OPPAGA concluded that these inconsistencies may frustrate eligible businesses interested in applying for the incentives, prevents local zone coordinators and DEO from obtaining the most accurate information about program incentives taken, and makes it more difficult for OPPAGA and the Legislature to fully evaluate the incentives.

Citrus County's enterprise zone proposal[22]
Citrus County officials are pursuing an enterprise zone designation for up to 88 acres in the Inverness Airport Business Park area. This area is envisioned to include light manufacturing facilities, aviation-related businesses, and environmental firms. Citrus County has recently taken several steps to attract new and expanding businesses. Among those are:

- Expanding the Inverness Airport runway to 5,000 ft. to accommodate a wide array of aircraft;
- New road construction;
- Re-engineering to enhance water and sewer systems; and
- Improving hanger and office space to attract new businesses.

Citrus County officials believe that designation of this area as an enterprise zone will help in its ability to attract new and expanding businesses.

III. Effect of Proposed Changes:

Section 1 creates s. 290.00729, F.S., to allow Citrus County to seek designation of an enterprise zone, within its boundary. Citrus County has until December 31, 2012, to file its application with DEO. The application must meet the requirements of s. 290.0055, F.S., which establishes some of the criteria and details the process by which a local government seeks an enterprise zone designation. While not addressed in this bill, the Citrus County enterprise zone would be limited to an area of up to 20 square miles, as mandated by s. 290.0055, F.S.

The section also specifies that notwithstanding s. 290.0065, F.S., limiting the number of enterprise zones in Florida, DEO may designate one enterprise zone for Citrus County. DEO also is directed to set the initial effective date for the new enterprise zone.

Section 2 provides that this act shall take effect July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

[22] Information provided by John Siefert, Executive Director for the Citrus County Economic Development Council, in a Jan. 17, 2012, e-mail on file with the Senate Committee on Commerce and Tourism.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference met on November 3, 2011, and determined that the passage of SB 806 would result in:

- A recurring negative fiscal impact of $100,000 to general revenue sales tax collections;
- A recurring insignificant negative fiscal impact to general revenue corporate income tax collections;
- A recurring insignificant negative fiscal impact to state trust funds; and
- A recurring insignificant negative fiscal impact to local governments.[23]

B. Private Sector Impact:

Indeterminate. However, the positive economic impact could be significant to the businesses that locate or already are within the enterprise zone, because of their potential tax savings. Job-seekers also could benefit from employment opportunities afforded them by businesses within the new zone. Finally, consumers could benefit because of the greater diversity of businesses and entertainment options within the enterprise zone.

C. Government Sector Impact:

Indeterminate, but likely minimal. Other than the initial review of Citrus County's application and decision whether to approve or reject it, the workload on DEO staff likely will be insignificant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

[23] Office of Economic and Demographic Research, The Florida Legislature, *Revenue Estimating Conference for 2012 Regular Session – Enterprise Zone – Citrus County, HB 371/SB 806* (Nov. 3, 2011), *available at* http://edr.state.fl.us/content/conferences/revenueimpact/archives/2012/pdf/page48-50.pdf (last visited Jan. 17, 2012).

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Environmental Preservation and Conservation, *Chair*
Criminal Justice, *Vice Chair*
Budget - Subcommittee on Transportation, Tourism, and Economic Development Appropriations
Governmental Oversight and Accountability
Reapportionment
Regulated Industries

SENATOR CHARLES S. DEAN, SR.
3rd District

December 6, 2011

RECEIVED
DEC 06 2011
COMMERCE

The Honorable Nancy Detert
318 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Detert:

I respectfully request you place Senate Bill 806, relating to Enterprise Zones, on your Commerce and Tourism Committee agenda at your earliest convenience.

If you have any concerns, please do not hesitate to contact me personally.

Sincerely,

Charles S. Dean
State Senator District 3

cc: Jennifer Hrdlicka, Staff Director

posted 12/6/11
psb

REPLY TO:
❒ 405 Tompkins Street, Inverness, Florida 34450 (352) 860-5175
❒ Post Office Box 2558, Ocala, Florida 34478-2558 (352) 873-6513
❒ 302 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5017

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Environmental Preservation and Conservation, *Chair*
Criminal Justice, *Vice Chair*
Budget - Subcommittee on Transportation, Tourism, and Economic Development Appropriations
Governmental Oversight and Accountability
Reapportionment
Regulated Industries

RECEIVED
JAN 18 2012
COMMERCE

SENATOR CHARLES S. DEAN, SR.
3rd District

January 18, 2012

The Honorable Nancy Detert
318 Senate Office Building
404 South Monroe St.
Tallahassee, FL 32399-1100

Dear Senator Detert:

Thank you for allowing Senate Bill 806, relating to Enterprise Zones, to be placed on your agenda. Unfortunately, I will be unable to attend the Committee meeting and would like to request your permission to allow my aide, Nic Abrahams, to present this bill in my place.

Please do not hesitate to contact me if you have any questions.

Sincerely,

Charles S. Dean
State Senator, Dist.3

REPLY TO:
❒ 405 Tompkins Street, Inverness, Florida 34450 (352) 860-5175
❒ Post Office Box 2558, Ocala, Florida 34478-2558 (352) 873-6513
❒ 302 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5017

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

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 Commerce and Tourism Committee

BILL: CS/CS/SB 268

INTRODUCER: Commerce and Tourism Committee, Transportation Committee, and Senator Wise

SUBJECT: Sponsorship of State Greenways and Trails

DATE: January 19, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Eichin	Buford	TR	**Fav/CS**
2.	Juliachs	Hrdlicka	CM	**Fav/CS**
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	x	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

CS/CS/SB 268 creates the "John Anthony Wilson Bicycle Safety Act of 2011," which authorizes the Department of Environmental Protection to enter into agreements with not-for-profit or private-sector entities allowing those entities to sponsor signage on state-owned greenway and trail facilities in the form of naming rights and commercial displays.

The CS contains restrictions on placement, size, term, materials, and construction. It also describes how proceeds from the agreements are to be distributed: 85 percent to the appropriate department trust fund to manage and operate state trails and greenways, and 15 percent to the State Transportation Trust Fund for use in the Florida Traffic and Bicycle Safety Education program and the Florida Safe Routes to School program.

Furthermore, the Department of Environmental Protection is authorized to adopt rules to implement the CS' provisions.

This CS creates s. 260.014, F.S.

II. Present Situation:

Florida Greenways and Trails

The 1979 Legislature enacted ch. 79-110, L.O.F., entitled the Florida Recreational Trails Act (act) of 1979. The purpose of the act was to provide for a network of recreational and scenic trails to be used for hiking, biking, horseback riding, canoeing, and jogging, which were to be designated as the "Florida Recreational Trails System." The Department of Environmental Protection (department) was encouraged to use areas within and connecting state parks and forests, national parks and forests, local parks, public rights-of-way, and existing trails.

In 1983, the Florida Trail was designated as the Florida National Scenic Trail. Today, it is a 1,500 mile-long trail, including both National Scenic Trail certified and non-certified miles, which stretches from the Panhandle of Florida to the Big Cypress National Preserve.[1] Portions of the trail are components of the Florida Greenways and Trails program, the successor to the Recreational Trails System.

In 1987, the Florida Rails-to-Trails program was created to provide an emphasis on the acquisition and development of abandoned railroad corridors for use as public recreational trails, as well as to contribute to the preservation of wildlife habitat. Many railroad lines run along river corridors and coastal plains, areas with the most scenic views and productive habitat. Until 1990, the program depended on annual legislative appropriations, but the creation of the Preservation 2000 (P2000) program changed that. The P2000 program was created as a 10-year, $3 billion bond program to acquire environmentally sensitive lands for conservation, protection, restoration and preservation purposes. The Rails-to-Trails program was provided with $3.9 million a year in funding under P2000 through 1996.

In 1996, the Florida Legislature enacted ch. 96-389, L.O.F., which renamed the Recreational Trails System Act as the "Florida Greenways and Trails Act," and provided for a statewide system of greenways and trails for recreational and conservation purposes and uses. Greenways were defined to be "linear open spaces established along either a natural corridor, such as a riverfront, stream valley, or ridgeline, or over land along a railroad right-of-way converted to recreational use..." and trails were defined to mean "linear corridors and any adjacent support parcels on land or water providing public access for recreation or authorized alternative modes of transportation." P2000 funding for Rails-to-Trails was extended through 2000 and was succeeded by funding from the Florida Forever program, as well as other state and federal funding programs.

In 2005, the Florida Legislature enacted ch. 2005-87, L.O.F., to recognize the Florida National Scenic Trail (trail) as Florida's official statewide non-motorized trail from the Florida Panhandle to the Everglades and the Florida Keys. It further recognized the federal government's major contributions and the efforts of private landowners, state government and non-profit entities in establishing the trail. Private landowners were encouraged to continue to allow the use of private property for trail purposes, through incentives and liability protection.

[1]Florida Trail Association, Hike Florida on Florida's Own National Scenic Trail, available at *http://www.floridatrail.org* (last visited January 13, 2012).

Presently, s. 260.016, F.S., sets forth general powers that the department may use in managing and overseeing the Florida Greenways and Trails System. These powers include charging user fees or rentals.

The Office of Greenways & Trails (OGT)

OGT provides statewide coordination to establish, expand, and promote Florida's Statewide System of Greenways and Trails. The office manages trails and other lands as key components of the Florida greenways and trails system, and partners with nearly 30 communities that manage state acquired greenways and trails through sublease agreements. It also manages a multi-million dollar capital budget consisting of federal Transportation Enhancement grants and fixed capital funds for the development of trails and facilities on state managed properties.[2]

Additionally, OGT coordinates with, and provides assistance to, local governments, developers, state and federal agencies, private landowners, and other interested citizens or advocates regarding the acquisition, designation, establishment, and management of greenways and trails projects. OGT works to expand the statewide network through a 1.5-percent annual allocation of Florida Forever funding, about $4.5 million annually, for acquisition of trails. OGT administers the Recreational Trails Program (RTP), a federally funded competitive grant program providing financial assistance to local communities for the development of trails. Since inception, RTP has assisted communities in 42 Florida counties to establish and expand trails.

Florida's state trails and the Cross Florida Greenway had the highest annual visitation ever in 2009 with more than 4 million visitors, generating an estimated economic impact of $95 million.[3]

Florida Trail Association

The Florida Trail Association is a private, non-profit volunteer organization founded in 1966, whose mission is to develop, maintain, promote, and protect a continuous hiking trail that runs the length of the state, as well as the loop and side trails throughout the state.[4]

Outdoor Advertising

With respect to outdoor advertising, ss. 337.407 and 479.11(8), F.S., prohibit advertisement signs from being placed in the right-of-way of any road on the interstate highway system, the federal-aid primary highway system, the State Highway System, or the State Park Road System. Based on these provisions, it appears that greenways and trails are excluded from such regulations, unless otherwise provided.

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[2]Greenways and Trails, Florida Department of Environmental Protection, available at *http://www.dep.state.fl.us/gwt* (last visited January 13, 2012).
[3] See http://www.dep.state.fl.us/gwt/PDF/OfficeOverview.pdf (last visited January 13, 2012).
[4]Florida Trail Association, Hike Florida on Florida's Own National Scenic Trail, available at *http://www.floridatrail.org* (last visited January 13, 2012).

III. Effect of Proposed Changes:

Section 1 names this legislation as the "John Anthony Wilson Bicycle Safety Act." Mr. Wilson[5] was a veteran firefighter for the city of Boca Raton and a cycling enthusiast who was struck and killed by a motor vehicle in February of 2011 while riding his bike.

Section 2 creates s. 260.0144, F.S., to authorize the department to enter into concession agreements[6] for naming rights or the display of commercial sponsorship on certain state-owned greenway and trail facilities or property. Specifically, the CS provides the following:

- Authorizes the department to establish a cost for entering into a concession agreement.
- Placement of signage or displays shall conform to the provisions of s. 337.407, F.S., and ch. 479, F.S., and shall be limited to only trailheads, trail intersections, directional or distance markers, interpretive exhibits, and parking areas.
- The size of the signage or display is limited to 16 square feet at trailheads and parking areas and 4 square feet at all other areas.
- The naming rights and commercial displays contemplated by the concession agreements are for public relations or advertising purposes for the concessionaires, and as such, are not to be construed as having any relationship with the department other than as set forth in the terms of the concession agreements.
- A concession agreement must be for a minimum 1-year term unless extended by a multiyear agreement and may be terminated by the department for just cause with 60 days notice to the concessionaire. Just cause for termination shall include, but not be limited to, violation of the terms of the concession agreement or any provision found within this section.
- Any name or display must be approved by the department before installation.
- Materials and construction for signage must meet specified standards, which are to be established by the department.
- All costs associated with the signage, including its development, construction, installation, operation, maintenance, and removal, must be borne by the concessionaire.
- A concession agreement is not to be construed to grant a proprietary or compensable interest in any sign or display site or location.
- All proceeds from the concession agreements are to be distributed as follows:
    - 85 percent to the appropriate department trust fund used for the management and operation of state greenway or trail facilities and properties; and
    - 15 percent to the State Transportation Trust Fund for use in the Florida Traffic and Bicycle Safety Education program and the Florida Safe Routes to School program.
- The department is authorized to adopt rules to administer the act.

Section 3 provides an effective date of July 1, 2012.

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[5] More information about the life of Mr. Wilson is available at *http://www.ci.boca-raton.fl.us/fire/pdf/PressReleases/2011/wilson.pdf* and at *http://www.palmbeachpost.com/news/hundreds-from-across-florida-gather-to-mourn-boca-1247122.html* (last visited January 13, 2012).

[6] A concession agreement grants a specific privilege by the government to the other party in the agreement. *See* Black's Law Dictionary (9th ed. 2009).

IV. Constitutional Issues:

a. Municipality/County Mandates Restrictions:

None.

b. Public Records/Open Meetings Issues:

None.

c. Trust Funds Restrictions:

None.

d. Other Constitutional Issues:

A strict separation of powers doctrine is found in Article II, Section 3 of the Florida Constitution. Accordingly, two tenets encompassing separation of powers are that no branch of government may encroach on another branch's power and that no branch may delegate its constitutionally assigned powers to another branch.[7] For these reasons, the doctrine of separation of powers is inextricably linked to agency operations and may potentially raise constitutional issues when dealing with statutes that authorize agency action.

Therefore, "the Legislature may not delegate the power to enact a law or the right to exercise unrestricted discretion in applying the law, but is required to delineate "some minimal standards and guidelines" when authorizing agency actions.[8] The rationale for this limitation is guided by the belief that "fundamental and primary policy decisions … [should] be made by members of the Legislature who are elected to perform those tasks …"[9] As amended, the agency action authorized by the Legislature in CS/CS/SB 268 will likely satisfy constitutional requirements.

V. Fiscal Impact Statement:

a. Tax/Fee Issues:

At this time, the Revenue Estimating Conference has not considered this CS. As such, the amount of revenue that might be realized due to this CS cannot be determined.

b. Private Sector Impact:

Indeterminate.

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[7] *Fla. Dept. of State v. Martin*, 916 So. 2d 763, 770 (Fla. 2005).
[8] *Sloban v. Fla. Bd. of Pharmacy*, 982 So. 2d 26, 29 (Fla. 1st DCA 2008) (quoting *Chiles v. Children A, B, C, D, E, & F*, 589 So. 2d 260, 264 (Fla. 1991).
[9] *Martin*, 916 So. 2d at 770.

c. Government Sector Impact:

Indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues

None.

VIII. 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 on January 19, 2012- The CS:

- Authorized the department to establish a cost for entering into a concession agreement.
- Removed the term "as appropriate" from language that authorizes the department to approve each name and sponsorship display prior to installation.
- Qualified "just cause" by specifying that it shall include, but not be limited to, violation of the terms of the concession agreement or any provision found within this section.
- Made stylistic changes with respect to organization.

CS by Transportation on December 7, 2011 – The CS:

- Changed the word "advertising" to the word "sponsorship" throughout the bill.
- Added mandated compliance with s. 337.407, F.S, and Ch. 479, F.S.
- Added a sixty day notice period should the department choose to end a concession agreement for just cause.
- Added paragraph (5) which clarifies that concession agreements under this section do not create proprietary or compensable interests in any sign or display site or location.
- Changed the allocation of revenue from this section from 90 percent to 85 percent allocated to the appropriate department trust fund; and from10 percent allocated to district school boards which must be used to enhance funds for the school district's bicycle education program or Safe Route to Schools Program, prorated by population, to 15 percent allocated to the State Transportation Trust Fund for use in Florida Traffic and Bicycle Safety Education program and the Florida Safe Routes to School program.

b. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
01/19/2012	.	
	.	
	.	
	.	

The Committee on Commerce and Tourism (Lynn) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. This act may be cited as the "John Anthony Wilson Bicycle Safety Act."

Section 2. Section 260.0144, Florida Statutes, is created to read:

260.0144 Sponsorship of state greenways and trails.—The department may enter into a concession agreement with a not-for-profit entity or private sector business or entity for naming rights of state greenway and trail facilities or property or for

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13 commercial sponsorship to be displayed on state greenway and
14 trail facilities or property. The department is authorized to
15 establish the cost for entering into a concession agreement.
16 (1) A concession agreement under this section shall be
17 administered by the department and must include the requirements
18 found in this section.
19 (2)(a) Naming rights or space for a commercial sponsorship
20 display may be provided through a concession agreement on
21 certain state-owned greenway or trail facilities or property.
22 (b) Signage or displays erected under this section shall
23 comply with the provisions of s. 337.407 and chapter 479, and
24 shall be limited to trailheads, trail intersections, directional
25 or distance markers, interpretive exhibits, and parking areas.
26 (c) The size of any sign or display shall be limited as
27 follows:
28 1. A sign or display located at a trailhead or parking area
29 may not exceed 16 square feet.
30 2. All other signs or displays may not exceed 4 square
31 feet.
32 (d) Before installation, each name or sponsorship display
33 must be approved by the department.
34 (e) The department shall set materials and construction
35 standards for all signage displayed.
36 (f) All costs of a display, including its development,
37 construction, installation, operation, maintenance, and removal,
38 shall be paid by the concessionaire.
39 (3) A concession agreement under this section shall be for
40 a minimum of 1 year but may be for a longer period under a
41 multiyear agreement, and may be terminated for just cause by the

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42 department with 60 days' advance notice. Just cause for
43 termination of a concession agreement under this section shall
44 include, but is not limited to, violation of the terms of the
45 concession agreement or any provision found within this section.
46 (4) Naming rights of a facility and commercial sponsorship
47 pursuant to a concession agreement under this section are for
48 public relations or advertising purposes of the not-for-profit
49 entity or private sector business or entity, and shall not be
50 construed by that not-for-profit entity or private sector
51 business or entity as having a relationship to any other actions
52 of the department.
53 (5) This section does not create a proprietary or
54 compensable interest in any sign or display site or location.
55 (6) Proceeds from concession agreements under this section
56 shall be distributed as follows:
57 (a) Eighty-five percent shall be deposited into the
58 appropriate department trust fund that is the source of funding
59 for management and operation of state greenway and trail
60 facilities and properties.
61 (b) Fifteen percent shall be deposited into the State
62 Transportation Trust Fund for use in the Traffic and Bicycle
63 Safety Education Program and the Safe Paths to School Program
64 administered by the Department of Transportation.
65 (7) The department may adopt rules to administer this
66 section.
67 Section 3. This act shall take effect July 1, 2012.
68
69
70 ========== T I T L E A M E N D M E N T ==========

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71 And the title is amended as follows:
72 Delete everything before the enacting clause
73 and insert:
74 A bill to be entitled
75 An act relating to the sponsorship of state greenways
76 and trails; creating the "John Anthony Wilson Bicycle
77 Safety Act"; creating s. 260.0144, F.S.; providing for
78 the Department of Environmental Protection to enter
79 into concession agreements for naming rights of state
80 greenway and trail facilities or property or for
81 commercial advertising to be displayed on state
82 greenway and trail facilities or property; providing
83 for distribution of proceeds from such concession
84 agreements; providing an effective date.

The Florida Senate

Committee Agenda Request

RECEIVED
JAN 06 2012
COMMERCE

To: Senator Nancy C. Detert, Chair
Committee on Commerce and Tourism

Subject: Committee Agenda Request

Date: January 6, 2012

I respectfully request that **Senate Bill # 268**, relating to Sponsorship of State Greenways and Trails, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Stephen Wise

Senator Stephen R. Wise
Florida Senate, District 5

posted 1/9/12
psb

File signed original with committee office

S-020 (03/2004)

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 Commerce and Tourism Committee

BILL: SB 676

INTRODUCER: Senator Smith

SUBJECT: Workers' Compensation Certificate-of-Exemption Process

DATE: January 18, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rubio	Burgess	BI	**Favorable**
2.	Philo	Hrdlicka	CM	**Pre-meeting**
3.			BC	
4.				
5.				
6.				

I. Summary:

SB 676 amends laws related to the workers' compensation certificate of exemption process. This bill addresses three issues:

First, a full-time member of a non-construction limited liability company (LLC) is currently not an "employee" as defined by workers' compensation law. The bill allows such a person to elect to be included in the definition of "employee" by mailing a notice to that effect to the Department of Financial Services (DFS).

Second, corporate officers (both generally and specifically as to the construction industry) are defined as "employees" under current workers' compensation law, but may elect to be exempt from the law by mailing written notice of the election to DFS. Construction industry corporate officers making such an election must currently submit certain additional information and documentation. The bill streamlines the process by providing for electronic submission (as opposed to paper mailing), and alters the required information and documentation to facilitate such submission.

Third, the resulting certificates of election issued by DFS are currently valid for 2 years from issuance in the construction industry. The bill applies this 2-year limit to all certificates (not just to those issued in the construction industry) issued on or after January 1, 2013.

This bill substantially amends sections 440.02 and 440.05, F.S.

I. Present Situation:

Non-Construction LLCs

Under ch. 440, F.S., Florida employers are required to maintain workers' compensation coverage for "employees." Full-time sole proprietors or partners not engaged in the construction industry may include themselves in the definition of "employee" by mailing a notice of election (opt-in) as provided in section 440.05(2), F.S. If no notice is made, the sole proprietor or partner shall not be considered an employee and not eligible for workers' compensation benefits. Full-time members of a non-construction LLC are not currently afforded such an opt-in provision. The Florida Limited Liability Companies Act defines an LLC member as "any person who has been admitted to a limited liability company as a member in accordance with this chapter and has an economic interest in a limited liability company which may, but need not, be represented by a capital account or, in the case of a foreign limited liability company, has been admitted to a limited liability company as a member in accordance with the laws of the state or foreign country or other foreign jurisdiction under which the foreign limited liability company is organized."[1]

Corporate Officers

The term "employee" is further defined to include corporate officers.[2] A "corporate officer" is in turn defined as any person who fills a position provided for in the articles of incorporation filed with the Division of Corporations of the Department of State, or as permitted or required by ch. 607, F.S.[3] Specifically as to the construction industry, the term "corporate officer" includes a member owning at least 10 percent of an LLC created and approved under ch. 608, F.S. Corporate officers (both generally and specifically as to the construction industry) may elect to be exempt from workers' compensation law by mailing a written notice of the election to DFS on a form prescribed by the Department.[4]

That prescribed form (DWC-Form 250) in turn calls for, among other things, the corporate officer's name, social security number, federal tax identification number, all certified or registered licenses issued pursuant to ch. 489, F.S. held by the person seeking the exemption, the registration number of the corporation, and sworn notarization of the corporate officers signature. For construction corporate officers, the form further calls for a $50 filing fee and documentary proof of the required 10 percent ownership in the corporation.[5]

Upon receipt of the notice of exemption, DFS has 30 days to determine if the corporate officer is eligible for exemption. If the requirements are met, DFS will issue a Certificate of Election to be Exempt.[6] During FY 2010-2011, DFS issued 73,741 exemptions.[7]

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[1] Section 608.402(21), F.S.
[2] Section 440.02(15)(b), F.S.
[3] Section 440.02(9), F.S.
[4] *See* section 440.05(1), and (3), F.S.
[5] Section 440.05(8)(a), F.S.
[6] Section 44.05(5), F.S.
[7] DFS Staff Review, November 16, 2011, on file with the Senate Committee on Commerce and Tourism.

Expiration of Certificate

Construction certificates of election are valid for 2 years from issuance and, within 60 days prior to the expiration date of the certificate, DFS must send to the certificateholder both a notice of the expiration date and an application for renewal.[8]

II. Effect of Proposed Changes:

SB 676 amends laws related to the workers' compensation certificate of exemption process.

First, Section 1 amends section 440.02, F.S., to allow a member of a non-construction LLC who devotes full time to the LLC to elect to be included in the definition of employee for the purposes of workers' compensation. If no election is made, the member would not be considered an employee for premium calculation purposes and would not be eligible for workers' compensation benefits.

Second, Section 2 amends section 440.05, F.S., to require corporate officers in the construction industry to submit their notices of election electronically (as opposed to paper mailing). They will no longer be required to provide their social security number, a copy of relevant documentation as to employment status filed with the Internal Revenue Service as specified by DFS, a copy of the relevant occupational license in the primary jurisdiction of the business, or a copy of the stock certificate evidencing the required ownership; however, they will be newly required to provide their date of birth and Florida driver's license number or Florida identification card number. The notice will no longer need to be notarized under oath. These changes will presumably make the process easier, more efficient, and less expensive for all involved.[9]

Third, Section 3 amends section 440.05, F.S., to apply a 2-year limit to all certificates of election (not just to those issued in the construction industry) issued on or after January 1, 2013. The bill allows DFS to send its notice of the expiration date to the certificateholder via e-mail, and deletes the requirement that it simultaneously provide an application for renewal. This section is effective January 1, 2013.

Finally, Section 4 provides an effective date upon becoming law, except as otherwise provided.

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[8] Section 440.05(6), F.S.

[9] These changes were made in the subsection of the statute specifically addressing construction corporate officers (section 440.05(3), F.S.). The subsection of the statute addressing corporate officers (as opposed to construction corporate officers) remains unchanged and will continue to require that they "shall mail to the department in Tallahassee [their notice of intent] in accordance with a form prescribed by the department." Section 440.05(1), F.S. Significantly, the "form prescribed by the department" in this context is DWC-Form 250, which DFS uses for both corporate officers and construction corporate officers alike. Changes DFS will necessarily make to its form based on this bill will thus de facto apply to both. Moreover, the term "mail" in section 440.05(1), F.S., can be broadly construed to encompass the electronic submission contemplated in section 440.05(3), F.S. See generally Black's Law Dictionary (9th ed. 2009) (defining "mail" as, among other things, "[o]ne or more written or oral messages sent electronically (e.g., through e-mail or voicemail")). Thus, while a technical argument can be made otherwise, the changes at issue can be legitimately construed to apply to both corporate officers generally and construction corporate officers specifically.

III. Constitutional Issues:

a. Municipality/County Mandates Restrictions:

None.

b. Public Records/Open Meetings Issues:

None.

c. Trust Funds Restrictions:

None.

IV. Fiscal Impact Statement:

a. Tax/Fee Issues:

None.

b. Private Sector Impact:

Allowing members of full-time non-construction LLCs the choice on whether to elect to be included in the definition of employee for the purposes of workers' compensation will allow the LLCs to avoid the expense of workers' compensation coverage if they so choose.

The regulatory steps and cost of submitting notices is reduced for employers with the elimination of the notary requirement. DFS will continue to provide walk-in assistance in all district offices and will provide computers in its district offices for exemption applicants who may not have access to a computer.

c. Government Sector Impact:

DFS indicates allowing non-construction LLC's to elect to be considered employees will result in less governmental regulation of similarly situated LLCs and eliminate the time and resources DFS spends on administrative challenges to denials of non-construction certificates of exemption.

According to DFS, requiring an electronic application process for notices of election for exemption would eliminate the need for eight positions who review and process exemptions. This is a 23 percent reduction of exemption processing staff and a savings of $287,416 in salaries and $14,000 in benefits for a total of $301,816 for the FY 2012-2013 budget.[10]

[10] DFS Staff Review, November 16, 2011, on file with the Senate Committee on Commerce and Tourism.

V. Technical Deficiencies:

See footnote 9, supra.

VI. Related Issues:

None.

VII. Additional Information:

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

None.

b. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

The Florida Senate

Committee Agenda Request

To: Senator Nancy C. Detert, Chair
Committee on Commerce and Tourism

Subject: Committee Agenda Request

Date: January 11, 2012

I respectfully request that **Senate Bill #676**, relating to Workers' Compensation Certificate-of-exemption Process, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator Christopher L. "Chris" Smith
Florida Senate, District 29

File signed original with committee office

S-020 (03/2004)

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 Commerce and Tourism Committee

BILL: SB 678

INTRODUCER: Senator Smith

SUBJECT: State Contracts

DATE: January 12, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jenkins	Roberts	GO	**Favorable**
2.	Juliachs	Hrdlicka	CM	**Pre-meeting**
3.			BC	
4.				
5.				
6.				

I. Summary:

This bill adds the requirement that all state contracts exceeding $35,000 include a provision requiring any call-center services to be staffed by persons located within the United States.

This bill amends s. 287.058. F.S.

II. Present Situation:

Procurement laws govern the manner in which a government receives goods and services. In Florida, ch. 287, F.S., broadly, governs the public procurement of personal property and services. Of particular interest, s. 287.058, F.S., outlines the minimum requirements that must be present in public procurement contracts that exceed the amount of $35,000.[1]

Similarly, the federal government has its own body of law that regulates procurement activities. One of the most well known pieces of legislation regulating federal procurement is The Buy American Act (act), which restricts the federal government from purchasing nondomestic end products,[2] unless an enumerated exception provided in the statute is applicable.[3, 4]

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[1] Section, 287.017, F.S., sets forth purchasing categories by the threshold amount. Procurement contracts that exceed $35,000 are designated as a category two.

[2] "According to the Federal Acquisition Regulation (FAR), a domestic end product means an unmanufactured end product mined or produced in the United States, or an end product manufactured in the U.S. if the cost of its components that are mined, produced, or manufactured in the U.S. exceeds 50 percent of the cost of all its components." United States Government Accountability Office, *Federal Procurement: International Agreements Result in Waivers of Some U.S Restrictions* (January 2005), available at http://www.gao.gov/assets/250/245118.pdf (last visited January 13, 2012).

[3] 41 U.S.C. s. 10(a) (2006).

Notably, the expansion of international trade between the United States and foreign governments has also led to the proliferation of agreements that contain mutually beneficial government procurement obligations. In the spirit of promoting trade relations, governments have agreed to require that each party's goods and service be given the same treatment as domestic goods and services, irrespective of their foreign status.[5] As such, under these agreements, a government is prohibited from arbitrarily giving preferential treatment to domestic goods at the expense of foreign goods originating from a country where there is an enforceable and standing trade agreement espousing mutually beneficial government procurement obligations.

Historically, international trade agreements have been treated as congressional-executive agreements (CEA), which require the majority of both houses in Congress to be implemented,[6] as opposed to two-thirds vote of the Senate.[7] One explanation for the use of CEAs in the context of international trade agreements stems from the view that participation by the House of Representatives is appropriate in light of its constitutional role in revenue raising.[8] Moreover, congressional authorization has also been deemed necessary as trade agreements have become much more elaborate by regulating a broader spectrum of subjects ranging from subsidies, government procurement, and product standards.[9] As such, to avoid challenges that Congress was broadly delegating legislative authority to the executive branch to enter into such agreements, Congress enacted the Trade Act of 1974 and Trade Act of 2002, which provides the President with guidelines and authorization to engage in such trade negotiations.[10]

The most well-known examples of CEAs are the World Trade Organization Government Procurement Agreement (GPA), the North American Free Trade Agreement (NAFTA), and numerous other bilateral free trade agreements (FTA).[11]

World Trade Organization Government Procurement Agreement (GPA)

The agreement that established the World Trade Organization (WTO)[12] came as a result of the Uruguay Rounds of Multilateral Trade Negotiations, which also produced a series of other

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[4] *See supra*, note 2 (Exceptions include the following: "where the cost of the domestic end product would be unreasonable; where domestic end products are not reasonably available in sufficient commercial quantities of a satisfactory quality; where the agency head determines that a domestic preference would be inconsistent with the public interest; where the purchases are for use outside of the United States; where the purchases are less than the micro purchase threshold; and where the purchases are for commissary resale.").
[5] *Id.*
[6] The Congressional Research Service, *Why Certain Trade Agreements Are Approved as Congressional-Executive Agreements Rather than Treaties* (July 28, 2004), available at http://assets.opencrs.com/rpts/97-896_20040728.pdf (last visited January 13, 2012).
[7] *See* U.S. Const. art. 2, s. 2.
[8] Restatement Third of Foreign Relations Law s. 303, note 9 (1987).
[9] The Congressional Research Service, *Why Certain Trade Agreements Are Approved as Congressional-Executive Agreements Rather than Treaties* (July 28, 2004), available at http://assets.opencrs.com/rpts/97-896_20040728.pdf (last visited January 13, 2012).
[10] *Id.*
[11] A list of the federal government's current procurement obligations under international agreements is available at http://www.ustr.gov/trade-topics/government-procurement.
[12] In a letter dated November 7, 1991, Governor Lawton Chiles authorized coverage of Florida under the GATT/WTO Government Procurement Agreement. (See email correspondence with Jean Grier, Senior Procurement Negotiator in the

international agreements, including the GPA.[13] As enumerated in the preamble, the GPA's objective is the expansion of world trade through three primary measures:

- Prohibition on discrimination based on national origin;
- Establishment of clear, transparent laws, regulations, procedures, and practices regarding governmental procurement; and
- Application of competitive procedural requirements related to notification, tendering (bidding), contract award, tender (bid) protest, etc.[14]

With respect to discrimination on the basis of national origin, Article III of the agreement expressly forbids the application of less favorable treatment to the products, services and suppliers of other foreign parties than that which would be accorded to domestic products, services, and suppliers or the products, services, and suppliers of another party to the GPA.[15] Moreover, the agreement further provides that all parties will ensure that the laws, regulations, procedures, and practice regulating government procurement in their home state will be executed in a nondiscriminatory manner.[16]

Accordingly, procurement provisions stipulated in the Buy American Act will yield to nondiscriminatory provisions espoused in international trade agreements. The interplay between the act and international trade agreements is described below:

> [T]he Trade Agreements Act of 1979 authorizes the President to waive any otherwise applicable "law, regulation or procedure regarding Government procurement" that would accord foreign products less favorable treatment than that given to domestic products. Article 1004 of The North American Free Trade Agreement (between the United States, Mexico, and Canada) disallows domestic protection legislation, such as the Buy-American Act, in government procurement. Other treaties and agreements also place limitations on the application of the act and must be considered when looking at any Buy American question.[17, 18]

Office of the United States Trade Representative, on file with the Senate Committee on Governmental Oversight and Accountability).

[13] Signatory countries: Armenia, Canada, Austria Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxemburg, the Netherlands, Portugal, Spain, Sweden, the United Kingdom, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovak Republic, Slovenia, Bulgaria, Romania, Hong Kong, Iceland, Israel, Japan, Korea, Liechtenstein, the Netherlands with respect to Aruba, Norway, Singapore, Switzerland, and Chinese Taipei.

[14] 1994 Uruguay Round Agreement on Government Procurement, April 15, 1994, WTO Agreement, Annex 4(b) (hereinafter "GPA"), *and see* GPA Appendix I (United States), Annex 2 (discusses sub-central government entities, such as Florida), both available at http://www.wto.org/english/docs_e/legal_e/legal_e.htm (last visited January 16, 2012).

[15] *Id*.

[16] *Id*.

[17] Congressional Research Service, *The Buy American Act: Requiring Government Procurements to Come from Domestic Sources*, (March 13, 2009), available at http://assets.opencrs.com/rpts/97-765_20080829.pdf (last visited January 13, 2012).

[18] *See* 19 U.S.C. ss. 2511(a), 2531, 2532, and 2533 (2011); *see also* Exec. Order No. 12260, 48 C.F.R. 25.402, *reprinted as* 19 U.S.C. 2512(b)(2), available at http://www.presidency.ucsb.edu/ws/index.php?pid=44462#axzz1jXJhYUyX (last visited January 16, 2012).

As such, Florida's executive branch is covered under the GPA[19] for purchases that exceed $552,000 for commodities and services and $7,777,000 for construction services.[20] Florida was 1 of 37 states to agree to procure in accordance with the GPA.[21]

Free Trade Agreements

In addition to the GPA, the United States has also entered into several bilateral free trade agreements[22] and two multilateral free trade agreement,[23] with the most highly recognized being NAFTA. As with the GPA, all these agreements contain provisions that call for fair and non-discriminatory treatment of products, goods, and services by all state parties. When necessary, the United States has issued waivers to protect parties from discriminatory purchasing requirements found under existing law that would be contrary to the covenants embodied in such international agreements.[24]

III. Effect of Proposed Changes:

Section 1 amends s. 287.058, F.S., to require that state agency contracts in excess of $35,000 must include a provision specifying that all call center services provided by the contractor and all subcontractors must be staffed by persons located within the United States.

Section 2 provides that the bill takes effect July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None

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[19] *See* Annex 2 (Sub-Central Government Entities), *supra*, note 14.
[20] 76 F.R. 76808-01, Dec. 8, 2011.
[21] In a letter dated November 7, 1991, Governor Lawton Chiles authorized coverage of Florida under the GATT/WTO Government Procurement Agreement. (See email correspondence with Jean Grier, Senior Procurement Negotiator in the Office of the United States Trade Representative, on file with the Senate Committee on Governmental Oversight and Accountability).
[22] The United States has entered bilateral free trade agreements with the following countries: Australia, Bahrain, Canada, Chile, Israel, Morocco, Oman, Peru, and Singapore. This information is available at http://www.ustr.gov/trade-topics/government-procurement/ftas-government-procurement-obligations (last visited January 14, 2012).
[23] NAFTA (member countries: United States, Mexico, and Canada) and DR-CAFTA (El Salvador, Dominican Republic, Guatemala, Honduras, Nicaragua, and Costa Rica). This information is available at http://www.ustr.gov/trade-topics/government-procurement/ftas-government-procurement-obligations (last visited January 14, 2012).
[24] *See supra*, note 18.

D. Other Constitutional Issues:

The Foreign Commerce Clause and Market Participant Exception

That Commerce Clause found in Article I, Section 8, Clause 3 provides that Congress shall have the power "to regulate commerce with foreign Nations, and among the several States."[25] The Commerce Clause acts not only as a positive grant of power to Congress, but also as a negative constraint upon the states.[26] As such, states may not enact laws which improperly intrude upon the federal government's exclusive power to set foreign affairs policy for the nation as a whole.[27]

For this reason, courts review state action affecting foreign commerce with heightened scrutiny.[28] The U.S. Supreme Court has explained the applicable standard as follows: "It is a well-accepted rule that state restrictions burdening foreign commerce are subjected to a more rigorous and searching scrutiny. It is crucial to the efficient execution of the Nation's foreign policy that the federal government … speak with one voice when regulating commercial relations with foreign governments."[29] Accordingly, requiring domestic call-center services for state contracts may potentially implicate the Commerce Clause of the U.S. Constitution.

Equally, it should also be noted that because the state is acting as a "market participant" under this bill, the market participant exception to the Commerce Clause limitations on state action may be applicable. When a state or local government is acting as a "market participant" rather than a "market regulator," it is not subject to the limitations of the Interstate Commerce Clause.[30] A state is considered to be a "market participant" when it is acting as an economic actor, such as a purchaser of goods and services.[31]

However, as it relates to the Foreign Commerce Clause, the law is unsettled regarding the applicability of the market participant exception. In *Trojan Techs., Inc. v. Pennsylvania*, the federal Third Circuit Court of Appeals upheld the validity of a Pennsylvania procurement statute that required suppliers contracting with a public agency for public works projects to provide products made of American steel.[32] There, the court found that the market participant exception did extend to the Foreign Commerce Clause.[33] Conversely, the federal First Circuit Court of Appeals, in *National Foreign Trade Council v. Natsios*, refused to extend the market participant exception to the Interstate Commerce Clause.[34]

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[25] U.S. CONST. Art. I, s. 8.
[26] *See Gibbons v. Ogden*, 22 U.S. 1 (1824).
[27] *Japan Line, Ltd. v. County of Los Angeles*, 441 U.S. 434, 450 (1970); *see also*, Shannon Klinger and Lynn Sykes, *Exporting the Law: A Legal Analysis of State and Federal Outsourcing Legislation*, National Foundation for American Policy, April 2004.
[28] *Id.* at 446. ("When construing Congress' power to 'regulate commerce with foreign Nations,' a more extensive constitutional inquiry is required.").
[29] *South-Central Timber Develop., Inc. v. Wunnicke*, 467 U.S. 82, 100 (1984) (citing *Michelin Tire Corp. v. Wages*, 723 U.S. 276, 285 (1979)).
[30] *See White v. Massachusetts Council of Constr. Employers, Inc.*, 460 U.S. 204, 208 (1983) (providing that a state may grant and enforce a preference to local residents when entering into construction projects for public projects).
[31] *Id.*
[32] *Trojan Techs., Inc. v. Pennsylvania*, 916 F. 2d 903, 912 (3d Cir. 1990), *cert denied*, 501 U.S. 1212 (1991).
[33] *Id.* at 910.
[34] *National Foreign Trade Council v. Natsios*, 181 F.3d 38, 60 (1st Cir. 1999), *cert granted* , 528 U.S. 1018 (1999).

To date, neither the federal Eleventh Circuit Court of Appeals nor the U.S. Supreme Court has spoken on the matter.

Federal Preemption

In addition to the Foreign Commerce Clause, SB 678 may also implicate federal preemption. When dealing with subject matter relating to foreign affairs, the U.S. Supreme Court (Supreme Court) has stated the following: "Our system of government is such that the interest of the people of the whole nation imperatively requires that federal power in the field of affecting foreign relations be left entirely free from local interference."[35] As such, a series of cases by the Supreme Court have struck down state laws directed at foreign conduct that have been interpreted by the Court as conflicting with federal policy and intent.

In *Zschernig v. Miller,* the Supreme Court struck down an Oregon probate law that restricted the right of an alien not residing within the United States or its territories to take either real or personal property by succession or testamentary disposition was dependent upon the existence of a reciprocal right in that alien's home country.[36] While the law did not explicitly direct its application to any particular county, the Supreme Court, nevertheless, held that the statute did constitute an "intrusion by the state into the field of foreign affairs which the Constitution entrusts to the President and Congress" and was therefore unconstitutional.[37]

Similarly, in *American Insurance Association v. Garamendi*, the Supreme Court concluded that a California law that required insurance companies doing business in California and who had sold policies in Europe to Holocaust victims during World War II to disclose information concerning those policies was preempted under federal law.[38] During the time that California enacted that law, the federal government was engaging in international discussions with Germany and other international stakeholders with the aim of establishing a comprehensive framework for identifying and resolving such outstanding insurance claims.[39] As such, the state law was held unconstitutional for impermissibly conflicting with the federal government's foreign relation power.[40]

Additionally, the Supreme Court in *Garamendi* also addressed the weight to be given to executive agreements when it held that "valid executive agreements are fit to preempt state law, just as treaties are."[41] To this end, the Court relied on its previous holding in *Zschernig* when it stated that "state action with more than an incidental effect on foreign affairs is preempted, even absent any affirmative federal activity in the subject area of the state law, and hence without any showing of conflict."[42]

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[35] *Am. Ins. Ass'n v. Garamendi,* 539 U.S. 396, 418 (2003) (citing *Hines v. Davidowitz,* 312 U.S. 52, 63 (1941)).
[36] *Zschernig v. Miller,* 389 U.S. 429, 441 (1968).
[37] *Id.* at 433 (finding that Department of Justice's acquiescence to the Oregon statute did not justify upholding the statute seeing the potential for great diplomatic disruption).
[38] *Garamendi*,539 U.S. at 420.
[39] *Id.* at 406-408.
[40] *Id.* at 420.
[41] *Id.* at 416.
[42] *Id. at* 418 ("Our system of government is such that the interest of cities, counties, and states, no less than the interest of the people of the whole nation, imperatively requires that federal power in the field affecting foreign relations be left entirely free from local interference.").

Lastly, with respect to state government procurement activity, the Supreme Court, in *Crosby v. National Foreign Trade Council,* concluded that a Massachusetts' law prohibiting its agencies from purchasing goods and services from companies that did business with Burma, with some limited exceptions, was unconstitutional.[43] Similar to *Garamendi,* the federal government had acted and was reassessing its current foreign relations status with Burma in light of reports of human rights violations by the government. As such, Congress passed a statute that imposed a set of mandatory and conditional sanctions on Burma, as well as authorized the President to impose such sanctions subject to the limitation that they would only limit United States persons from conducting *new* business in Burma.[44]

The existence of both the state and federal law created a direct conflict, seeing that Massachusetts' ban restricted all contracts between the state and companies doing business in Burma, making the state law more overreaching than the prohibitions imposed by the President through congressional authorization. Accordingly, the Supreme Court concluded the following:

> [T]he state act undermines the President's capacity, in this instance, for effective diplomacy. It is not merely that the differences between the state and federal acts in scope and type of sanctions threaten to complicate discussions; they comprise the very capacity of the President to speak for the Nation with one voice in dealing with other governments. We need not get into any general consideration of limits of state action affecting foreign affairs to realize that the President's maximum power to persuade rests on his capacity to bargain for the benefits of access to the entire national economy without exception for enclaves fenced off willy-nilly by inconsistent political tactics. When such exceptions do quality his capacity to present a coherent position on behalf of the national economy, he is weakened, of course, not only in dealing with the Burmese regime, but in working together with other nations in hopes of reaching common policy and "comprehensive" strategy.[45]

Accordingly, because SB 678 implicates foreign relations by requiring that state agency contracts in excess of $35,000 must include a provision specifying that all call center services provided by the contractor and all subcontractors must be staffed by persons located within the United States it may be subject to a federal preemption challenge for the reasons described above. While the statute does not appear to target any specific country, as was the case in *Crosby,* it does implicate foreign relations in a manner similar to that described in *Garamendi* and *Zschernig,* seeing that the SB 678's requirement may conflict with existing government procurement obligations as enumerated in the international agreements entered into by the United States with other nations, which this state is subject to comply with.

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[43] *Crosby v. National Foreign Trade Council,* 530 U.S. 363, 388 (2000).
[44] *Id.* at 378-382; *See also, Id.* at 375 ("When the President acts pursuant to an express or implied authorization of Congress, his authority is at its maximum, for it includes all that he possesses in his own right plus all that Congress can delegate.").
[45] *Id.* at 381-382.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

SB 678 could limit the number of private companies qualified to enter into procurement contracts with the state.

C. Government Sector Impact:

SB 678 could have fiscal implications if the cost of domestic labor is higher than the cost of labor in foreign markets.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

The Florida Senate

Committee Agenda Request

To: Senator Nancy C. Detert, Chair
Committee on Commerce and Tourism

Subject: Committee Agenda Request

Date: January 11, 2012

I respectfully request that **Senate Bill #678**, relating to State Contracts, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator Christopher L. "Chris" Smith
Florida Senate, District 29

File signed original with committee office

S-020 (03/2004)

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 Commerce and Tourism Committee

BILL: CS/SB 1150

INTRODUCER: Commerce and Tourism Committee and Senator Richter

SUBJECT: New Markets Development Program

DATE: January 19, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Juliachs	Hrdlicka	CM	**Fav/CS**
2.			BC	
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary

CS/SB 1150 increases the total amount of tax credits available to be allocated for the New Markets Development Program from $97.5 million to $195 million, as well as increases the amount of permissible tax credits to be distributed in a single state fiscal year from $20 million to $40 million. According to the Revenue Estimating Conference, this CS will have a $20 million recurring negative fiscal impact on General Revenue beginning in FY 2014-15.

The CS also increases the number of years that a qualified community development entity is prohibited from making cash interest payments in excess of their operating income on long term debt securities issued as qualified investments from 6 years to 7 years. Lastly, the bill is amended to specify that a qualified community development entity's cumulative operating income should be calculated without giving effect to the interest expense on such long-term debt security.

This CS amends the following sections of the Florida Statutes: ss. 288.9914 and 288.9915, F.S.

II. Present Situation:

Background

Florida's New Markets Tax Credits Program was enacted in 2009.[1] The program was "established to encourage capital investment in rural and urban low-income communities by allowing taxpayers to earn credits against specified taxes by investing in qualified community development entities that make qualified low-income community investments in qualified active low-income community businesses to create and retain jobs."[2]

Under this program, federally-certified Community Development Entities (CDE), which have entered into allocation agreements with the U.S. Treasury, have the ability to apply to the Department of Economic Opportunity (DEO) for a certification of Florida tax credits.[3] The CDE must show that it is prepared to invest capital into qualified businesses in Florida's low-income communities. The certification process includes proof of the CDE's eligibility, identification of its investors, description of the investments to be raised by the CDE, information regarding how the investments will be used, and a description of the CDE's efforts to partner with local community-based groups. DEO is also able to request additional information needed to verify continued certification. DEO certifies qualified applications on a first-come, first-served basis. Once DEO certifies a CDE's qualified equity investment, the CDE has 30 days to raise its investment capital (the qualified equity investment) and then 12 months to invest a minimum of 85 percent of the purchase price in qualified low-income investments. Thereafter, the CDE must annually report to DEO information including:

- Audited financial statements;
- The industries for the investments;
- The counties investments were made in;
- The number of jobs created; and
- Verification that the average wages paid are at least equal to 115 percent of the federal poverty income guidelines for a family of four.[4]

Any failure by a CDE to follow either Florida or federal law may result in the state recapturing tax credits claimed, together with interest and penalties.[5]

Tax Credits

The New Markets Tax Credit Program allows a tax credit to be taken against the corporate income tax found in s. 220.11, F.S., or the insurance premium tax found in s. 624.509, F.S.[6] This credit may be claimed after the investment has been made and held for a minimum of 2 years. Therefore, no credit can be claimed in the first 2 years. In year 3, the credit is worth 7 percent of the investment, and from the fourth year through the seventh year the credit is worth 8 percent.

[1] Florida's New Markets Development Program Act is codified at ch. 288, part XII, F.S.
[2] Section 288.9912, F.S.
[3] Section 288.9914, F.S.
[4] Section 288.9918, F.S.
[5] Section 288.9920, F.S.
[6] Section 288.9916, F.S.

Over 7 years this credit totals 39 percent of the total investment. Any unused portion of the tax credit may be carried forward for future tax years; however, all tax credits expire on December 31, 2022.

Additionally, the program has a cap of $97.5 million on the total of tax credits allowed to be allocated to all investments with the caveat that no more than $20 million in tax credits may be claimed in a single state fiscal year. Therefore, no more than $17.5 million in tax credits may be claimed in the third fiscal year and no more than $20 million in tax credits may be claimed in any of the subsequent 4 fiscal years. The CS does not allow the transfer or sale of tax credits, but does allow a tax credit to travel with the purchase of an investment to a new owner.

Federal New Markets Tax Credit[7]

Florida's New Markets Tax Credit Program was mirrored after the federal program. The Federal New Markets Tax Credit (NMTC) Program permits taxpayers to receive a credit against federal income taxes for making qualified equity investments in designated Community Development Entities (CDEs).[8] The CDE must in turn invest the qualified equity investments in low-income communities. The credit provided to the investor totals 39 percent of the cost of the investment and is claimed over a 7-year period. In each of the first 3 years, the investor receives a credit equal to 5 percent of the total amount paid for the stock or capital interest at the time of purchase. For the final 4 years, the value of the credit is 6 percent annually. Investors may not redeem their investments in CDEs prior to the conclusion of the 7-year period. An organization wishing to receive allocations under the federal NMTC Program must be certified as a CDE by the US Department of Treasury. To qualify as a CDE, an organization must:

- Be a domestic corporation or partnership at the time of the certification application;
- Demonstrate a primary mission of serving, or providing investment capital for low-income communities or low-income persons; and
- Maintain accountability to residents of low-income communities through representation on a governing board of or advisory board to the entity.

As stated above, the federal program and the state program provide credits totaling 39 percent of the investment over a 7 year period. Therefore, a qualified taxpayer with a qualified investment approved for both the federal and state program could receive 78 percent of the purchase price of the investment in tax credits over 7 years. In addition to the tax credits that are received, the investor also has the potential to receive benefits from the results of the investment and eventual return of their principal.

[7] Information on the Federal New Markets Tax Credit Program can be found at http://www.cdfifund.gov/what_we_do/programs_id.asp?programID=5 (last visited January 16, 2012).
[8] 15 U.S.C. ch. 14B

Progress Report[9]

Since the program's inception, Florida New Markets has created $250 million in private capital for investment in qualified businesses in low-income communities.[10] Such businesses have received $171 million in qualified new investments. Collectively, they were able to attract $112 million in additional private investment, leading to the creation and retention of 1,802 jobs with an average annual salary of $48,330.[11]

To date, the total investment generated in the state as part of the Florida New Markets is estimated at $282.3 million, with only $6.5 million in Florida tax credits being claimed in 2011 (first year of the tax credits). Our estimates of state fiscal revenues from construction expenditures and operations directly associated with New Market suggest a return of approximately $4 for each $1 of Florida tax credits being claimed this year.

III. Effect of Proposed Changes:

Section 1 **amends s. 288.914, F.S., to increase the total amount of tax credits available to be allocated for the New Markets Development Program from $97.5 million to $195 million during the existence of the program, as well as increases the amount of permissible tax credits to be distributed in a single state fiscal year from $20 million to $40 million.**

As such, no more than $35 million in tax credits may be claimed in the third fiscal year and no more than $40 million in tax credits may be claimed in any of the subsequent 4 fiscal years.

Section 2 amends s. 288.915, F.S., to increase the number of years that a qualified community development entity is prohibited from making cash interest payments in excess of their cumulative operating income on long term debt securities issued as qualified investments from 6 to 7 **years.** Moreover, the CS provides that a qualified community development entity's cumulative operating income should be calculated without giving effect to the interest expense on such long-term debt security.

Section 3 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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[9] The information provided in this section was adopted from The Washington Economic Group, Inc., *An Examination and Analysis of the Economic Benefits Realized from the Florida New Markets Tax Credits Program* (January 16, 2012) (on file with the Senate Committee on Commerce and Tourism).

[10] The recipients of qualified investments cover a broad and diversified spectrum of industry sectors: 8 companies were engaged in manufacturing activities; 6 were wholesale distributors or international logistics services; 3 were in the health care sector; and the remaining 8 represent various businesses and consumer services industries.

[11] Employment numbers represent the creation of 420 new jobs and the retention of 1,383 positions that existed at the time of financing.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The New Markets Development program draws private sector investment into low-income rural and urban communities that may not otherwise have occurred.

C. Government Sector Impact:

On January 6, 2011, the Revenue Estimating Conference determined that the effects of this CS will result in a $20 million recurring negative fiscal impact on General Revenue that begins in the 2014-15 fiscal year. There is no impact to General Revenue in the 2012-13 or the 2013-14 fiscal years.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. 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 on January 19, 2012 - The CS:

- **Increases the amount of permissible tax credits to be distributed in a single state fiscal year from $20 million to $40 million.**

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
01/19/2012	.	
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	.	
	.	

The Committee on Commerce and Tourism (Dockery) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (c) of subsection (3) of section 288.9914, Florida Statutes, is amended to read:

288.9914 Certification of qualified investments; investment issuance reporting.—

(3) REVIEW.—

(c) The department may not approve a cumulative amount of qualified investments that may result in the claim of more than

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13 $195 ~~$97.5~~ million in tax credits during the existence of the
14 program or more than $40 ~~$20~~ million in tax credits in a single
15 state fiscal year. However, the potential for a taxpayer to
16 carry forward an unused tax credit may not be considered in
17 calculating the annual limit.
18 Section 2. Subsection (1) of section 288.9915, Florida
19 Statutes, is amended to read:
20 288.9915 Use of proceeds from qualified investments;
21 recordkeeping.—
22 (1) A qualified community development entity, before giving
23 effect to the interest expense of ~~may not make cash interest~~
24 ~~payments on~~ a long-term debt security that is a qualified
25 investment in excess of the entity's cumulative operating
26 income, may not make cash interest payments on such security for
27 7 ~~6~~ years after ~~following the~~ issuance of such ~~the~~ security.
28 Section 3. This act shall take effect July 1, 2012.
29
30 ========== T I T L E A M E N D M E N T ==========
31 And the title is amended as follows:
32 Delete everything before the enacting clause
33 and insert:
34 A bill to be entitled
35 An act relating to the New Markets Development
36 Program; amending s. 288.9914, F.S.; revising limits
37 on tax credits that may be claimed by qualified
38 community development entities under the program;
39 amending s. 288.9915, F.S.; revising restrictions on a
40 qualified community development entity's making of
41 cash interest payments on certain long-term debt

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42 securities; providing an effective date.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
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Judiciary
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JOINT COMMITTEE:
Legislative Budget Commission

SENATOR GARRETT RICHTER
37th District

RECEIVED
DEC 16 2011
COMMERCE

December 16, 2011

The Honorable Nancy C. Detert, Chair
Committee on Commerce and Tourism
310 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Detert:

Senate Bill 1150, related to increasing the total amount of tax credits available during the existence of the New Markets Development Program, has been referred to Commerce and Tourism as its first committee of reference. I would appreciate the placing of this bill on the committee's next agenda.

Thank you for your consideration.

Sincerely,

Garrett Richter

cc: Jennifer Hrdlicka, Staff Director

Posted 1/12/12
psh

REPLY TO:
☐ 3299 East Tamiami Trail, Suite 203, Naples, Florida 34112 (239) 417-6205
☐ 1039 S.E. 9th Place, Room 310, Cape Coral, Florida 33990 (239) 338-2777
☐ 322 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5124

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THE FLORIDA SENATE

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SELECT COMMITTEE:
Florida's Economy

JOINT COMMITTEE:
Everglades Oversight

SENATOR GARRETT S. RICHTER
37th District

January 17, 2012

The Honorable Nancy C. Detert, Chair
Committee on Commerce and Tourism
310 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chair Detert:

Senate Bill 1150 related to the New Markets Development Program and Senate Bill 1090 related to the Uniform Commercial Code are scheduled to be heard in your Committee on Commerce and Tourisim on January 19th at 8:00 AM. Due to a conflicts in my committee schedule I will be sending my Legislative Assistant, Michael Nachef as a representative to present the bills for your committee's consideration.

Sincerely,

Garrett Richter

cc: Jennifer Hrdlicka, Staff Director

REPLY TO:
❒ 3301 East Tamiami Trail, Suite 203, Building F, Naples, Florida 34112-4961 (239) 417-6205
❒ 1039 S.E. 9th Place, Room 310, Cape Coral, Florida 33990 (239) 338-2777
❒ 310 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5124

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JEFF ATWATER
President of the Senate

MIKE FASANO
President Pro Tempore

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 Commerce and Tourism Committee

BILL: SB 1090

INTRODUCER: Senator Richter

SUBJECT: Uniform Commercial Code

DATE: January 18, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Juliachs	Hrdlicka	CM	**Favorable**
2.			BI	
3.			BC	
4.				
5.				
6.				

I. Summary:

SB 1090 adopts the 2010 amendment to Article 9 of the Uniform Commercial Code (UCC).The bill provides the following changes to Article 9: revises statute as it relates to governing the name of a debtor for purposes of filing a financing statement; modifies definitions; revises s. 679.301, F.S., relating to the location of debtors; modifies provisions relating to guidelines for the continued perfection of security interests that were perfected according to the law of another jurisdiction; provides rules for transition to the proposed version of Article 9; and makes numerous stylistic and grammatical changes.

This bill amends the following sections: 679.1021, 679.1051, 679.3071, 679.3111, 679.3161, 679.3171, 679.326, 679.4061, 679.4081, 679.5021, 679.5031, 679.5071, 679.515, 679.516, 679.518, 679.607, 680.1031, F.S.

This bill creates: part VIII of ch. 679, F.S. consisting of ss. 679.801, 679.802, 679.803, 679.804, 679.805, 679.806, 679.807. and 679.808, F.S.

II. Present Situation:

Background

The Uniform Commercial Code (UCC) is a set of uniform laws regulating various business transactions and trade. The drafts of the code are developed by the Uniform Law Commissioners (ULC), who are members of the National Conference of Commissioners on Uniform State Laws, a group of scholars and business representatives. "Conference members must be lawyers, qualified to practice law. They are practicing lawyers, judges, legislators and legislative staff and law professors, who have been appointed by state governments, as well as the District of Columbia, Puerto Rico and the U.S Virgin Islands to research, draft and promote enactment of uniform state laws in areas of state law where uniformity is desirable and practical."[1] The term "uniform" refers to how the separate states of the Union have separately enacted the various parts of the Uniform Commercial Code in laws that are uniform to one another.

Participation in the conference is not limited to lawyers since "stakeholder" meetings are held, where the opinions of all groups concerned with a particular area can be heard.[2] Every state, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands is assessed a specific amount for the maintenance of the ULC based upon state population. Florida's assessment for 2009-2010 is $96,700.[3]

Article 9 of the UCC governs secured transactions in personal property. A secured transaction is a "business arrangement by which a buyer or borrower gives collateral to the seller or lender to guarantee payment of an obligation."[4] In 1998, Article 9 was substantially revised and adopted by all states and U.S. territories, except Puerto Rico, where it is currently being considered.[5] In 2010, the commission drafted and adopted amendments to Article 9.

The 2010 Amendments to Article 9 modify the existing statute to respond to filing issues and address other matters that have arisen in practice following passage of the 1998 version of Article 9. The Article 9 amendments have been adopted in Connecticut, Indiana, Minnesota, Nebraska, Nevada, North Dakota, Rhode Island, Texas, and Washington. They are also currently being considered in a number of other states and U.S. territories.[6]

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[1] Information provided at: http://www.nccusl.org/Update/DesktopDefault.aspx?tabindex=0&tabid=9 (last visited January 17, 2012).
[2] *2008 Commission Annual Report*, p.10, available online: http://www.nccusl.org/nccusl/docs/AnnReport_08_web.pdf (last visited January 17, 2012).
[3] *2009 Annual Report of the Florida Commissioners to the National Conference on Uniform State Laws,* (January 2010) (report prepared by the Office of Legislative Services for submission to the Governor and both houses of the Legislature through their respective presiding officers.).
[4] Black's Law Dictionary (9th ed. 2009).
[5] Article is codified in Florida law in ch. 679, F.S. It was adopted in 2001 by ch. 2001-198 L.O.F.
[6] Information provided at: http://www.nccusl.org/Act.aspx?title=UCC Article 9 Amendments (last visited January 17, 2012) (pending legislation in Washington D.C., Kentucky, Massachusetts, Oklahoma, and Puerto Rico).

Issues Concerning Filing

Identifying the Debtor

The purpose of the UCC filing system is to give notice to creditors and other interested parties that there is a valid, perfected security interest in property of the debtor.[7] A security interest is a "property interest created by agreement or by operation of law to secure performance of an obligation" (i.e. payment of a debt).[8] An individual or entity files a financial statement to notify third parties — typically prospective buyers and lenders — of a secured party's security interest in goods or real property. Financing statements are indexed under the name of the debtor; therefore, an individual looking for a specific financing statement will search for it under the debtor's name.

Section 679.5031(1), F.S., explains what constitutes the debtor's name for purposes of a financing statement where the debtor is a registered organization,[9] a decedent's estate, or a trust or trustee acting with regard to property held in trust. Under current law, a financing statement sufficiently provides the name of a debtor that is a registered organization if it provides the name as indicated on the public record of the jurisdiction where the debtor organized. If the debtor is a decedent's estate, the financing statement must provide the decedent's name and indicate that the debtor is an estate. If the debtor is a trust or trustee acting with regard to property held in trust, the financing statement must:

- Provide the name for the trust in its organic record or, if no name is specified, the settlor's name and additional information to distinguish the debtor from other trusts with one or more of the same settlors; and
- Indicate in the debtor's name or otherwise that the debtor is a trust or trustee acting for trust property.

In other cases, if the debtor has a name, current law requires the financing statement to provide the debtor's individual or organizational name. If the debtor does not have a name, it must provide the names of the partners, members, associates, or other persons comprising the debtor.

Claim Concerning Inaccurate or Wrongfully Filed Record

Current law authorizes the debtor to file a correction statement: a claim that a financing statement filed against it was in fact unauthorized.[10] While this filing has no legal effect on the underlying claim, it does put in the public record the debtor's claim that the financing statement was wrongfully filed.

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[7] *See Matter of Glasco, Inc.*, 642 F.2d 793, 795 (5th Cir. 1981).
[8] Black's Law Dictionary (9th ed. 2009).
[9] Current law provides that a registered organization is "an organization organized solely under the law of a single state or the United States and as to which the state or the United States must maintain a public record showing the organization to have been organized." *See.* S. 679.1021(1)(qqq), F.S.
[10] Section 679.518, F.S.

Perfection of Security Interests

"Perfection of a security interest gives constructive notice to the world of the claim or interest of the one asserting it."[11] Article 9 provides guidelines for the continued perfection of security interests that have been perfected according to the law of another jurisdiction.[12] Generally, a security interest perfected according to another jurisdiction's or state's law is not automatically "unperfected." Current law provides that a security interest perfected by filing continues for 4 months after the jurisdiction in which the debtor is located changes. However, this temporary period of perfection applies only with respect to collateral owned by the debtor at the time of the change. Even if the security interest attaches to after-acquired collateral, there is currently no perfection with respect to such new collateral, unless and until the secured party perfects pursuant to the law of the new jurisdiction.

Control of Electronic Chattel Paper

Current law provides that control of electronic chattel paper is the functional equivalent of possession of tangible chattel paper. "Chattel paper" is a record or records that show both a monetary obligation and a security interest in specific goods.[13] "Electronic chattel paper" is "chattel paper evidenced by record or records consisting of information stored in an electronic medium."[14] Current law provides that a secured party has control of electronic chattel paper if the record comprising the chattel paper are created, stored and assigned according to six requirements.[15]

III. Effect of Proposed Changes:

Section 1 amends s. 679.1021, F.S., to revise the definitions of "authenticate" and "certificate of title," as well as insert a new definition for "public organic record."

The definition for "authenticate" will now mean to sign or, "with the present intent, to adopt or accept a record, to attach to or logically associate with the record an electronic sound, symbol, or process."

"Certificate of title" is also amended to specify that the "term includes another record maintained as an alternative to a certificate of title by the governmental unit that issues certificates of title if a statute permits the security interest at issue to be indicated on the record as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral."

Lastly, this section defines a "public organic record" as follows: a record that is available to the public for inspection that is as follows: a record consisting of the record initially filed with or

[11] *Bay Co. Sheriff's Office v. Tyndall Fed. Credit Union*, 738 So. 2d 456, 458 (Fla. 1st DCA 1999).
[12] Section 679.3161, F.S.
[13] Section 679.1021(1)(k), F.S.
[14] Section 679.1021(1)(ee), F.S.
[15] See s. 679.1051, F.S.

issued by a state or the United States (U.S.) to form or organize an organization and any record filed with or issued by the state or the United States. that amends or restates the initial record; an organic record of a business trust consisting of the record initially filed with a state and any record filed with the state that amends or restates the initial record, if a statute of the state governing business trusts requires that the record be filed with the state; or a record consisting of legislation enacted by the Legislature of a state or U.S. Congress that forms or organizes an organization, any record amending the legislation, and any record filed with or issued by the state or the United States that amends or restates the name of the organization.

Section 2 amends s. 679.1051, F.S., to specify that a secured party has control of electronic chattel paper if a system employed for evidencing the transfer or interests in the chattel paper reliably establishes the secured party as the person to which the chattel paper was assigned.

Additionally, copies or amendments that add or change an identified assignee of the authoritative copy can be made only with the consent of the secured party. Also, all references to "revisions" are replaced with the term "amendments."

Section 3 amends s. 679.3071, F.S., to specify that an organization may designate its state of location by designating its main office, home office, or other comparable office.

Section 4 amends s. 679.3111, F.S., by clarifying the requirement of a certificate of title under current law when the statute of a particular jurisdiction requires such a document as a condition to filing.

Section 5 amends s. 679.3161, F.S., by revising the law as it relates to the effect of a change in governing law to the collateral of a security interest within 4 months after a debtor changes its location to another jurisdiction.

As such, a financing statement filed before the change of the debtor's location pursuant to the law of the jurisdiction designated is effective to perfect a security interest in the collateral if the financing statement would have been effective had the debtor not changed its location.
In such cases, if a security interest that is perfected becomes perfected under the law of the other jurisdiction before the earlier of the time the financing statement would have become ineffective under the law of the jurisdiction designated or the 4 month period, then it remains perfected. However, if the security interest does not become perfected under the law of the other jurisdiction before the earlier time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

Additionally, if a financing statement naming an original debtor is filed pursuant to the law of the jurisdiction designated and the new debtor is located in another jurisdiction, then the financing statement is effective to perfect a security interest in collateral in which the new debtor has or acquires right within 4 months after the new debtor becomes bound. This rule is subject to the condition that the financing statement would have been effective to perfect a security interest in the collateral if the collateral had been acquired by the original debtor.

Similarly, a security interest for a new debtor that is perfected by the financing statement and that becomes perfected under the law of the other jurisdiction before the earlier of the expiration

of the 4 month period or the time the financing statement would have become ineffective under the law of the jurisdiction designated remains perfected. Conversely, a security interest that is perfected by the financing statement, but that does not become perfected under the law of the other jurisdiction before the earlier time or event, becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

Section 6 amends s. 679.3171, F.S., by referring to accounts, electronic chattel paper, electronic documents, general intangibles, or investment property as collateral. As such, a licensee of a general intangible or a buyer, but not a secured party, of collateral other than tangible chattel paper, tangible documents, goods, instruments, or a certified security takes free of a security interest, if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

Section 7 amends s. 679.326, F.S., to provide that a security interest that is created by a new debtor in collateral for which the new debtor has or acquires rights and is perfected by a filed financing statement that would be ineffective to perfect the security interest but for the application of some other specified statute found in this chapter is subordinate to a security interest in the same collateral that is perfected other than by such a filed financing statement.

Section 8 amends s. 679.4061, F.S., to provide that the limitations reflected in subparagraph (4) do not apply to the sale of a payment intangible or promissory note, other than a sale pursuant to a disposition under s. 679.610, F.S., or an acceptance of collateral under s. 679.620, F.S.

Section 9 amends s. 679.4081, F.S., to provide that restrictions on assignments of promissory notes concerning health-care insurance receivable apply only if the security interest arises out of a sale of the payment intangible or promissory note, other than a sale pursuant to a disposition under s. 679.610, F.S., or an acceptance of collateral, under s. 679.620, F.S.

Section 10 amends 679.5021, F.S., to specify that the record of a mortgage satisfies the requirements for a financing statement, although it need not indicate that it is to be filed in the real property records, and provides the individual name of the debtor or the surname and first personal name of the debtor.

Section 11 amends s. 679.5031, F.S., to provide that a financing statement sufficiently provides the name of the debtor when the debtor is a registered organization or the collateral is held in a trust that is a registered organization only if the financing statement provides the registered organization's name on the public organic record most recently filed with, issued, or enacted by the registered organization's jurisdiction of organization that purports to state, amend, or restate the registered organization's name.

Similarly, if the collateral is being administered by the personal representative of a decedent, the financing statement is sufficient if it provides, as the name of the debtor, the name of the decedent, and in a separate part of the financing statement, indicates that the collateral is being administered by a personal representative.

In contrast, if the collateral is held in a trust that is not a registered organization, a financing statement will sufficiently provide the name of the debtor if the financing statement provides for

the name of the trust as reflected in the organic record or, if the name is not specified, then the name of the settlor or testator. Additionally, a document will also be considered sufficient if in a separate part of the financing statement the name is provided indicating that that the collateral is held in trust or provides additional information sufficient to distinguish the trust from other trusts having one or more of the same settlor or the same testator, which indicates that their collateral is held in a trust.

Additionally, a financing statement will sufficiently provide the name of the debtor if the debtor is an individual to whom this state has issued a driver license or personal identification card that has not expired and that name matches the one reflected in the financing statement. Also, if the individual does not have a driver license or personal identification card, then the financing statement will be sufficient if it provides the individual name of the debtor or the surname and first personal name of the debtor and, in the case of an organization, the organization's name. Likewise, if the debtor does not have a name, then a financing statement will sufficiently provide the name of the debtor if it provides the names of the partners, members, associates, or other persons comprising the debtor, in a manner that each name provided would be sufficient if the person named were the debtor.

Finally, the name of the decedent indicated on the order appointing the personal representative of the decedent issued by the court having jurisdiction over the collateral is sufficient as the name of the decedent. Also, if the state has issued to an individual more than one driver license or personal identification card, then the one most recently issued is the one to be used.
As used in this section the term "name of settlor" means a registered organization, the name of the registered organization indicated on the public organic record filed with or issued or enacted by the registered organization's jurisdiction of organizational or, in other cases, the name of the settler or testator indicated in the trust's organic record.

Section 12 amends s. 679.5071, F.S., to provide that if the name in a filed financing statement provided for a debtor becomes insufficient as the name of the debtor, then the financing statement is effective to perfect a security interest in collateral acquired by the debtor before, or within 4 months after, the filed financing statement becomes seriously misleading. Similarly, the financing statement is not effective to perfect a security interest in collateral acquired by the debtor more than 4 months after the filed financing statement becomes seriously misleading, unless an amendment which renders the financing statement not seriously misleading is filed within 4 months after that event.

Section 13 amends s. 679.515, F.S., to provide that if a debtor is a transmitting utility and a filed initial financing statement so indicates, the financing statement is effective until a termination statement is filed.

Section 14 amends s. 679.516, F.S., to replace the term "correction statement" with "information statement." Furthermore, filing does not occur with respect to a record that a filing office refuses to accept because, in the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not provide a mailing address for the debtor or indicate whether the name provided as the name of the debtor is the name of an individual or an organization.

Section 15 amends s. 679.518, F.S., to update references to "information statement," as well as provide that a person may file in the filing office an information statement with respect to a record filed there if the person is a secured party of record with respect to the financing statement to which the record relates and believes that the person that filed the record was not entitled to do so.

Additionally, an information statement under this section must do the following: identify the record to which it relates by file number assigned to the initial financing; indicate that it is an information statement; and provide the basis for the person's belief that the record is inaccurate and indicate the manner in which the person believes the basis for the person's belief that the record was wrongfully filed.

Section 16 amends s. 679.607, F.S., to specify that a secured party's sworn affidavit in recordable form stating that a default has occurred with respect to the obligation secured by the mortgage, among other things, is required in order to enforce a mortgage nonjudicially outside this state.

Section 17 creates Part VIII of ch. 679, F.S., consisting of ss. 679.801, 679.802, 679.803, 679.804, 679.805, 679.806, 679.807. and 679.808, F.S.

Section 678.801, F.S., creates a saving clause stating that, except as otherwise provided in this part, this part applies to a transaction or lien within its scope, even if the transaction or lien was entered into or created before July 1, 2013. Amendments to this chapter by this act do not affect an action, case, or proceeding commenced before July 1, 2013.

Section 679.802, F.S., provides that a security interest that is a perfected security interest immediately before July 1, 2013, is a perfected security interest under this chapter, on July 1, 2013, if the applicable requirements for attachment and perfection under this chapter are satisfied without further action. Note that if the applicable requirements for perfection under this chapter are not satisfied on July 1, 2013, then the security remains perfected thereafter only if the applicable requirements for perfection are satisfied no later than July 1, 2014.

Section 679.803, F.S., specifies that a security interest that is an unperfected security interest immediately before July 1, 2013, becomes a perfected security interest without further action on July 1, 2013, if the applicable requirements for perfection under this chapter are satisfied or when the applicable requirements for perfection are satisfied, if the requirements are satisfied after that time.

Section 679.804, F.S., provides that the filing of a financing statement before July 1, 2013, is effective to perfect a security interest to the extent the filing would satisfy the applicable requirements for perfection under this chapter. Amendments to this chapter do not render ineffective an effective financing statement that was filed before July 1, 2013, and satisfied the applicable requirements for perfection under the law of the jurisdiction governing perfection as it existed before July 1, 2013.

However, except as otherwise provided, the financing statement ceases to be effective under the following circumstances: the financing statement is filed in this state, at the time the financing statement would have ceased to be effective had this act not taken effect; or if the financing statement is filed in another jurisdiction, at the earlier of, the time the financing statement would have ceased to be effective under the law of that jurisdiction or by June 30, 2018.

Note that the June 30, 2018, filing date applies to a financing statement that was filed before July 1, 2013, against a transmitting utility that satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in this chapter as it existed before July 1, 2013, to the extent that this chapter provides that the law of a jurisdiction other than the jurisdiction in which the financing statement is filed governs perfection of a security interest in collateral covered by the financing statement.

The filing of a continuation statement on or after July 1, 2013, does not continue the effectiveness of the financing statement filed before July 1, 2013. However, on the timely filing of a continuation statement on or after July 1, 2013, and in accordance with the law of the jurisdiction governing perfection, the effectiveness of a financing statement filed in the same office in that jurisdiction before July 1, 2013, continues for the period provided by the law of that jurisdiction.

A financing statement that includes a financing statement filed before July 1, 2013, or a continuation statement filed on or after July 1, 2013, is effective only to the extent that it satisfies the requirements of part V, as amended by this act, for an initial financing statement. A financing statement that indicates that the debtor is a decedent's estate indicates that the collateral is being administered by a personal representative. A financing statement that indicates that the debtor is a trust or is a trustee acting with respect to property held in trust indicates that the collateral is held in a trust, as amended by this act.

Section 679.805, F.S., provides that the filing of an initial financing statement with the Clerk of Court or Florida Secured Transaction Registry continues the effectiveness of a financings statement filed before July 1, 2013, under the following circumstances: the filing of an initial financing statement in that office would be effective to perfect a security interest under this chapter; the financing statement filed before July 1, 2013, was filed in an office in another state; and the initial financing statement satisfied certain requirements

To be effective, an initial financing statement must meet the following additional requirements: satisfy the requirements of part IV, as amended by this act, for an initial financing statement; identify the filing statement filed before July 1, 2013, by indicating the office in which the financing statement was filed and providing the dates of filing and file numbers, if any, of the financing statement and of the most recent continuation statement filed with respect to the financing statement; and indicate that the financing statement filed before July 1, 2013, remains ineffective..

The filing of an initial financing statement continues the effectiveness of the financing statement filed before July 1, 2013: the initial financing statement is filed before July 1, 2013, for the period provided in the statute, as it existed before its amendment by this act, with respect to an

initial financing statement and the initial financing statement is filed on or after July 1, 2013, for the period provided in this act with respect to an initial financing statement.

Section 679.806, F.S., provides that on or after July 1, 2013, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or otherwise amend the information provided in, a financing statement only filed before July 1, 2013, in accordance with the law of the jurisdiction governing perfection as provided in this chapter. However, the effectiveness of a financing statement filed before July 1, 2013, also may be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.

Unless as otherwise provided, if the law of this state governs perfection of a security interest, the information in a financing statement filed before July 1, 2013, may be amended after July 1, 2013, only as follows: the financing statement is filed before July 1, 2013, and an amendment is filed with the Clerk of Court or the Florida Secured Transaction Registry; an amendment is filed in that office concurrently with, or after the filing in that office, of an initial financing statement that satisfies s. 679.805(3), F.S., or an initial financing statement that provides the information as amended and satisfies s. 679.805(3), F.S., is filed in the office.

Lastly, if the law of this state governs perfection of a security interest, the effectiveness of a financing statement filed before July 1, 2013, may be continued only under s. 679.804(3) and (5), F.S., or s. 679.805, F.S. Irrespective of whether or not the law of this state governs perfection of a security interest, the effectiveness of a financing statement filed in this state before July 1, 2013, may be terminated on or after July 1, 2013, by filing a termination statement in the office in which the financing statement filed before July 1, 2013, is filed, unless an initial financing statement that satisfied s. 679.805(3), F.S., has been filed in the office specified by the law of the jurisdiction governing perfection as provided in this chapter as the office in which to file a financing statement.

Section 679.807, F.S., specifies that a person may file an initial financing statement or a continuation statement under this part to continue the effectiveness of a financing statement filed before July 1, 2013, or perfect or continue the perfection of a security interest.

Section 679.808, F.S., states that this part and the amendments to this chapter made by this act determine the priority of conflicting claims to collateral. However, if the relative priorities of the claims were established before July 1, 2013, this chapter as it existed before July 1, 2013, determines priority.

Section 18 amends s. 680.1031, F.S., to correct a cross-reference.

Section 19 creates an undesignated section directing the Division of Statutory Revision to replace the phrase “this act” wherever it occurs in certain enumerated sections within the assigned chapter number of the act.

Section 20 provides that this act shall take effect July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Banking and Insurance, *Chair*
Budget
Budget - Subcommittee on Health and Human Services Appropriations
Community Affairs
Judiciary
Rules
Rules - Subcommittee on Ethics and Elections

JOINT COMMITTEE:
Legislative Budget Commission

SENATOR GARRETT RICHTER
37th District

RECEIVED
JAN 11 2012
COMMERCE

January 11, 2012

Honorable Nancy C. Detert, Chair
Committee on Commerce and Tourism
310 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Detert:

Senate Bill 1090, related to revising the Uniform Commercial Code, has been referred to Commerce and Tourism as its first committee of reference. I would appreciate the placing of this bill on the committee's next agenda.

Thank you for your consideration.

Sincerely,

Garrett Richter

cc: Jennifer Hrdlicka, Staff Director

Posted 1/11/12
psh

REPLY TO:
☐ 3299 East Tamiami Trail, Suite 203, Naples, Florida 34112 (239) 417-6205
☐ 1039 S.E. 9th Place, Room 310, Cape Coral, Florida 33990 (239) 338-2777
☐ 322 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5124

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
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Florida's Economy

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Everglades Oversight

SENATOR GARRETT S. RICHTER
37th District

January 17, 2012

The Honorable Nancy C. Detert, Chair
Committee on Commerce and Tourism
310 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chair Detert:

Senate Bill 1150 related to the New Markets Development Program and Senate Bill 1090 related to the Uniform Commercial Code are scheduled to be heard in your Committee on Commerce and Tourisim on January 19th at 8:00 AM. Due to a conflicts in my committee schedule I will be sending my Legislative Assistant, Michael Nachef as a representative to present the bills for your committee's consideration.

Sincerely,

Garrett Richter

cc: Jennifer Hrdlicka, Staff Director

REPLY TO:
❒ 3301 East Tamiami Trail, Suite 203, Building F, Naples, Florida 34112-4961 (239) 417-6205
❒ 1039 S.E. 9th Place, Room 310, Cape Coral, Florida 33990 (239) 338-2777
❒ 310 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5124

Senate's Website: *www.flsenate.gov*

JEFF ATWATER
President of the Senate

MIKE FASANO
President Pro Tempore

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 Commerce and Tourism Committee

BILL: SB 1274

INTRODUCER: Senator Latvala

SUBJECT: Tourist Development Tax

DATE: January 18, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hrdlicka	Hrdlicka	CM	**Favorable**
2.			BC	
3.				
4.				
5.				
6.				

I. Summary:

SB 1274 permits counties to use the tax revenues from the tourist development tax for purposes related to publicly owned and operated aquariums, including the acquisition, construction, maintenance, or promotion of such aquariums.

This bill amends s. 125.0104, F.S.

II. Present Situation:

Tourist Development Tax

Section 125.0104, F.S., authorizes the levy of five separate local option taxes on rental charges subject to the transient rentals tax under s. 212.03, F.S., to be used in various ways to promote tourism within the county. The authorized uses of each local option tax vary according to the particular levy.[1]

1. The tourist development tax may be levied at the rate of 1 or 2 percent.[2] Currently, 62 counties levy this tax at 2 percent; all 67 counties are eligible to levy this tax.[3] Revenue from this tax may be bonded to finance certain facilities and projects, including financing revenue bonds. This tax may only be levied after the ordinance is approved by a majority of voters in a referendum.

[1] Florida Revenue Estimating Conference, "2012 Florida Tax Handbook."
[2] Section 125.0104(3)(c), F.S.
[3] Information related to the number of counties levying the taxes is from the Office of Economic and Demographic Research, "2012 Local Option Tourist/Food and Beverage/Tax Rates in Florida's Counties," available at http://edr.state.fl.us/Content/local-government/data/data-a-to-z/2012LOTTrates.pdf (last visited 1/12/2012).

2. An additional tourist development tax of 1 percent may be levied.[4] Currently 45 counties levy this tax and only 56 counties are currently eligible to levy this tax. Revenue from this tax may be bonded to finance certain facilities and projects, but may not be used for certain debt service or refinancing unless approved by an extraordinary vote of the governing board. This tax may only be levied after the ordinance is approved by a majority of voters in a referendum.
3. A professional sports franchise facility tax may be levied up to an additional 1 percent.[5] Currently 35 counties levy this additional tax and all 67 counties are eligible to levy this tax. Revenue can be used to pay debt service on bonds for the construction or renovation of professional sports franchise facilities, spring training facilities of professional sports franchises, and convention centers and to promote and advertise tourism.
4. A high tourism impact tax may be levied at an additional 1 percent.[6] Five counties are eligible to levy this tax (Broward, Monroe, Orange, Osceola, and Walton). Of these five counties, Monroe, Orange, and Osceola levy this additional tax. Revenue from this tax may be bonded to finance certain facilities and projects, including financing revenue bonds.
5. An additional professional sports franchise facility tax no greater than 1 percent may be imposed by a county that has already levied the professional sports franchise facility tax.[7] Out of 35 counties that levy a professional sports facility tax, 20 levy an additional professional sports franchise facility tax. Revenue can be used to pay debt service on bonds for the construction or renovation of professional sports franchise facilities, spring training facilities of professional sports franchises, and convention centers and to promote and advertise tourism.

"Local option tourist taxes are significant revenue sources to Florida's county governments and represent important funding mechanisms for a variety of tourism-related expenditures such as beach and shoreline maintenance, construction of convention centers and professional sports franchise facilities, and tourism promotion."[8] Generally, the revenues from these levies may be used for capital construction, maintenance, and promotion of tourist-related facilities, tourism promotion, and beach and shoreline maintenance. Tourist-related facilities include convention centers, sports stadiums and arenas, coliseums, auditoriums, and museums that are publically owned and operated within the area that the tax is levied. Tax revenues may also be used to promote zoos.

The local taxes on rental charges are required to be remitted to the Department of Revenue, unless a county has adopted an ordinance providing for local collection and administration of the tax.[9]

---

[4] Section 125.0104(3)(d), F.S.
[5] Section 125.0104(3)(l), F.S.
[6] Section 125.0104(3)(m), F.S.
[7] Section 125.0104(3)(n), F.S.
[8] Florida Legislative Committee on Intergovernmental Relations, Issue Brief: Utilization of Local Option Tourist Taxes by Florida Counties in Fiscal Year 2009-10 (December 2009), available at http://edr.state.fl.us/Content/local-government/reports/localopttourist09.pdf (last visited 1/12/2012).
[9] Also known as "self-administering."

Florida Aquariums

Visit Florida's website lists over 25 attractions in the category of "aquarium," including the Key West Aquarium, the Miami Seaquarium, the Mote Marine Laboratory and Aquarium in Sarasota, the Florida Aquarium in Tampa, and the Florida's Gulfarium in Fort Walton Beach.

III. Effect of Proposed Changes:

Section 1 amends s. 125.0104, F.S., to permit counties to use the tax revenues from the tourist development tax for purposes related to publicly owned and operated aquariums, including the acquisition, construction, maintenance, or promotion of such aquariums.

Section 2 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill should not give rise to any mandates restrictions because it is permitting, not mandating, the local governments to expend funds from the tourist development taxes for an additional purpose.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Local businesses and residents may benefit from having an additional tourist attraction.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

Tallahassee, Florida 32399-1100

COMMITTEES:
Transportation, *Chair*
Budget - Subcommittee on General Government Appropriations
Budget - Subcommittee on Transportation, Tourism, and Economic Development Appropriations
Children, Families, and Elder Affairs
Environmental Preservation and Conservation
Governmental Oversight and Accountability
Reapportionment

SENATOR JACK LATVALA
16th District

RECEIVED
JAN 13 2012
COMMERCE

January 12, 2011

The Honorable Senator Nancy Detert, Chair
Senate Committee on Commerce and Tourism
310 Knott Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Detert:

I respectfully request consideration of Senate Bill 1274 regarding the Tourist Development Tax at your earliest convenience.

This bill has been filed in order to allow publicly-owned and operated aquariums to receive a portion of the funds generated from this tax in the same manner as other facilities, such as museums, convention centers, and sports arenas already do. I would greatly appreciate the opportunity to present this legislation to the Commerce and Tourism as soon as possible.

If you have any questions regarding this legislation, please contact me. Thank you in advance for your consideration.

Sincerely,

Jack Latvala
State Senator
District 16

JL: JW

cc: Jennifer Hrdlicka, Staff Director; Patty Blackburn, Administrative Assistant

REPLY TO:
❒ 12425 28th Street North, Suite 102, St. Petersburg, Florida 33716 (727) 556-6500
❒ 405 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5075

Senate's Website: *www.flsenate.gov*

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

2011 Incentives Report

Gray Swoope, Secretary of Commerce
President & CEO, Enterprise Florida

DEO Data vs. Incentives Report

DEO data dump on 1600 transactions

- Accurate numbers but lacked context
- Impossible to draw meaningful, accurate conclusions

2011 Incentives Report

- Legislation describes what was to be measured
- Report delivered Dec 30, as required

Outcomes

- ✓ The legislature asked that we demonstrate incentives are wise investments of taxpayer dollars – <u>we showed the types of businesses receiving these funds and the benefits</u>

- ✓ Legislators wanted more transparency– <u>the report names each business receiving State funds</u>

- ✓ Statute required that we re-evaluate the economic impacts of previous projects using actual performance data – <u>we did and the results were positive</u>

Verified Performance

- Every incentive requires a performance-based contract
- Compliance and accountability are built-in
- The State verifies performance annually before making payments
- Funds are occasionally placed into escrow until performance conditions are met to protect taxpayer funds

Performance Definitions

- **Complete** – project has received all eligible funding and submitted all closing documents.
- **Active** – project is still considered eligible for program participation.
- **Inactive** – project was approved, contract executed, and project received at least one payment before becoming ineligible to continue to participate in program.
- **Terminated** - project was approved, contract executed, but project did not receive any payments before becoming ineligible to continue to participate in program.

Key Results

- Florida's programs are working
- Businesses with complete QTI contracts created 28,628 new Florida jobs—56% more than required per contracts
- Businesses with active QTI contracts created 17,171 new Florida jobs—10% more than required
- Two complete Closing Fund projects created fewer jobs than committed and repaid funds to the State
  - Due to repayments, return on the State's investment was higher than originally projected even though the job creation was lower

FY 2011 Incentive Contracts (DEO Managed Programs)

Incentive contracts executed in FY 2011…

- 101 projects
- Commitment of 13,072 new Florida jobs at an average wage of $48,629
- Maximum potential payments of $76,262,824
- Local financial support of $50,377,174 (minimum)
- 38% of projects were in distressed areas
- Businesses are listed by name in Appendix C

FY 2011 Incentive Payments

- The State paid $27 million to 118 projects (other than Innovation Incentive R&D projects) with contracts from previous years
- These payments are largely refunds of taxes paid that would not have otherwise been collected
- The State confirmed these projects created 17,300 new Florida jobs at an average wage of $61,905
- The report lists all businesses receiving payments by name and their job creation performance

Evaluation of Economic Benefits

- Competitive projects drive disposable income
- An estimate of the economic impacts is calculated for each project, estimating payback to the State ($ in State tax revenue generated per $1 of State investment)
- Statute suggests 5:1; projects with completed contracts in the last 3 years project a 9.14:1 as the payback
- You asked that we reconstruct these analyses using verified jobs, wages and actual incentives paid

Evaluation of Economic Benefits

- For projects with completed incentive contracts in the last 3 years, the estimated 4-year economic benefit was **49% higher** than orginally projected

- Why? Because these companies…

- - Created **20% more jobs** than required
- - Paid an average **wage 28% higher** than required
- - Received **26% less in incentive payments** than projected

Economic development is a team sport!

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Executive Summary

Florida's economic development incentives are components of a toolkit, which is critical to improving Florida's economy through new job creation. Each program within the toolkit serves a different role in attracting and retaining jobs in Florida. In order to facilitate new job creation, the State may decide to negotiate an incentive package with a business. These incentives are offered through performance-based agreements, meaning the business must meet certain performance standards before receiving any incentive payments.

Taxpayer dollars are extremely valuable and every dollar must be invested wisely and accounted for. Just like we work to attract business investment in Florida, the State may also choose to make an investment to facilitate new job creation. Before making any investment, the State performs due diligence on each company, considers the scope of the proposed project, evaluates what is required to "close the deal," and negotiates terms of an agreement.

This report provides an overview of historical incentive awards, information on the current status of previously awarded incentive contracts, a summary of the "economic benefits[1]" for recently completed incentive contracts, and detailed information on incentive agreements executed and incentive payments made during fiscal year 2011 (July 1, 2010, to June 30, 2011). The report also discusses the distinction between evaluation of programs as compared to the economic development projects that utilize these programs. While it is important to understand the nature of current economic development projects, ensuring the State continues to receive a positive return on its investment is of utmost importance.

The State's most widely accessed economic development incentive is the Qualified Target Industry (QTI) Tax Refund. In fiscal year 2011, 141 applications were received for this program. The State approved 87 QTI applications and entered into 82 QTI incentive agreements with businesses. Currently there are 268 active QTI incentive contracts outstanding. The State has confirmed these companies have already created 17,171 new jobs, which is 10 percent more than their contractual obligations. For complete QTI contracts, the story is even more positive. **The State has confirmed the 93 businesses with complete QTI agreements created 28,628 new jobs—56 percent more than required.**

For each economic development incentive project involving payments to a business, the State estimates the economic benefit. This is expressed as the amount of State tax dollars expected to be generated as a result of a $1 State investment in a project's economic development incentive package. For incentive agreements completed within the last three years, at the beginning of these projects Enterprise Florida estimated the average economic benefit to be $9.14 in new State taxes for each $1 of incentives awarded. Looking back and taking into consideration the confirmed jobs created, verified wages paid and the State incentive dollars paid to these businesses, **the economic benefits were $13.59 for each dollar invested by the State, or 49% higher than anticipated**. While these are based on estimates of taxes collected and overall economic impacts, this represents a solid approach to evaluating program performance.

[1] Per §288.005, F.S., "economic benefits" means the direct, indirect, and induced gains in state revenues as a percentage of the state's investment. The state's investment includes state grants, tax exemptions, tax refunds, tax credits, and other state incentives. This has historically been referred to as a "payback ratio" and is expressed as $ value in tax revenue for every $1 in State incentives paid.

Economic activity within Florida's target industries is also important to understand in order to be sure we are focused on the right areas for growth. This report includes analyses of activity by industry and also addresses activity within Florida's distressed areas.

Introduction

OVERVIEW OF ECONOMIC DEVELOPMENT INCENTIVES

Florida's economic development toolkit includes programs designed to address specific needs of businesses as they look to expand or locate in Florida. While the toolkit is critical to successful economic development, those involved in the process understand these are valuable taxpayer dollars and therefore we have a fiduciary responsibility to ensure they are spent wisely. In some cases, business needs can be met by making introductions to other companies within the industry cluster, assisting with a permitting issue, or helping to identify a suitable site. These situations are a win-win for the business and State, since limited taxpayer resources were required to facilitate new job creation. However, incentives are often required to "close the deal" on competitive projects, otherwise these high quality jobs will be placed in another state or country.

As part of the early project development process, Enterprise Florida sells the value of doing business in the State while evaluating the needs of each business in order to determine if incentives are needed and the appropriate program and investment for the particular project. A good understanding of the company's plans, goals, and the competitive nature of the project help to shape Florida's incentive package. A strong commitment by the local community can also help to define the level of commitment on behalf of the State.

The current global economy has led to a more competitive economic development environment than ever before. Many businesses that have successfully weathered the economic crisis are now evaluating where to grow their operations. But they are doing so with more caution and conservatism than in years past. States and communities across the U.S. and countries around the world are intensely competing for new jobs and investment. A key to success in many cases is presenting location options that are targeted to meet the needs of the company, addressing concerns regarding talent pipeline, material sourcing and other critical business needs, and demonstrating the location as a low-cost, highly efficient option that will positively impact the company's bottom line.

Many factors make up a site location decision, including cost and availability of labor, transportation infrastructure, and tax climate. Economic development incentives are also frequently part of the discussion. There may be multiple locations across several states that can serve the company's needs from an operational perspective. In those cases, incentives may be offered to sway the company in the direction of one site versus another by reducing a tax burden, putting in infrastructure to help lower the company's construction costs, or assisting with business relocation costs.

In order to effectively compete for economic development projects, a strong, well-funded toolkit of incentives is needed. This will ensure Florida is able to address specific needs as they arise for projects considering new job creation and investment opportunities.

Changes in Florida's Economic Development Incentives Process

Policy and statutory changes to Florida's economic development process were implemented in 2011. The primary goal of these changes was to migrate toward a seamless approach and single point-of-contact for businesses and eliminate confusion over the roles of different groups in the process.

In summary, Enterprise Florida will continue to be the primary point of contact for businesses with relocation, expansion, or retention opportunities. Business Development Managers will work with companies to align business needs with Florida resources, including structuring incentive packages required to ensure a Florida location decision. Enterprise Florida will also continue to sell the State as a place to do business and develop incentives necessary to close the deal.

The Department of Economic Opportunity (DEO) will evaluate incentive applications, ensure statutory compliance, make incentive policy decisions, and manage incentive contracts and compliance. DEO will also coordinate with other State agencies as needed on issues such as permitting and regulatory compliance.

Statutory Requirements

The annual incentives report has been produced by Enterprise Florida for nine years, as required under §288.095, F.S. Previous reports addressed the economic development incentives paid from the State's Economic Development Trust Fund (Qualified Target Industry Tax Refund, Qualified Defense and Space Contractor Tax Refund, and the Brownfield Redevelopment Bonus Refund) and summarized the performance of other incentives considered to be key components of Florida's economic development toolkit.

During the 2011 Legislative session, §288.907, F.S. was created, which expanded the scope of data to be included in the annual incentives report. In summary, the information presented will provide taxpayers, Legislators, and other stakeholders with a detailed understanding of the performance of various incentive programs. This performance is demonstrated by verified job creation and wage figures, calculation of economic benefits utilizing actual company performance and actual incentive payments made, and other analyses to help verify the outcomes and appropriateness of State incentives.

The Florida Legislature and Florida's taxpayers have indicated a desire for more transparency into State incentive awards. This report includes listings of businesses with incentive contracts executed during fiscal year 2011 and those receiving incentive award payments. Some of the specific project information remains confidential per §288.075, F.S. as of the time this report was written. However, all reasonable attempts have been made to include project details where applicable.

The data presented in this report should be evaluated in context with the program goals of the applicable incentives, the highly competitive nature of economic development, as well as the current economic climate.

SUMMARY OF INCENTIVES REPORT CONTENTS

Programs Included

Various programs comprise Florida's economic development incentive toolkit. There are incentives paid directly to businesses, grants to local governments for infrastructure and other community development improvements, capital programs, and other intangible resources. These programs are housed in several different agencies within the State. This report focuses on the 11 programs managed by the Department of Economic Opportunity's Division of Strategic Business Development. Jobs for the Unemployed Tax Credit (JUTC) is also managed by DEO-DSBD; however, formal applications were not submitted until July 1, 2011.

- Qualified Target Industry (QTI) Tax Refund
- Brownfield Redevelopment Bonus Tax Refund (available as a bonus in addition to QTI or stand-alone)
- Qualified Defense and Space Contractor (QDSC) Tax Refund
- Quick Action Closing Fund (QACF)
- Manufacturing and Spaceport Investment Incentive (MSII)
- Economic Development Transportation Fund (EDTF)
- High Impact Performance Incentive (HIPI)
- Capital Investment Tax Credit (CITC)
- Innovation Incentive Program (IIP or IIF)
- Semiconductor, Defense and Space Technologies (SDST) Sales Tax Exemption
- Local Government Distressed Area Matching Grant (LGDAMG)

Descriptions and data for other programs—including Florida's Quick Response Training program—have been included whenever possible, in order to show the diverse range of business assistance available in Florida. In compiling this Annual Incentives Report, Enterprise Florida collected information from the Department of Economic Opportunity's Divisions of Strategic Business Development and Community Development, Workforce Florida, Inc., the Florida Department of Revenue, the Florida Export Finance Corporation, and the Florida Development Finance Corporation.

Program and Project Approach

There are several ways to evaluate the performance and effectiveness of economic development incentives. One approach is based on specific economic development incentive programs (program approach), which includes data for each individual program, irrespective of whether multiple incentive programs were required to land the project. Another approach being based on individual projects (project approach) and evaluating the various incentives required to land a specific project and then a summary of the project's performance compared to the incentives actually paid.

In order to give a comprehensive summary, both approaches are presented in this report. The program approach information includes the amount of incentives approved and amounts paid by the State, a summary status of all economic development incentive projects approved (since July 1, 1995, or other date as noted), a summary of the economic benefits as a result of money spent on economic development incentives, and summaries of incentive performance within specific industry sectors and geographically distressed areas. The challenge with this approach is that while it is good at comparing programs, it may lead to double counting of jobs if the new job creation for each program was simply added together.

The project approach analysis includes information on approvals for the previous fiscal year for each incentive program and the number of individual projects this represents. Further details are provided regarding these executed agreements, including the names of businesses, their performance commitments, and the incentive agreements executed. Additional information is provided for businesses receiving incentive payments during fiscal year 2011. These two data sets are generally different, since Florida's incentives are performance based and therefore most businesses do not receive actual payments from the State until several years into the project.

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Incentive Program Information

TYPES OF INCENTIVES

Economic development incentives come in various forms, including tax refunds, tax credits, tax exemptions, and cash grants. Other tools, such as financing, can help facilitate an economic development project. A thorough evaluation of the project's needs as compared to the eligibility requirements of various incentive programs help dictate which programs may be a good—or not so good—fit for each project.

The majority of Florida's competitive economic development projects utilize tax refunds. With these incentives, the business first enters into a contract with the State, which includes a new job creation goal, a schedule by which these new jobs are to be created, and an average wage to be paid for the new jobs. After the business has commenced the project and begun hiring, it submits an annual claim form and documentation of taxes paid. The State verifies the claim data with the company's quarterly unemployment compensation reports and verifies the tax documentation. If the State confirms the contractual obligations have been met and the local financial support has been received (if required) from the community, a refund check is sent to the business. If a QTI business partially performs but does not meet its full contracted job or wage requirements, it may be entitled to a pro-rated refund, less a penalty, or it will be invited to apply for an Economic Recovery Extension (ERE). Businesses not filing claims or not meeting performance obligations are terminated from the program. Table 1 summarizes several different types of incentives.

Table 1
KEY INCENTIVE CATEGORIES

	TAX REFUNDS	TAX CREDITS	TAX EXEMPTIONS	CASH GRANTS TO COMPANY	CASH GRANTS TO THIRD PARTY
Florida Incentive Programs	• Qualified Target Industry (QTI) • Qualified Defense and Space Contractor (QDSC) • Brownfield Bonus • Manufacturing and Spaceport Investment Incentive (MSII)	• Capital Investment Tax Credit (CITC) • Jobs for the Unemployed Tax Credit (JUTC) • Other Job Tax Credits	• Various	• High Impact Performance Incentive (HIPI) • Quick Action Closing Fund (QACF) • Innovation Incentive Program / Fund (IIF)	• Economic Development Transportation Fund (EDTF or Road Fund) • Quick Response Training (QRT) • Local Government Distressed Area Matching Grant (LGDAMG)
Type of Incentive	Refund of taxes paid, outlined in a perform-ance based contract	Credit against tax owed	Exemption from tax owed	Grant with performance based contract	Grant with performance based contract
Overview of Claim Process	• Company pays taxes • State confirms tax payments and validates performance • State issues refund check	• Company claims credits on State corporate income tax return after meeting program requirements	• Company is issued tax exemption permit from Florida Department of Revenue • Permit presented to seller • Seller exempts sales tax on transaction	• Company achieves pre-set milestones • State validates performance • State issues check	• Company achieves pre-set milestones • State validates performance • State issues check
Revenue Source	Annual appropriation	Foregone revenue (no appropriation)	Foregone revenue (no appropriation)	Annual appropriation	Annual appropriation

FLORIDA'S KEY ECONOMIC DEVELOPMENT INCENTIVES

Tax Refunds

Qualified Target Industry Tax Refund (§288.106, F.S.)

Objective: Spur Job Creation in Florida's Target Industries

Description: The Qualified Target Industry Tax Refund, established in 1995, serves to attract new high quality, high wage jobs for Floridians. Tax refunds are made to qualifying, pre-approved businesses creating new jobs within Florida's target industries. All QTI projects include a performance-based contract with the State of Florida, which outlines specific milestones that must be achieved and verified by the State prior to payment of refunds.

Qualified Defense and Space Contractor Tax Refund (§288.1045, F.S.)

Objective: Spur Job Creation in Florida's Defense and Space Industries

Description: The Qualified Defense and Space Contractor Tax Refund, established in 1996, serves to attract new high quality, high wage jobs for Floridians in the defense and space industries. Tax refunds are made to qualifying, pre-approved businesses bidding on new competitive contracts or consolidating existing defense or space contracts. All QDSC projects include a performance-based contract with the State of Florida, which outlines specific milestones that must be achieved and verified by the State prior to payment of refunds.

Brownfield Redevelopment Bonus Refunds (§288.107, F.S.)

Objective: Spur Job Creation and Capital Investment in Florida's Brownfield Areas

Description: The Brownfield Redevelopment Bonus Tax Refund, established in 1997, serves to improve economic opportunities within Florida's Brownfield areas. These areas have been designated as Brownfields by each community for the presence or perceived presence of environmental contamination or blight. The incentive spurs redevelopment and job creation in these areas of need. All Brownfield Bonus projects include a performance-based contract with the State of Florida, which outlines specific milestones that must be achieved and verified by the State prior to payment of refunds.

Manufacturing and Spaceport Investment Incentive (§288.1083, F.S.)

Objective: Spur Capital Investment in the Manufacturing and Space Industries

Description: The Manufacturing and Spaceport Investment Incentive was created in 2010 to serve as a means of relieving some of the sales tax burden on existing manufacturers that were not increasing their productive output enough to be eligible for the standard manufacturing machinery and equipment sales tax exemption. This is a temporary program, with refunds available through FY 2012.

Tax Credits

Capital Investment Tax Credit(§220.191, F.S.)

Objective: Spur Capital Investment in Florida's High Impact Sectors

Description: The Capital Investment Tax Credit became effective July 1, 1998. CITC is used to attract and grow capital-intensive industries in Florida. It is an annual credit, provided for up to twenty years, against the corporate income tax. Eligible projects are those in designated high-impact portions of the following sectors: clean energy, biomedical technology, financial services, information technology, silicon technology, transportation equipment manufacturing, or a corporate headquarters facility.

Jobs for the Unemployed Tax Credit (§220.1896, F.S.)
Objective: Encourage Hiring of Unemployed Floridians
Description: Created in 2010, the Jobs for the Unemployed Tax Credit encourages target industry businesses to hire Florida residents who were unemployed for at least 30 days. This tax credit is claimed by the business after each employee has been retained for 12 months.

Tax Exemptions

Florida offers several sales tax exemptions designed to spur investment in certain industries, including manufacturing and research and development. The Semiconductor, Defense and Space Technologies Exemption is processed through DEO and therefore mentioned in this report.

Semiconductor, Defense and Space Technologies Sales Tax Exemption (§212.08(5)(j), F.S.)
Objective: Encourage Equipment Upgrades for Producers of Semiconductor, Defense and Space Technology Products
Description: The Semiconductor, Defense and Space Technologies Sales Tax Exemption allows for an exemption of sales tax on manufacturing equipment purchased by these businesses. The role of Enterprise Florida and DEO in this exemption is to validate the applicants are producing qualifying products allowed under the exemption statute.

Cash Grants

High Impact Performance Incentive (§288.108, F.S.)
Objective: Spur Capital Investment and Job Creation in Florida's High Impact Sectors
Description: Enacted in July 1997, the High Impact Performance Incentive (HIPI) is a grant reserved for major facilities operating in designated portions of high-impact sectors, including clean energy, biomedical technology, financial services, information technology, silicon technology, transportation equipment manufacturing, or a corporate headquarters facility. This performance based cash grant is paid in two equal installments, one upon commencement of operations and the other upon commencement of full operations.

Quick Action Closing Fund (§288.1088, F.S.)
Objective: Deal Closing Tool Used for Highly Competitive Projects to Attract New and Retain Existing Florida Jobs
Description: The Quick Action Closing Fund was created by the 1999 Legislature as a discretionary "deal closing" tool in highly competitive negotiations where Florida's traditional incentives are not enough to win the deal. This tool is critical to the state's ability to attract projects where Florida is at a significant competitive disadvantage. All Closing Fund projects include a performance-based contract with the State of Florida, which outlines specific milestones that must be achieved for grant payment, sanctions and penalties for non-performance, as well as annual compliance requirements. Closing Fund awards are generally paid out after the business has made a substantial capital investment in the project toward tangible personal property.

Innovation Incentive Program(§288.1089, F.S.)
Objective: Attract Major Innovation Businesses to Spur Development of Key Clusters
Description: The Innovation Incentive Program was created during the 2006 Legislative Session as a tool to allow the state to compete effectively for high-value research and development, innovation business, and alternative and renewable energy projects. These are long-term investments made by the State in industry clusters that are critical to Florida's future of economic diversification. All Innovation projects include a performance-based contract with the State of Florida, which outlines specific milestones that must be achieved for grant payment as well as compliance requirements. Innovation contracts also include a reinvestment requirement, by which recipients must remit a portion of their royalty revenues back to the State for reinvestment in existing State Trust Funds.

Economic Development Transportation Fund (§288.063, F.S.)

Objective: Transportation Infrastructure Improvements to Spur Job Creation / Retention and Capital Investment

Description: The Economic Development Transportation Fund is a grant to a local government used to alleviate transportation impediments as an inducement for a specific business to remain, expand or locate in Florida. The infrastructure funded through this grant serves as permanent community improvements for the benefit of Floridians.

Local Government Distressed Area Matching Grant (§288.0659, F.S.)

Objective: Stimulate Economic Activity by Matching Local Business Assistance

Description: The Local Government Distressed Area Matching Grant program was created in 2010 to stimulate economic activity and enhance the ability of distressed communities to attract new job creation opportunities. The grant is administered through a contract between the State of Florida and the local government, with the State's funds ($50,000 maximum) passed through to the business.

Quick Response Training (§288.047, F.S.)[2]

Objective: Ensure Florida has a well-trained workforce with in-demand skill sets

Description: The Quick Response Training grant is an employer-driven training program designed to assist new value-added businesses and provide existing Florida businesses the necessary training for expansion. This reimbursement program is customized, flexible, and responsive to individual company needs. The Quick Response Training program is managed by Workforce Florida, Inc.; however, detailed information has been included in this report since it is a foundation of Florida's economic development toolkit.

[2] Quick Response Training is managed by Workforce Florida. However, it is a critical incentive for businesses and therefore select program information has been included in this report. The Incumbent Worker Training (IWT) program is also an important part of the toolkit; however, it has not been included in this report since these are Federal workforce dollars rather than a specific State appropriation.

HISTORICAL INCENTIVE PROGRAM FUNDING AND AWARDS

As noted in Table 1, incentives take different forms, some of which require annual appropriations and others involve foregone tax revenue. Tables 2 and 3 detail the amount of incentives approved by year for all programs requiring an annual appropriation. Table 2 also indicates the State's portion of the award, since part of the total incentive payment is made by the local community.

Table 2
INCENTIVE AWARDS GRANTED – TAX REFUNDS

FISCAL YEAR ENDED	QTI	QDSC	BROWNFIELD BONUS (WITH QTI)	BROWNFIELD BONUS (STAND-ALONE)	MSII
2011 Awards Granted	$37,940,810	$2,037,000	$4,552,500	$3,437,500	$1,300,000
State Portion	*$30,352,648*	*$1,629,600*	*$3,642,000*	*$2,750,000*	*NA*
2010 Awards Granted	$33,863,300	$0	$4,790,000	$1,112,500	Created in 2010
State Portion	*$27,090,640*	*$0*	*$3,832,000*	*$890,000*	
2009 Awards Granted	$34,125,000	$2,136,000	$5,070,000	$230,000	
State Portion	*$27,300,000*	*$1,708,800*	*$4,056,000*	*$184,000*	
2008 Awards Granted	$23,710,000	$0	$472,500	$812,500	
State Portion	*$18,968,000*	*$0*	*$378,000*	*$ 650,000*	
2007 Awards Granted	$36,611,000	$2,966,888	$1,545,000	$3,072,500	
State Portion	*$29,288,800*	*$2,373,510*	*$1,236,000*	*$2,458,000*	
2006 Awards Granted	$55,670,867	$3,921,000	$2,942,500	$1,567,500	
State Portion	*$44,536,694*	*$3,136,800*	*$2,354,000*	*$1,254,000*	
2005 Awards Granted	$56,954,000	$475,000	$2,360,000	$1,250,000	
State Portion	*$45,563,200*	*$380,000*	*$1,888,000*	*$1,000,000*	
2004 Awards Granted	$41,964,800	$0	$4,322,000	$312,500	
State Portion	*$33,571,840*	*$0*	*$3,457,600*	*$250,000*	
2003 Awards Granted	$45,675,100	$0	$1,982,500	$312,500	
State Portion	*$36,540,080*	*$0*	*$1,586,000*	*$250,000*	
2002 Awards Granted	$37,576,950	$0	$125,000	Stand-alone component added in 2002	
State Portion	*$30,061,560*	*$0*	*$100,000*		
2001 Awards Granted	$50,546,800	$288,000	$100,000		
State Portion	*$40,437,440*	*$230,400*	*$80,000*		
2000 Awards Granted	$56,223,500	$1,350,000	$300,000		
State Portion	*$44,978,800*	*$1,080,000*	*$240,000*		
1999 Awards Granted	$26,607,880	$112,000	$845,000		
State Portion	*$21,286,304*	*$89,600*	*$676,000*		
1998 Awards Granted	$59,995,152	$0	$231,250		
State Portion	*$47,996,122*	*$0*	*$185,000*		
1997 Awards Granted	$34,298,000	$410,000	Created in 1997		
State Portion	*$27,438,400*	*$328,000*			
1996 Awards Granted	$26,557,500	$0			
State Portion	*$21,246,000*	*$0*			

For incentives paid from the same year's appropriation, particularly QACF, EDTF, and QRT, the awards granted may exceed the appropriation for that year. This is because incentives are sometimes approved for businesses that decide not to locate in Florida, then those funds may be re-allocated to another project. Occasionally the Legislature will authorize line item appropriations for special EDTF projects, which do not follow the same recommendation and approval process as other EDTF awards. These are noted as "member projects" throughout the report rather than "traditional" EDTF projects, which follow the regular recommendation and approval process.

Table 3
INCENTIVE AWARDS GRANTED - GRANTS

FY END	HIPI	QACF	IIF	EDTF	LGDAMG	QRT
2011	$8,640,000	$24,337,700	$0	$30,342,123	$0	$ 8,545,367
2010	$0	$25,401,830	$0	$4,280,390	Created in 2010	$3,391,777
2009	$13,984,000	$60,579,000	$0	$27,565,525		$13,270,962
2008	$0	$47,000,000	$ 249,090,000	$9,732,860		$1,606,960
2007	$0	$41,857,800	$ 200,000,000	$12,039,178		$11,410,488
2006	$3,150,000	$10,442,200	Created in 2006	$11,617,198		$7,083,202
2005	$0	$9,272,500		$14,710,964		$7,970,541
2004	$0	$4,400,000		$17,212,039		$7,822,434
2003	$0	$0		$17,012,214		$7,317,724
2002	$0	$1,350,000		$14,937,348		$7,585,239
2001	$2,000,000	$900,000		$20,158,571		$4,772,350
2000	$15,250,000	$1,400,000		$27,866,578		$5,803,588
1999	$12,500,000	Created in 1999		$25,047,952		$4,166,842
1998	$0			$16,230,721		$3,739,430
1997	Created in 1997			$8,595,618		$6,704,625
1996				$10,023,177		$4,371,850

In addition to these incentives requiring a payment from the State, tax credits are also key components of Florida's incentive toolkit. Since credits are foregone revenue and therefore do not require an annual appropriation, they should be reported differently. Table 4 includes a summary of the amount of tax credits approved for various State tax credit incentives. Jobs for the Unemployed Tax Credit is not included on this chart since there had not yet been any awards through June 30, 2011. Capital Investment Tax Credit is provided as an aggregate figure for the amount of credits claimed for years prior to 2009 in order to maintain company confidentiality. Also, since the amount of approved credits are much different than the value of credits claimed, the data presented here for Capital Investment Tax Credit is for credits claimed, while it is for credits approved for the other programs.

Table 4
TAX CREDITS CLAIMED OR APPROVED

YEAR	CITC (AMOUNT CLAIMED)	RURAL JOB TAX CREDIT	URBAN JOB TAX CREDIT	EZ JOBS TAX CREDIT (SALES TAX)	EZ JOBS TAX CREDIT (CORP. INCOME TAX)
2010	NA	$181,000	$1,259,500	$5,683,252	$4,348,031
2009	$14,363,145	$204,000	$855,000	$5,227,245	$5,072,555
2008		$66,000	$517,500	$5,732,605	$5,507,311
2007		$204,000	$654,000	$6,087,743	$5,919,236
2006		$647,500	$1,014,000	$6,777,250	$4,253,621
2005	$40,132,176	$673,000	$1,761,000	$4,729,834	$2,080,397
2004		$50,000	$1,053,500	$2,579,512	$1,086,747
2003		$1,008,000	$1,069,000	$1,444,543	$800,029
2002		$584,000	$2,673,500	$970,148	$1,965,920
2001	$0	$257,000	$2,486,500	$1,287,263	$345,669
2000	$0	$21,000	$4,999,500	$1,036,480	$1,022,058
1999	$0	$0	$260,500	$1,179,457	$626,972
1998	Created in 1998	$0	$0	$629,694	$1,365,761
1997		Created in 1997	Created in 1997	$548,988	$2,812,621
1996				$269,906	$2,463,810

CALENDAR YEAR	EZ PROPERTY TAX CREDIT	EZ SALES TAX REFUND FOR BUILDING MATERIALS	EZ SALES TAX REFUND FOR BUSINESS EQUIPMENT	EZ SALES TAX EXEMPTION FOR ELECTRICAL ENERGY
2010	$1,384,668	$54,012,915	$1,035,562	$1,138,054
2009	$1,910,708	$30,994,860	$1,139,066	$1,007,007
2008	$2,184,036	$25,665,025	$1,269,955	$606
2007	$2,291,961	$18,855,129	$1,771,396	$793,179
2006	$1,267,999	$7,415,711	$2,940,864	$778,090
2005	$1,668,168	$3,878,421	$1,618,721	$84,516
2004	$507,022	$1,356,462	$1,182,582	$488,937
2003	$272,942	$533,673	$1,874,145	$476,251
2002	$303,542	$456,551	$2,813,601	$229,789
2001	$363,502	$548,668	$1,911,472	$289,822
2000	$545,409	$334,668	$2,188,606	$331,614
1999	$1,015,587	$277,803	$1,739,695	$331,695
1998	$638,833	$269,242	$1,288,160	$303,528
1997	$204,713	$102,349	$521,443	$223,827
1996	$145,017	$72,713	$242,303	$243,565

Table Notes: 1) Enterprise Zone incentives are on an October 1 to September 30 program year, which has been translated to the calendar year in which the program ends. 2) Value of CITC credits claimed is for the companies' fiscal years beginning in the corresponding calendar year. These credits may change due to changes from Federal audits or filing extensions.

INCENTIVE PROGRAM ACTIVITY AND RESULTS

Understanding the usage and performance of specific incentive programs is critical to determining whether they are effective job creation tools. Measurement against the incentive contract takes place annually (at a minimum). The following tables quantify key performance metrics for each program.

When a business is contemplating a major expansion, Enterprise Florida works with the company to understand its needs in order to facilitate a Florida location decision. After the project has been vetted, the needs of the project have been evaluated, and an incentive package has been developed, DEO further reviews the deal to ensure it is in the best interest of Florida's taxpayers. Adjustments may be made during the incentive negotiation process to further tailor the structure of the incentive package to ensure alignment with the company's needs. Once the incentive package is finalized, DEO and/or the other appropriate State bodies will issue the formal approvals.

Following the approval is an agreement or contract between the business (or local government) and the State. All agreements include performance requirements to be achieved before any incentive funds are paid out. For the few agreements structured for the business to receive incentive payments before the full scope of the project is achieved (primarily Closing Fund and Innovation Fund), each contract includes clawbacks and sanctions for non-performance. These sanctions include requiring the company to repay all or a portion of the incentive award, plus interest. The contracts also may include the right to impose a lien on assets of the business.

In order to further protect the State's investment in economic development incentives, funds are often placed into an escrow account, managed by Enterprise Florida, prior to disbursement to the companies. As of December 21, 2011, Enterprise Florida held $42,396,034 in escrow funds for 16 different economic development projects. If any of these businesses do not meet the milestones required for the payments to be disbursed, the escrowed funds will be returned to General Revenue. In addition, 10 previous QACF awardees have returned a total of $10,542,702.77 to the State, per the sanctions outlined in the QACF agreements. Some of these companies returned a pro-rated portion of their award, while others returned the entire award.

Program Utilization – Tax Refunds

Tables 5 through 8 were compiled using data provided by DEO and show a summary of the current status of incentives approved by the State since July 1, 1995. The status of each incentive falls within one of six categories: active, inactive, terminated, vacated, withdrawn or complete. Explanations for each of these are contained within the tables below. The number of executed incentive agreements is also provided.

Businesses with active incentive agreements are in the midst of ramping up their expansion or new Florida operation. The number of complete incentive agreements may seem low compared to the number approved. Since incentive agreements are multi-year contracts—typically five to seven years for QTI—most businesses are in the midst of contract performance.

Not all businesses approved for incentives decide to commence their projects in Florida, which explains the gap between number of approvals and contracts executed. Some of these businesses even execute the incentive agreement, but still decide not to proceed with the project or decide to forego the incentive. A status of terminated or vacated indicates this decision was made. In addition, some businesses start their project, create a minimum number of jobs, and therefore receive one or more incentive payments based on this performance. If these businesses do not fulfill the full terms of their agreement, they are no longer eligible for subsequent payments.

Table 5
PROGRAM ACTIVITY – TAX REFUNDS

	QTI	QDSC[3]	BROWN-FIELD BONUS[4] (WITH QTI)	BROWN-FIELD BONUS (STAND-ALONE)	COMMENTS
Approvals (7/1/94 to 6/30/11)	1,013	32	78	34	Total number of incentive approvals issued by OTTED / DEO
Active	268	6	36	20	Active: Business currently performing and in good standing
Inactive	165	3	5	0	Inactive: Business has received one or more incentive payment after meeting a portion of its contract commitments, but is ineligible for future payments
Terminated	371	14	27	4	Terminated: An incentive contract was executed but business has not received any payments and is ineligible for future payments
Vacated	114	5	6	6	Vacated: Incentive contract never signed by the business and therefore no incentive payments made
Withdrawn	2	0	0	0	Withdrawn: Incentive application was withdrawn by the business or Enterprise Florida prior to approval
Complete	93	4	4	4	Complete: Business has met the terms of its contract and received all eligible incentive payments
Contracts Executed (through 6/30/11)	888	27	68	26	Total number of incentive contracts executed by the State

Confirmed Results – Tax Refunds

Depending on the scope of the project, it may take a business several months or several years to reach its full employment projections. Therefore at any given point they may have only created a portion of the total jobs committed over the life of the agreement. Three data points are provided to show the current performance of active incentive agreements. “Contracted new jobs (total project)” represents the full job creation commitments for these projects. “Contracted new jobs (as of latest FY)” is the total number of new jobs the businesses are contractually obligated to have in place as of their latest claim period. “Confirmed new jobs” are the number of net new to Florida jobs the State has confirmed to have been created by these businesses. The proper comparison here is the “contracted new jobs (as of latest FY)” with “confirmed new jobs,” since this represents where the businesses actually are in terms of meeting their goals versus where they should be per their contracts.

[3] QDSC figures are since program inception, 1/1/1994.
[4] These figures contract and job figures are also part of the QTI data set.

Table 6 shows the number of jobs expected to be created by active incentive projects, both over the life of the agreements and as of the most recent claim period. For these active QTI projects, the State has confirmed these businesses have created 10 percent more jobs than required under their contracts. Even more impressive are the results for the complete QTI projects. The State has confirmed these businesses created 56 percent more jobs than required per their agreements[5].

Active QTI projects have created 10% more jobs than required per their contracts while complete QTI projects have created 56% more jobs.

Table 6
PROGRAM RESULTS – TAX REFUNDS

	QTI	QDSC	BROWN-FIELD BONUS (WITH QTI)	BROWN-FIELD BONUS (STAND-ALONE)	COMMENTS
Active Agreements					For businesses with active agreements:
Contracted New Jobs (Total Project)	38,599	473	6,311	2,939	Number of jobs these businesses have committed to create over the life of the contract
Contracted New Jobs (as of Latest FY)	15,559	140	1,576	1,264	Number of jobs these businesses are contractually obligated to have in place as of their last reporting period
Confirmed New Jobs	17,171	170	2,415	1,185	Number of net new jobs the State has confirmed have been created by these businesses
Difference (Expected vs. Confirmed)	10%	21%	53%	(6%)	Businesses actually created more (or less) jobs than originally committed
Complete Agreements					For businesses with complete agreements:
Contracted New Jobs	18,369	740	975	270	Number of jobs these businesses committed to create over the life of the contract
Confirmed New Jobs	28,628	1,459	1,049	262	Number of net new jobs the State has confirmed have been created by these businesses as of their last report
Difference (Expected vs. Contracted)	56%	97%	8%	(3%)	Businesses actually created more (or less) jobs than originally committed

[5] Several companies have more than one active or complete QTI as a result of multiple expansions. For these projects, the "confirmed" jobs only include those required under the original contracts so as to not double count the same set of jobs for multiple projects.

Program Utilization – Grants

Contracts for incentive grants are similar to contracts for tax refunds. The business enters into a performance based agreement with the State, which outlines specific milestones for performance and payment. For the Economic Development Transportation Fund grants, these funds are paid directly to the city or county as the applicant and not to the company.

Table 7
PROGRAM ACTIVITY - GRANTS

	HIPI	QACF	IIF	EDTF (MEMBER)	EDTF (TRADIT-IONAL)	COMMENTS
Approvals (7/1/95 to 6/30/11)	11	91	7	17	262	Total number of incentive approvals issued by OTTED / DEO
Active	5	66	7	10	22	Active: Business currently performing and in good standing
Inactive	3	7	-	1	15	Inactive: Business has received one or more incentive payment after meeting a portion of its contract commitments, but is ineligible for future payments
Terminated	-	5	-	1	55	Terminated: An incentive contract was executed but business has not received any payments and is ineligible for future payments
Vacated	-	6	-	-	4	Vacated: Incentive contract never signed by the business and therefore no incentive payments made
Withdrawn	-	4	-	-	-	Withdrawn: Incentive application was withdrawn by the business or Enterprise Florida prior to approval
Complete	3	3	-	5	166	Complete: Business has met the terms of its contract and received all eligible incentive payments
Contracts Executed (through 6/30/11)	10	79	7	16	255	Total number of incentive contracts executed by the State

Confirmed Results – Grants

Results for the economic development grants are also positive and show these programs are effectively inducing job creation. For active agreements, the State has confirmed actual job creation exceeds job commitments across the board.

Table 8
PROGRAM RESULTS - GRANTS

	HIPI	QACF	IIF	EDTF[6] (TRADITIONAL)	COMMENTS
Active Agreements					For businesses with active agreements:
Contracted New Jobs (Total Project)	2,130	17,775	1,488	4,916	Number of jobs these businesses have committed to create over the life of the contract
Contracted New Jobs (as of Latest FY)	20	5,872	702	475	Number of jobs these businesses are contractually obligated to have in place as of their last reporting period
Confirmed New Jobs	21	7,311	738	608	Number of net new jobs the State has confirmed have been created by these businesses
Difference (Expected vs. Confirmed)	5%	25%	5%	28%	Businesses actually created more (or less) jobs than originally committed
Complete Agreements					For businesses with complete agreements:
Contracted New Jobs	630	1,600	NA	NA	Number of jobs these businesses committed to create over the life of the contract
Confirmed New Jobs	682	1,052	NA	NA	Number of net new jobs the State has confirmed have been created by these businesses as of their last report
Difference (Expected vs. Contracted)	8%	(34%)[7]	NA	NA	Businesses actually created more (or less) jobs than originally committed

Other Program Results

Several other programs have similar performance data available. However, due the nature of each, the relevant metrics to report are different. Information for these programs is presented below.

Capital Investment Tax Credit

The State has issued 21 approvals or certifications for CITC projects through June 30, 2011. Of these, 16 are considered active and five have been terminated. The Florida Department of Revenue has issued eight technical assistance advisements (TAAs) for CITC projects. The active CITC projects may create as many as 6,419 new jobs. The State has confirmed creation of 2,387 new jobs to date.

[6] Since EDTF grants are made to a local government, the State does not confirm job creation in the same manner as QTI. The contracted and confirmed job numbers listed here represent projects for which the businesses also have a QTI contract in place and the State has verified the job figures as part of the QTI claim process. EDTF Member projects have not been included here since these projects may or may not result in new job creation.

[7] Two QACF recipients with complete projects have repaid a portion of their awards since they did not create all of the jobs originally committed. These companies have repaid $676,666.66, or 45% of their total QACF awards.

Quick Response Training
The QRT program, managed by Workforce Florida, Inc., had approved 561 applications through June 30, 2011. Of these, 474 are complete and 87 are still active. While QRT grants are largely based on new job creation, the focus is on number of trainees. For the active agreements, QRT businesses are expected to train 14,147 Floridians, leading to new and improved skill sets. The QRT program has already trained 6,864 citizens through these active contracts.

Semiconductor, Defense and Space Technology Sales Tax Exemption
Based on the 2011 SDST annual report, which covers calendar year 2010, there were 32 active SDST participants. During 2010, 26 applications for the exemption were received, four from new applicants and 22 renewals. No applications or permits were terminated or withdrawn. SDST exemption recipients employ 20,676 Floridians and pay an average wage of $70,519.

Manufacturing and Spaceport Investment Incentive
The MSII program received 24 applications in fiscal year 2011, with all of these being approved. There were no terminations or withdrawals.

ECONOMIC BENEFITS

An economic and fiscal impact analysis is completed for each incentive application submitted to Enterprise Florida. The analysis is based upon RIMS II multipliers issued by the U.S. Department of Commerce's Bureau of Economic Analysis for each industry. The analysis provides a payback ratio, or "economic benefit", estimating the amount of State taxes and related revenues generated per dollar invested by the State in economic development incentives.

Each company entering into a contract for state incentives must commit to a job creation number and a schedule by which those jobs will be in place. Upon completion of the first-year of job creation, the company submits a claim stating the number of new full-time jobs created in that year, the wages paid to these employees, and the amount of taxes paid. The documentation submitted by the company is reviewed and confirmed by a third-party accounting firm under contract by the State.

While companies do their best to project future workforce needs, there is an element of uncertainty involved with estimating a job creation schedule several years in advance. Therefore, the actual number of new jobs created may be higher or lower than the original contractual commitment. In most cases, the end result is a payback higher than originally projected. This is because the initial projections are based on the maximum amount the State will invest in incentives for the project. If the business creates most, but not all, of the committed jobs, the State's incentive payment is reduced as well.

Review of Economic Benefits Model
In 2010, the State's Office of Economic and Demographic Research (EDR) reviewed Enterprise Florida's impact analysis model. Enterprise Florida and EDR worked together to redefine variables within the impact analysis model to optimize the State's return on investment estimate. EDR recommended using statewide RIMS II multipliers instead of regional multipliers to ensure the fiscal impact of increased economic activity is captured on a statewide basis. The new impact analysis model became effective July 1, 2011.

Methodology for Evaluating Economic Benefits

As previously stated, an economic and fiscal impact analysis is completed for incentive applications submitted to the State. Based on the up-front commitments regarding jobs, wages, capital investment, and other factors, the model calculates the expected payback to the State, given the State incentives offered for the project.

For the purposes of calculating the actual economic benefits to the State for projects completed in the previous three years, the State's payback was recalculated utilizing the original impact analysis model and replacing the up-front committed values for jobs, wages, and incentive payments with the actual performance data verified by auditors. In the confirmed economic benefits analysis, the committed job number was replaced with the actual jobs created each year; the anticipated tax refund value was replaced the actual tax refund paid, the single committed wage was replaced by the confirmed wage for each year.

Table 9 shows an example of this concept. The company's original QTI contractual commitment was 50 new jobs per year for three years (150 total, row #1) and an average annual wage of $42,000 (row #2). The maximum QTI Tax Refund payment will be based on this schedule (row #3), even if performance is higher than required. If the company creates more jobs than its commitment (row #4) and pays a higher average wage (row #5), the benefit to the State is more jobs and higher wages, while the incentive payments remain the same. More jobs means additional tax revenue, leading to a higher return on the State's investment.

Table 9
ECONOMIC BENEFITS – EXAMPLE

QTI @ $3,000/JOB	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 6	YEAR 7
1) New Job Creation Commitment (Cumulative)	50	100	150	150	150	150	150
2) Average Annual Wage Commitment	$42,000	$42,000	$42,000	$42,000	$42,000	$42,000	$42,000
3) Tax Refund Incentive Payment (State's Portion)	$0	$30,040	$60,040	$90,000	$90,000	$60,000	$30,000
4) Confirmed Job Creation (Cumulative)	60	125	180	172	178	183	175
5) Confirmed Average Annual Wage	$45,000	$45,735	$44,870	$46,000	$46,500	$47,900	$48,850

Economic Benefits – Program Approach Results

QTI Tax Refunds

In the previous 3 years (July 1, 2008 – June 30, 2011), thirty-one Qualified Target Industry incentive agreements were completed. The State confirmed these projects have created 28% more jobs than required per the incentive contracts and are paying an average wage 36% higher than committed.

QTI tax refunds paid by the State were 29% less than originally committed to these projects. Actual tax refunds paid to companies may be less than the original commitment due to pro-rata tax refunds issued. The pro-rata tax refund is a result of a company's confirmed jobs being less than 100% but more than 80% of its contractual job commitment.

Table 10
ECONOMIC BENEFITS – QTI TAX REFUNDS

	INITIAL PROJECTIONS	CONFIRMED PERFORMANCE	DIFFERENCE
Complete Contracts (3 Years)	31		
Jobs Created	7,726	9,886	28%
Average Wage	$35,750	$48,579	36%
State Incentive Payments (QTI Tax Refunds Only)	$30,598,600	$21,737,813	(29%)
4 Year Economic Benefit ($ in State Tax Revenue per $ Invested in Incentives)	9.26	15.51	67%
10 Year Economic Benefit ($ in State Tax Revenue per $ Invested in Incentives)	14.71	25.72	75%

Note: 7 QTI's were not included in the economic benefits calculation due to record retention policy

Compared to the initial analysis, the State has realized 10 year economic benefits 75% greater than originally projected for complete QTI agreements.

For those QTI agreements completed in the last three years, the State has seen a significant increase in the original payback. Compared to the initial estimated economic benefit, the state has seen a 67% greater return on its investment over four years and 75% over 10 years.

Brownfield Bonus

Completed Brownfield Bonus projects also produced a higher economic benefit than originally projected, partly due to the lower incentive payments made by the State. Tables 11 and 12 provide the economic benefit information for Brownfield Bonus (with QTI) projects (Table 11) and stand-alone Brownfield Bonus projects (Table 12).

There were three QTI with Brownfield Bonus projects completed in the last three years, which created 33% more jobs, paying an average wage 28% higher than initially projected. Both the four year and 10 year economic benefit calculations represent the Brownfield bonus portion payments only. Strictly considering the Brownfield Bonus portion of the incentive (not the QTI portion), the economic benefit was 71% higher than originally projected. The significant increase is due to the higher job creation and wages paid. It should be noted, the job and wage values in Table 11 are also part of Table 10 under the QTI only portion of the incentive. The combined project payback, inclusive of all incentives, is shown in Table 16.

Table 11
ECONOMIC BENEFITS – BROWNFIELD (QTI BONUS) TAX REFUNDS

	INITIAL PROJECTIONS	CONFIRMED PERFORMANCE	DIFFERENCE
Complete Contracts (3 Years)	3		
Jobs Created	225	299	33%
Average Wage	$33,894	$43,348	28%
State Incentive Payments (Brownfield Portion Only)	$565,500	$511,145	(10%)
4 Year Economic Benefit ($ in State Tax Revenue per $ Invested in Incentives)	11.55	19.72	71%
10 Year Economic Benefit ($ in State Tax Revenue per $ Invested in Incentives)	18.43	28.75	56%

Under the Stand Alone Brownfield program, capital investment is a program requirement and therefore confirmed and presented here. Of the three stand-alone Brownfield Bonus projects completed in the last three years, the confirmed capital investment is slightly lower than the initial projections. This may have been due to lower actual construction costs resulting from the down economy as opposed to construction estimates made while the economy was booming and the cost to construct was high. These projects have generated a 10 year payback to the state that is 52% higher than the initial projections.

Table 12
ECONOMIC BENEFITS – BROWNFIELD (STAND ALONE) TAX REFUNDS

	INITIAL PROJECTIONS	CONFIRMED PERFORMANCE	DIFFERENCE
Complete Contracts (3 Years)	3		
Jobs Created	225	224	0%
Average Wage	$21,768	$25,936	19%
Capital Investment	$9,936,033	$8,505,021	(14%)
State Incentive Payments (Brownfield Portion Only)	$562,500	$410,610	(27%)
4 Year Economic Benefit ($ in State Tax Revenue per $ Invested in Incentives)	10.43	11.71	12%
10 Year Economic Benefit ($ in State Tax Revenue per $ Invested in Incentives)	12.18	18.54	52%

High Impact Performance Incentive

One HIPI project was completed in the last three years and the project received both installments of its payments. The company's capital investment was 18% higher than initially anticipated and the confirmed wage was 17% higher than originally projected. These increases contributed to an increased payback to the state of 24% over four years and 26% over 10 years.

Table 13
ECONOMIC BENEFITS – HIGH IMPACT PERFORMANCE INCENTIVE

	INITIAL PROJECTIONS	CONFIRMED PERFORMANCE	DIFFERENCE
Complete Contracts (3 Years)	1		
Jobs Created	230	230	0%
Average Wage	$75,020	$87,720	17%
Capital Investment	$177,100,000	$209,000,000	18%
State Incentive Payments (HIPI Portion Only)	$3,150,000	$3,150,000	0%
4 Year Economic Benefit ($ in State Tax Revenue per $ Invested in Incentives)	7.53	9.36	24%
10 Year Economic Benefit ($ in State Tax Revenue per $ Invested in Incentives)	10.02	12.64	26%

Quick Action Closing Fund

Closing Fund agreements are typically six to 10 years in duration, therefore there are only three complete QACF contracts. One Closing Fund project was completed in the last three years (the other two were completed in years prior). This project created fewer jobs than originally committed and made less capital investment; however, the average wage was higher than projected. Given these factors, the company repaid 40 percent of its Closing Fund award, per the imposed sanctions in the incentive contract. Although the company did not perform as originally

expected, this project still yielded a higher return on the State's investment, fifty-one percent greater, since a significant portion of the funds were repaid.

Table 14
ECONOMIC BENEFITS – QUICK ACTION CLOSING FUND

	INITIAL PROJECTIONS	CONFIRMED PERFORMANCE	DIFFERENCE
Complete Contracts (3 Years)	1		
Jobs Created	1,300	1,038	(20%)
Average Wage	$59,629	$66,380	11%
Capital Investment	$75,000,000	$31,400,000	(58%)
State Incentive Payments (QACF Portion Only)	$1,000,000	$600,000	(40%)
4 Year Economic Benefit ($ in State Tax Revenue per $ Invested in Incentives)	48.37	78.56	62%
10 Year Economic Benefit ($ in State Tax Revenue per $ Invested in Incentives)	79.81	120.40	51%

Economic Development Transportation Fund

Thirty-one EDTF contracts were completed in the last three years, with the State paying out nine percent less in grant funds than originally committed. Since EDTF grants represent permanent community infrastructure improvements that remain in place irrespective of the location of a business, impact analyses for projects involving only an EDTF grant are typically not compiled. Out of the thirty-one EDTF contracts completed, one project also had a completed QTI. The total combined analysis is presented in Table 16 for this project.

Table 15
ECONOMIC BENEFITS – ECONOMIC DEVELOPMENT TRANSPORTATION FUND

	INITIAL PROJECTIONS	CONFIRMED PERFORMANCE	DIFFERENCE
Complete Contracts (3 Years)	31		
Jobs Created	6,761	NA	NA
Average Wage	$37,170	NA	NA
State Incentive Payments (EDTF Portion Only)	$28,722,443	$26,070,654	(9%)

Quick Response Training

The Quick Response Training program, while also focused on new job creation, measures performance based on trainees and wages paid to these trainees. The goal is to see a documented increase in wages paid to employees trained under QRT grants. Workforce Florida measures these wage increases for several years following the training.

Fifty-four QRT contracts were completed in the past three years. These companies identified 13,565 potential trainees, while grants totaling $9,967,302 were actually paid for 11,395 trainees. Based on the most recent data available from the Florida Education and Training Placement Information Program (FETPIP), for 2008-2009, QRT trainee wages increased more than 36 percent in the 15 months after completion of the program.

The 54 complete contracts spanned five target industries, manufacturing (16), financial and professional services (14), emerging technologies (11), cleantech (8), and infotech (5). Ten of the contracts were in rural areas, including two rural Enterprise Zones and one rural Brownfield Area.

Total Project Economic Benefits – Project Approach

The economic benefit information presented thus far is based on the investment of a single program. However, multiple State incentives are sometimes necessary to close the deal. Table 16 includes the "total project" economic benefits. This considers multiple State incentives paid for a single project, without double counting jobs or wages. There were a total of 66 projects with 70 completed incentive agreements within the last three years. Eleven projects utilized multiple incentives. Table 16 provides a summary of the economic benefits for the projects with completed incentive agreements in the past three years. The State incentive payments include all funds paid to or for the benefit of each project. Therefore, if a company received a QTI, QRT, and EDTF, all of these incentives are factored into the economic benefit analysis.

The economic benefit to the state for projects with completed contracts between July 1, 2008, and June 30, 2011, indicates a positive return to the state. The State was able to benefit from 1,897 more jobs than what these businesses originally committed to and made incentive payments 26 percent less than expected.

Table 16
ECONOMIC BENEFITS – TOTAL PROJECT

	INITIAL PROJECTIONS	CONFIRMED PERFORMANCE	DIFFERENCE
Complete Contracts (3 Years)	36		
Jobs Created	9,481	11,378	20%
Average Wage	$39,645	$50,548	28%
State Incentive Payments (ALL)	$39,737,755	$29,341,396	(26%)
4 Year Economic Benefit ($ in State Tax Revenue per $ Invested in Incentives)	9.14	13.59	49%
10 Year Economic Benefit ($ in State Tax Revenue per $ Invested in Incentives)	14.32	23.35	63%

Note: 7 QTI's were not included in the economic benefits calculation due to record retention policy

Economic Benefits by Industry

Florida's Targeted Industries are a critical component to economic development throughout the state. A review of projects with completed incentive agreements in the last three years is presented below by target industry in Table 17. The information contained within the table is central to evaluating the quality and effectiveness of the incentives geared toward targeted industries in Florida.

- Corporate Headquarters ranks the highest in terms of number of projects completed with manufacturing and financial/professional services placing second and third, respectively.
- The target industry yielding the most significant payback to the State over four years is Financial and Professional Services, with a 99% increase over the projected parameters.
- For all targeted industries, the state incentives actually paid to businesses were lower than projected.
- Manufacturing projects yielded a significantly higher economic benefit to the State over a ten year period as compared to the economic benefits based on the committed project parameters. This is due to the increased number of jobs created and the higher wages paid, in addition to the lower incentives payments made by the State.

Table 17
ECONOMIC BENEFITS – INDUSTRY

	MANUFACTURING			CORPORATE HEADQUARTERS			LIFE SCIENCES		
	PROJECTED AT BEGINNING OF PROJECT	BASED ON ACTUAL PERFORMANCE	DIFFERENCE	PROJECTED AT BEGINNING OF PROJECT	BASED ON ACTUAL PERFORMANCE	DIFFERENCE	PROJECTED AT BEGINNING OF PROJECT	BASED ON ACTUAL PERFORMANCE	DIFFERENCE
Complete Contracts (3 Years)	7			9			1		
Jobs Created (Confirmed)	540	763	41%	1,579	1,839	16%	112	100	(11%)
Average Wage (Confirmed)	$38,239	$49,856	30%	$42,851	$63,154	48%	$31,119	$217,818	600%
State Incentive Payments	$5,443,017	$4,342,699	(20%)	$6,612,270	$4,699,505	(29%)	$201,600	$132,732	(34%)
4 Year Economic Benefit ($ in State Tax Revenue per $ Invested in Incentives)	3.66	5.80	58%	5.76	10.95	90%	NA	NA	NA
10 Year ($ in State Tax Revenue per $ Invested in Incentives)	5.56	18.00	224%	9.93	18.05	82%	NA	NA	NA

	INFOTECH			AVIATION / AEROSPACE			HOMELAND SECURITY / DEFENSE		
	PROJECTED AT BEGINNING OF PROJECT	BASED ON ACTUAL PERFORMANCE	DIFFERENCE	PROJECTED AT BEGINNING OF PROJECT	BASED ON ACTUAL PERFORMANCE	DIFFERENCE	PROJECTED AT BEGINNING OF PROJECT	BASED ON ACTUAL PERFORMANCE	DIFFERENCE
Complete Contracts (3 Years)	3			4			2		
Jobs Created (Confirmed)	1,245	1,432	15%	1,978	1,963	(1%)	260	309	19%
Average Wage (Confirmed)	$33,599	$48,741	45%	$50,356	$56,928	13%	$70,348	$77,120	22%
State Incentive Payments	$4,618,324	$3,417,923	(26%)	$4,089,740	$2,747,302	(33%)	$3,373,836	$3,277,467	(3%)
4 Year Economic Benefit ($ in State Tax Revenue per $ Invested in Incentives)	13.50	21.24	57%	19.15	24.68	29%	7.28	9.42	29%
10 Year ($ in State Tax Revenue per $ Invested in Incentives)	19.42	32.55	68%	32.17	39.76	24%	9.78	13.09	34%

	FINANCIAL / PROFESSIONAL SERVICES			EMERGING TECHNOLOGIES			NOT IN A TARGET INDUSTRY		
	PROJECTED AT BEGINNING OF PROJECT	BASED ON ACTUAL PERFORMANCE	DIFFERENCE	PROJECTED AT BEGINNING OF PROJECT	BASED ON ACTUAL PERFORMANCE	DIFFERENCE	PROJECTED AT BEGINNING OF PROJECT	BASED ON ACTUAL PERFORMANCE	DIFFERENCE
Complete Contracts (3 Years)	5			3			2		
Jobs Created (Confirmed)	2,095	2,261	8%	1,492	2,533	70%	180	178	(1%)
Average Wage (Confirmed)	$44,342	$58,251	31%	$19,014	$22,864	20%	$19,531	$23,461	20%
State Incentive Payments	$8,672,968	$6,609,258	(24%)	$6,276,000	$3,783,009	(40%)	$450,000	$331,500	(26%)
4 Year Economic Benefit ($ in State Tax Revenue per $ Invested in Incentives)	9.20	18.39	100%	14.67	24.81	69%	8.74	10.47	20%
10 Year ($ in State Tax Revenue per $ Invested in Incentives)	14.40	28.68	99%	24.70	43.36	76%	10.18	16.84	65%

Economic Benefits in Distressed Areas

Eleven projects were completed in distressed areas within the last three years. These represent a significant benefit to the state by increasing the economic vitality to these communities. As previously seen, incentive payments made to these companies were lower and both confirmed jobs created and average wage were significantly higher than originally committed.

Three standalone brownfield bonus projects were completed in the last three years, two were not considered in a dedicated target industry and one was a manufacturer. The three projects yielded a significant payback to the state over both a four-year and ten-year period. These completed projects provided 224 jobs and infused nearly $8.5 million in to these distressed areas.

The per job incentive paid to companies locating in distressed areas is typically higher, ranging from $2,000 (stand-alone brownfield project) to $8,500 (QTI in Enterprise Zone/Rural Community + Brownfield Bonus) and the analysis demonstrates a positive economic benefit to the state over both four and ten-year periods. There were also twelve EDTF projects completed in distressed areas.

Table 18
ECONOMIC BENEFITS IN DISTRESSED AREAS

	INITIAL PROJECTIONS	CONFIRMED PERFORMANCE	DIFFERENCE
Complete Contracts (3 Years)	11		
Jobs Created	1,090	1,247	14%
Average Wage	$33,228	$45,405	37%
State Incentive Payments (QTI)	$8,485,579	$6,515,182	-23%
4 Year Economic Benefit ($ in State Tax Revenue per $ Invested in Incentives)	3.46	5.14	48%
10 Year Economic Benefit ($ in State Tax Revenue per $ Invested in Incentives)	5.48	13.90	154%

PROGRAM TRENDS AND UTILIZATION

Several trends are apparent when looking at interest in and usage of economic development incentives. These general trends are listed below. In addition, Florida's incentives are utilized by minority and women-owned businesses. In fiscal year 2011, five applications were approved for businesses identifying themselves as minority or woman-owned (1 EDTF and 4 QTI).

Programs matching to business needs

One of the most important steps in business development is understanding the needs and challenges of the business and matching Florida resources to address these obstacles. The majority of businesses are interested in cash grants. There is a perception these are the best way to access capital, but in many instances a cash grant is not the right fit. Understanding why the funds are needed and how they will be used enables Enterprise Florida to put together resources that are, in many cases, a better fit for the business and a more prudent financial investment by the State.

The need for infrastructure assistance is changing

Historically, the EDTF was one of the State's most frequently accessed programs (see annual funding summary in Table 2). In recent years, funding has decreased as had the need for this program. While still extremely valuable, the EDTF program is being used for different types of infrastructure projects than in years past. In rural areas, EDTF is primarily used for new infrastructure while in non-rural areas, the needs are for infrastructure upgrades and to address safety concerns due to an increase in traffic volume. Demand is also increasing for assistance with non-transportation infrastructure, such as water and sewer connections.

Tax credits are a great selling point but usability is an issue

Early in the stages of a project, a business might ask about tax credit programs. Depending on the nature and scope of the project, a business may or may not be eligible for tax credits. If it is determined the business is eligible, further evaluation must take place by the business to determine the usability of the tax credits. Often, businesses will find their State corporate income tax liability will be minimal; therefore tax credits are not meaningful. However, if the credits were able to be sold or transferred to another entity, it would mean significant value.

Financing programs are critical

In recent years, more entrepreneurs have decided to translate their ideas into usable technology. However, the weakened global economy has led to a tightening in the capital markets. Therefore, the need for financing programs has grown. These entrepreneurs generally would like to remain in their existing communities, but are often willing to relocate if needed in order to access resources required to build the business. If Florida is to retain these talented entrepreneurs, the State must continue to support financing tools providing access to needed capital while at the same time, protecting the State's investment.

Incentive Programs Not Utilized

During FY 2011, the vast majority of Florida's standard economic development toolkit programs were utilized. However, there are several modifications that could increase usage of those programs perceived to be underutilized. Enterprise Florida is working with the Executive Office of the Governor and DEO to identify these programs and modifications in order to ensure the programs are highly effective and efficient.

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Fiscal Year 2011 Project Information

PROJECTS WORKED

In fiscal year 2011, 265 applications were received for the 12 primary programs and QRT. Table 19 includes a breakout of applications received, recommendations made by Enterprise Florida, approvals issued by OTTED / DEO or other agency, and contracts executed. Jobs for the Unemployed Tax Credit is not in the table because formal applications were not accepted until July 1, 2011.

Table 19 also includes the number of projects represented by these incentives. For example, 265 applications were received on behalf of 219 different projects, since some projects submit applications for multiple incentives. EDTF projects resulting from a line item appropriation by Legislative members are not included in the project totals since these are not considered traditional economic development projects and may or may not be tied to job creation and capital investment.

Table 19
INCENTIVE APPLICATIONS AND PROJECTS[8] – FISCAL YEAR 2011

	APPLICATIONS RECEIVED	RECOMMEND-ATIONS MADE	APPROVALS (CERTIFICATIONS)	CONTRACTS EXECUTED
QTI	128	72	75	72
QTI with Brownfield Bonus	13	12	12	10
QRT[9]	43	NA	41	41
QACF	26	19	19	17
MSII	24	NA	24	NA
Brownfield Bonus (stand-alone)	9	9	9	8
EDTF[10]	8	5	5	5
HIPI	5	3	3	3
CITC	4	1	1	NA
IIF	2	0	0	0
QDSC	1	1	2	2
SDST	1	2	2	NA
LGDAMG	1	NA	0	0
TOTAL (APPLICATIONS)	**265**	**124**	**193**	**158**
NUMBER OF PROJECTS	**219**	**105**	**132**	**135**

[8] NA denotes the corresponding step does not apply for this program.
[9] QRT projects have been included here in summary form but are not included in the subsequent charts. There were seven projects with both executed DEO incentive agreements and executed QRT agreements in FY 2011.
[10] There were also five applications for EDTF "member" projects, six approvals, and five executed agreements.

The application and approval process for some projects spans more than one fiscal year. This is the reason, for example, there may be more approvals than recommendations in a single year, or more contracts executed than applications received. In addition, Enterprise Florida has not historically recommended incentive applications for denial. Instead, if a business is deemed ineligible for a program for which they have submitted an application, or if the negotiation process leads to pursuit of a different program, then the application would simply not be recommended. In order to properly set expectations regarding incentive eligibility, Enterprise Florida vets projects prior to submission of an official application. Of the total incentive applications received by Enterprise Florida in fiscal year 2011, 11 were not recommended (4 QTIs, 2 CITCs, 2 HIPIs, 2 QACFs, and 1 IIF).

EXECUTED AGREEMENTS

After a business is approved for an economic development incentive, an agreement is drafted and subsequently executed between the business and State. These agreements take different forms, depending on the program, but all represent a common understanding between the business and State regarding project expectations and the associated incentive(s).

Table 20 summarizes the job, capital investment and average wage commitments for businesses with incentive agreements executed by DEO in fiscal year 2011 (excludes QRT agreements, which totaled an additional $3,362,142 for this group of projects). This table also includes the value of State incentives associated with these executed agreements and the local incentives committed by Florida cities and counties.

Table 20
SUMMARY OF FY 2011 EXECUTED AGREEMENTS

NUMBER OF PROJECTS	CONTRACTED NEW JOBS	EXPECTED CAPITAL INVESTMENT	CONTRACTED AVERAGE ANNUAL WAGE	MAXIMUM STATE INCENTIVE PAYMENTS	LOCAL FINANCIAL SUPPORT COMMITMENTS
101	13,072	$1,427,566,867	$48,629	$76,262,824	$50,377,174

Some of these projects may take advantage of other incentives not included in the $76.2 million since this represents the value of those agreements executed during the previous fiscal year. When factoring in the value of State incentives for these same projects, irrespective of fiscal year, the total is $92,357,836 (this also includes the aforementioned QRT contracts of $3,362,142). A breakdown by project is included in Appendix C[11]. This list is as complete as possible, given the data available from various State agencies, including DEO and Workforce Florida. The local incentives listed are minimum amounts expected to be provided for each project. In some cases the community may offer incentives above and beyond what is required to leverage State funds. These values have been included wherever possible.

Each program has requirements for the timing of application submittal and approval by the appropriate agency. Some programs require the business to file the application after the jobs have been created; therefore the exact value of these incentives to the business is not known until after other parts of the incentive package have been negotiated. In order to account for this, when completing the economic impact analysis model (or calculating the economic benefit), Enterprise Florida assumes these other incentives are taken advantage of at their maximum

[11] While §288.907, F.S. requires disclosure of the average committed to be paid for these projects, Florida's economic development confidentiality statute, §288.075, F.S., prohibits releasing wage information for active incentive agreements. Several incentive agreements were executed during the fiscal year, which have since been terminated (therefore are no longer "active"). The wages for these projects have been disclosed in Appendix C.

potential value. This is the most fiscally conservative approach in order to ensure the statutory payback ratio requirements are met.

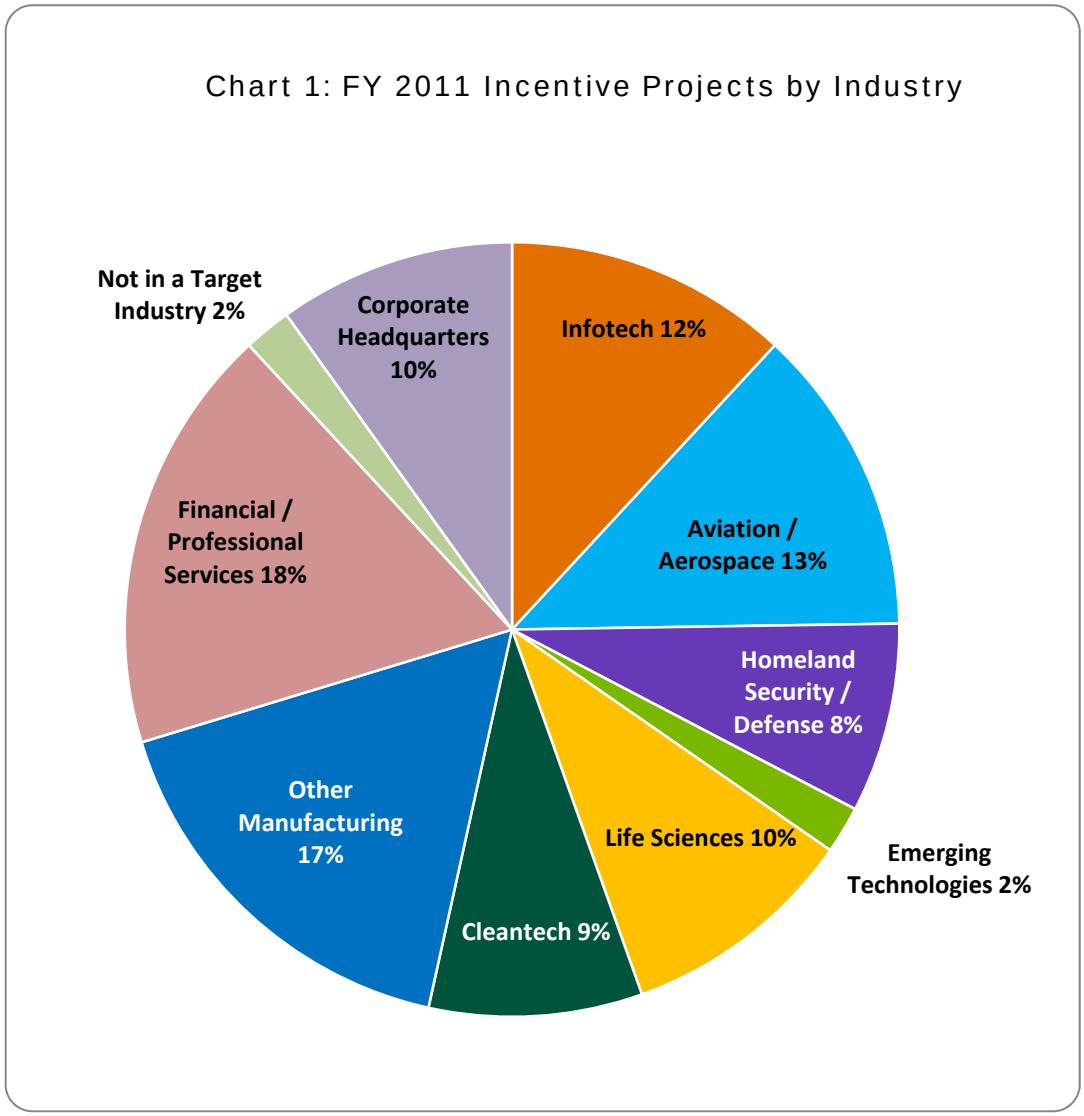
Table 21 provides a breakdown of the maximum State incentive payments by program type for the incentive agreements executed in fiscal year 2011.

Table 21
MAXIMUM INCENTIVE AWARDS – CONTRACTS EXECUTED IN FY 2011

PROGRAM	MAXIMUM INCENTIVE AWARDS
QTI	$24,537,848
QTI with Brownfield Bonus	$11,874,000
QACF	$17,307,700
Held in EFI escrow	*$12,107,700*
Paid to businesses	*$5,200,000*
HIPI	$14,000,000
EDTF	$5,313,676
QDSC	$1,629,600
Brownfield Bonus (stand-alone)	$1,600,000
Total – DEO Managed Programs	$76,262,824
QRT awards for these 101 projects	$3,362,142
Value of contracts executed in other fiscal years for these 101 projects	$12,732,870
Total – incentives under contract for all projects listed in Appendix C	$92,357,836

Industry Analysis

The majority of Florida's incentive programs are focused on job growth within specific target industries. In fiscal year 2011, nearly all of DEO's executed incentive agreements were with businesses in these target industries. The exception is several stand-alone Brownfield Bonus projects. The industry breakdown, shown in Chart 1, is fairly consistent with the industry mix of prior years.



In fiscal year 2011, Florida's target industries were reviewed in conjunction with economic development organizations, representatives from the State University System, local governments, and other stakeholders, as required by §288.106(2)(t)6., F.S. The review concluded with no substantive changes to the industries that comprise the list. However, the format was revised to be consistent with how Enterprise Florida markets the State as a business location of choice and also to better reflect current industry nomenclature. The new target industry list is included in Appendix A of this report.

Table 22 provides a further breakdown of the projects with incentive agreements executed in fiscal year 2011, by industry. The Financial / Professional Services industry represented the largest job number and second-largest capital investment. Much of this activity is driven by a few large projects with plans for major employment centers in Florida. Corporate headquarters, information technology, and specialty manufacturing are the sectors paying the highest average wage.

Table 22
INCENTIVE PROJECT COMMITMENTS BY INDUSTRY

	MANUFACTURING	CORPORATE HEADQUARTERS	LIFE SCIENCES	INFOTECH	AVIATION / AEROSPACE	HOMELAND SECURITY / DEFENSE	FINANCIAL / PROFESSIONAL SERVICES	CLEANTECH	EMERGING TECHNOLOGIES	NOT IN TARGET INDUSTRY
Number of Projects	17	10	10	12	13	8	18	9	2	2
Contracted New Jobs	1,366	868	427	1,298	1,590	649	4,426	1,662	396	390
Expected Capital Investment	$269,372,679	$75,212,000	$29,448,920	$60,889,000	$117,065,000	$132,533,623	$288,630,645	$346,165,000	$54,150,000	$54,100,000
Contracted Average Annual Wage	$37,746	$56,255	$57,356	$62,162	$54,189	$59,676	$47,361	$42,655	NA[12]	

Distressed Areas

Of the 101 projects with executed incentive agreements in fiscal year 2011, 38 of these were in distressed areas, including rural communities, Brownfield areas, Enterprise Zones, and distressed urban areas. These projects are committing to create 5,945 new jobs and are expected to invest more than $721 million into these blighted areas. Table 22 shows the breakdown of these projects by area.

Businesses locating or expanding in distressed areas represent 45% of the expected new job creation under contract in fiscal year 2011

Table 23
ACTIVITY IN DISTRESSED AREAS

	RURAL	NON-RURAL	TOTAL
Brownfield Area	1	18	19
Enterprise Zone	2	6	8
Brownfield Area and Enterprise Zone	0	4	4
General Economic Distress	4	3	7
Total	7	31	38

Economic Recovery Extension

In 2010, the Florida Legislature extended the Economic Recovery Extension (ERE) for existing QTI businesses. This extension allows businesses affected by an economic downturn in their industry, hurricanes or named tropical storms, or specific terrorist attacks to receive additional time to meet their job creation commitments. In fiscal year 2011, 21 businesses were approved for Economic Recovery Extensions.

Amending Tax Refund Agreements

In 2002, a statutory change requiring a December 31 job creation date and a subsequent January 31 claim submission deadline were established for QTI and QDSC in order to streamline the claims payment process. In addition, tax refunds for these projects now require that the refund be paid from funds appropriated for the following fiscal year. Economic Recovery Extension recipients operating under the old contracts have been migrated to the new contract timing, which led to a significant increase in the number of contracts requiring December 31 job creation since 2004. As of now, virtually all active QTI contracts are based on December 31 job creation schedules.

[12] Wage not disclosed due to confidentiality since there are only two projects in each industry.

INCENTIVE PAYMENTS

During fiscal year 2011, the State paid a total of $126,722,500.70 between the QTI, Brownfield Bonus, Closing Fund, QDSC, Innovation Incentive, and EDTF programs. One-hundred fifty-one payments were made to or on behalf of 120 projects. Table 24 includes the number of net new to Florida jobs the State is confirmed to have been created as well as the confirmed average wage for the businesses receiving incentive payments and the total local incentive contributions made during the year (this is a minimum value). The local incentives consist primarily of cash paid to the State and subsequently refunded to the business. Several projects were recipients of ad valorem tax abatements, which were used as the match for the QTI refunds. These local incentives have been included in the local incentive payments data below. Further information on individual businesses receiving payments is included in Appendix D.

Table 24
SUMMARY OF FY 2011 INCENTIVE PAYMENTS

NUMBER OF PROJECTS	CONFIRMED NEW JOBS	CONFIRMED AVERAGE ANNUAL WAGE	LOCAL INCENTIVE PAYMENTS
124	17,300	$61,905	$2,073,229.12[13]

Table 25 shows a summary of the total payments made by program. Specific information on tax credits claimed is not included here due to the lag of information between a fiscal year and when credits are claimed. In addition, the information for specific businesses claiming credits under the CITC program is considered confidential per §213.053, F.S. Aggregate information for the most recent fiscal years for credits claimed is contained in Table 4.

Table 25
INCENTIVE PAYMENTS – FISCAL YEAR 2011

INCENTIVE	TOTAL FY 2011 PAYMENTS
Innovation Incentive	$98,997,852.80
QACF	$9,490,830.00
Paid into escrow	*$400,000.00*
Paid to businesses	*$9,090,830.00*
EDTF	$8,471,415.97
Traditional	*$5,433,422.77*
Member Projects	*$3,037,993,20*
QTI	$8,214,848.69
Brownfield Bonus	$824,953.24
QTI bonus	*$500,199.40*
Stand-alone	*$324,753.84*
QDSC	$722,600.00
Total – incentive payments for all projects listed in Appendix D	$126,722,500.70

All of Florida's incentives are performance-based to varying degrees. Each business receiving a payment had to provide documentation to the State demonstrating they met the contractual requirements to receive a payment. As previously discussed, occasionally Enterprise Florida will recommend incentive funds be placed into an escrow account, which protects State funds while allowing a business sufficient time to meet appropriate performance requirements.

[13] Excludes the match provided for Innovation Incentive projects, since these figures reported are cumulative not by year.

Additional Program Reports

Other State incentives and resources are critical components of Florida's economic development toolkit. Each of these programs has its own goals, objectives, and performance measures. Since these programs are vastly different from the traditional economic development incentives already discussed, the information presented here reflects a summary of each program's performance.

The following programs were transferred from the Governor's Office of Tourism, Trade, and Economic Development to the Florida Department of Economic Opportunity (Division of Community Development).

DEO – DIVISION OF COMMUNITY DEVELOPMENT

Black Business Loan Program

In 2007, the Legislature passed the Florida Black Business Investment Act, which established the Black Business Loan Program within OTTED. Annually, DEO certifies program administrators, known as Black Business Investment Corporations (BBICs). The BBICs use program funds to make loans, loan guarantees, and investments to black business enterprises that cannot obtain capital through conventional lending institutions.

Table 26
BLACK BUSINESS LOAN PROGRAM

FLORIDA STATUTE: 288.7102 – 288.714, FS

INCEPTION DATE: 2007

FISCAL YEAR	NUMBER OF CERTIFICATIONS	CONTRACT AMOUNTS	NUMBER OF LOANS/LOAN GUARANTEES	AMOUNT OF LOANS/LOAN GUARANTEES	PROJECTED NUMBER OF JOBS CREATED
2011/2012 as of 10/15/11	6 (+2 pending)	$284,375.00	None to date	None to date	None to date
2010/2011	9	$250,000.00	67	$2,824,791	59
2009/2010	9	$261,333.32	91	$2,732,743	132
2008/2009	9	$591,133.34	92	$2,893,667	171
TOTALS	33	$1,386,841.66	250	$8,451,201	362

Brownfield Area Loan Guarantee Program

The Brownfield Area Loan Guarantee Program was created in 1997 to make loan guarantees for projects that redevelop Brownfield Areas. The guarantee applies to 50% of the primary lender's loan. If the project provides affordable housing or includes construction and operation of a new health care facility or a health care provider, the guarantee applies to 75% of the primary lender's loan. Up to $5 million from the Inland Protection Trust Fund may be used for loan guarantees or loan loss reserves. Of that amount, 15% is reserved for minority-owned businesses.

Table 27 BROWNFIELD AREA LOAN GUARANTEE PROGRAM				
FLORIDA STATUTE: 376.386, FS				
INCEPTION DATE: 1997				
YEAR	NUMBER OF LOAN GURANTEES	AMOUNT OF GURANTEES	TERM OF GUARANTEE	ECONOMIC BENEFITS
Jan. 2009	1	$3,200,000	3 years	The 2009 guarantee was used to finance the construction of a 57-unit affordable workforce housing project in Tampa.

Community Contribution Tax Credit Program

The Community Contribution Tax Credit Program (CCTCP) provides a financial incentive (50% tax credit or sales tax refund) to encourage Florida businesses to make donations toward community development and housing projects for low-income persons. Businesses located anywhere in Florida that make donations to approved community development projects may receive a tax credit equal to 50 percent of the donation.

Table 28 COMMUNITY CONTRIBUTION TAX CREDIT PROGRAM					
FLORIDA STATUTE: 212.08 (5) (p); 220.183; and 624.5105, FS					
INCEPTION DATE: 1982					
FISCAL YEAR	NUMBER OF APPROVALS	NUMBER OF DENIALS	AMOUNT OF TAX CREDITS	COMMUNITY DEVELOPMENT PROJECTS	HOUSING
2011/12 (as of 11/30/11)	306	3	$13.0 million	24	41
2010/11	308	3	$14.0 million	19	41
2009/10	308	2	$14.0 million	20	38
2008/09	351	1	$16.5 million	21	39
2007/08	286	3	$14.0 million	22	33
2006/07	283	6	$14.0 million	19	27
2005/06	285	0	$12.0 million	16	29
2004/05	251	0	$10.0 million	6	23
2003/04	285	5	$10.0 million	11	22
2002/03	359	7	$10.0 million	21	30
2001/02	323	1	$10.0 million	21	23
2000/01	224	0	$6.1 million	24	15
1999/00	198	2	$5.1 million	30	10
1998/99	170	1	$5.0 million	25	7
1997/98	69	0	$2.0 million	18	2
1996/97	81	4	$2.0 million	13	3
TOTALS	4,087	38	$157.7 million	310	383

Disproportionally Affected Areas

This program is a Grant Agreement that funds the development and implementation of an economic development program for the promotion of research and development, commercialization of research, economic diversification, and job creation in Florida's counties that were disproportionally affected by the Deep Water Horizon Oil Spill.

Table 29 DISPROPORTIONALLY AFFECTED AREAS		
FLORIDA STATUTE: 498, F.S.		
INCEPTION DATE: July 1, 2011		
FISCAL YEAR	AMOUNT OF AWARDS	ECONOMIC BENEFITS
2011/2012	$10,000,000	Pending first quarterly report

Economic Gardening Loan Pilot Program

The purpose of the Economic Gardening Loan Pilot Program is to stimulate investment into Florida's economy by providing loans to expanding 2nd stage businesses in the state.

Table 30 ECONOMIC GARDENING LOAN PILOT PROGRAM				
FLORIDA STATUTE: 288.1082, FS				
INCEPTION DATE: Created in 2009 Special Session A				
NUMBER OF LOANS MADE	NUMBER OF APPLICATIONS DENIED	AMOUNT OF LOANS MADE TO DATE	INTEREST EARNED ON LOANS MADE	ECONOMIC BENEFITS
43	57	$8,275,000	$165,804.91	161 jobs created 910 jobs retained

Florida Small Business Credit Initiative

Florida was awarded $97.6 million to establish program that increases access to capital for small businesses. Florida was approved to operate a Capital Access Program (CAP), a Venture Capital Program and a Small Business Loan Support Program.

Table 31 FLORIDA SMALL BUSINESS CREDIT INITIATIVE			
FLORIDA STATUTE: The Legislative Budget Commission approved the federal grant and established budget authority to allow the Department of Economic Opportunity to administer the State Small Business Credit Initiative on 9/30/2011.			
INCEPTION DATE: December 2011			
FLORIDA CAPITAL ACCESS PROGRAM BUDGET	VENTURE CAPITAL BUDGET	SMALL BUSINESS LOAN SUPPORT BUDGET	ECONOMIC BENEFITS
$20.6 million	$43.5 million	$33.5 million	In aggregate these programs are required to leverage 10 private dollars for every public dollar spent. Therefore the program anticipates leveraging $970 million capital for small businesses in Florida.

Manufacturing Extension Partnership

The Florida Manufacturing Extension Partnership (Florida MEP) supports the economic growth of Florida manufacturing businesses and communities. This program will provide technical and business assistance for manufacturers in order to leverage federal and private resources and carry out the operations of the program. The focus of MEP is market penetration and creating economic impact.

Table 32
MANUFACTURING EXTENSION PARTNERSHIP

FLORIDA STATUTE: The Florida Manufacturing Extension Partnership (Florida MEP) supports the economic growth of Florida manufacturing businesses and communities. This program will provide technical and business assistance for manufacturers in order to leverage federal and private resources and carry out the operations of the program. The focus of MEP is market penetration and creating economic impact.

INCEPTION DATE: 2008

FISCAL YEAR	CONTRACT AMOUNT	NEW JOBS CREATED
2011/2012	$500,000.00	43
2010/2011	$500,000.00	287
2009/2010	$500,000.00	47
2008/2009	$500,000.00	n/a
TOTALS	$2,000,000.00	377

New Markets Development Program

Created in 2009 to encourage capital investment in low income communities. Tax payers earn credits against specified taxes by making qualified investments into federally registered Community Development Entities which in turn make investments in qualified low income community businesses.

Table 33
NEW MARKETS DEVELOPMENT PROGRAM

FLORIDA STATUTE: 288.9912- 288.9922, FS

INCEPTION DATE: 2009

TOTAL AMOUNT OF CAPITAL INVESTMENT	TOTAL TAX CREDITS AWARDED	NUMBER OF INVESTMENTS IN LOW INCOME COMMUNITIES	AMOUNT INVESTED *	ECONOMIC BENEFITS
$250,000,000	$97,500,000	23	$162,652,700	30 jobs created 1020 jobs retained Average wage (jobs created) $63,924 Average wage (jobs retained) $48,136

* 8/16/2011 is the latest data reported to the Department of Economic Opportunity. The next report will be available January 2012.

Regional Rural Development Grant Program

The Rural Regional Staffing Initiative was created in 1996 to award matching grants to regional organizations created by rural counties for the purpose of operating economic development activities to benefit their areas. Although these grants were funded as part of the Rural Community Development Revolving Loan Fund in fiscal year 1996-1997, no distributions were made during that fiscal year. The Initiative was reauthorized for fiscal year 1997-1998. Additional funds were provided by the Florida Legislature in the 1998-99 General Appropriations Act.

Enterprise Florida administered the Regional Rural Development Grant Program from July 1, 1996 through September 30, 2011.

Table 34
REGIONAL RURAL DEVELOPMENT GRANT PROGRAM

FLORIDA STATUTE: 288.018, F.S.

INCEPTION DATE: 1996

FISCAL YEAR	NUMBER OF APPROVALS	AMOUNT OF AWARDS	ECONOMIC BENEFITS
2011/2012	10	$552,500	Enhancements to the staffing abilities of regional economic development organizations serving within the rural areas of Florida. Staff members have received scholarships to attend training workshops and participate in site visits and familiarization tours.
2010/2011	11	$587,500	
2009/2010	6	$458,285	
2008/2009	5	$250,000	
2007/2008	5	$242,138	
2006/2007	4	$235,000	
2005/2006	4	$197,500	
2004/2005	4	$284,300	
2003/2004	4	$279,000	
2002/2003	4	$259,000	
TOTALS	57	$3,345,223	

Rural Community Development Revolving Loan Fund

The Rural Community Development Revolving Loan Fund Program provides financial assistance to units of local governments, or economic development organizations within a Rural Areas of Critical Economic Concern (RACEC), in the form of either a loan or loan guarantee. The purpose of the program is to provide financial assistance for a specific project that will lead to the creation of new jobs that maintains or increases the economic vitality of Florida's rural counties.

Table 35
RURAL COMMUNITY DEVELOPMENT REVOLVING LOAN FUND

FLORIDA STATUTE: 288.065, F.S.

YEARS	NUMBER OF APPROVALS	AMOUNT OF AWARDS	ECONOMIC BENEFITS
1997 - 2010	17	$6,056,727	Funding was used to attract businesses retain jobs, and make capital improvements to help attract businesses. Examples include: • Family Dollar distribution center in Jackson County • Green Circle Energy in Jackson County

Rural Infrastructure Fund Program

The Rural Infrastructure Fund (RIF) program was created to facilitate the planning, preparing, and financing of infrastructure projects in rural communities that encourage job creation, capital investment, and the strengthening and diversification of rural economies. Awards are limited to 25% of the annual total allocation and can fund three types of projects:

- Total Participation Grants – used to fill 'gaps' in infrastructure funding from other sources.
- Feasibility Studies – used to develop the base line data and plans needed before applications for significant economic development funding can be submitted.
- Preclearance Review – provides access to the resources of Section 403.973(19), F.S. providing surveys and other materials necessary for preparing sites for significant economic development projects.

Table 36
RURAL INFRASTRUCTURE FUND PROGRAM

FLORIDA STATUTE: 288.0655, F.S.

INCEPTION DATE: 2001

FISCAL YEAR	CONTRACT AMOUNT	NEW JOBS CREATED	ECONOMIC BENEFITS
2011/2012	3	$1,581,244	
2010/2011	4	$1,100,000	Projected capital Investment of $6,350,000 for one total participation grant. Remaining three grants are feasibility studies.
2009/2010	6	$1,150,000	Feasibility studies -
2008/2009	10	$4,700,000	Projected capital investment - Two feasibility study grants totaling $336,000 awarded to two Rural Areas of Critical Economic Concern (RACEC) for broadband studies resulted in a combined award of approximately $54 million in federal funding to expand broadband access in Florida's three designated RACECs.
2007/2008	5	$1,834,186	Projected capital investment:
2006/2007	11	$4,233,548	Projected capital investment:
2005/2006	8	$3,060,301	Projected capital investment:
2004/2005	7	$2,416,005	Projected capital investment:
2003/2004	4	$492,300	Projected capital investment:
2002/2003	6	$1,366,165	Projected capital investment:
2001/2002	11	$4,297,355	Projected capital investment:
TOTALS			

Enterprise Zone Incentives

The Florida Enterprise Zone Program offers businesses located in enterprise zones corporate and sales tax credits for hiring residents of the zones. Sales tax refunds are offered to businesses located in the zone that purchase building materials and business equipment for use in the zone. Corporate tax credits are available to new and expanding businesses that locate or expand their facilities in a zone. In some zones, a sales tax exemption on electrical energy is available to new businesses locating there. In addition to these state incentives, local governments also provide a number of incentives to attract new businesses, as well as to help existing businesses expand. Table 4 includes the amount of annual credits and refunds approved under the various Enterprise Zone programs. The Enterprise Zone year is October 1 to September 30.

Table 37
ENTERPRISE ZONE INCENTIVES

FLORIDA STATUTE: 212.096, 220.181, 220.182, 212.08(5)(g). 212.08(5)(h), 212.08(15), 212.08(5)(p), 220.183, 624,5105, 196.095, FS

INCEPTION DATE: 1995

FISCAL YEAR	NEW BUSINESSES	NEW JOBS CREATED	BUSINESSES RECEIVING TECHNICAL ASSISTANCE	STATE EZ INCENTIVES APPROVED	LOCAL EZ INCENTIVES APPROVED
2009/10	7,559	6,784	9,056	$67,602,482	$19,975,176
2008/09	3,104	9,073	11,708	$45,351,441	$11,577,451

Rural Job Tax Credit

In calendar year 2010, five businesses were approved for Rural Job Tax Credits totaling $181,000. These five companies have created 181 new jobs within Florida's Rural areas. The five recipients are listed below.

- Luv Kish Enterprises
- Karma Hotels, Inc.
- O & S Development
- Palm Coast Data, LLC
- Akal Hospitality, LLC

Urban Job Tax Credit

In calendar year 2010, 11 businesses were approved for Urban Job Tax Credits totaling $1,259,500 (one application was withdrawn prior to approval). These 11 companies have created 893 new jobs within Florida's Urban areas and are listed below.

- Kohl's Department Stores, Inc.
- Springhill SMC, LLC
- 3-D Machining, Inc.
- DeVry University Call Center
- TT of Eatonville Inc.
- Prime Management Property Corp.
- Publix Super Markets, Inc.
- Target Corporation #T-2376
- IKEA US East, LLC
- TeamFanShop Fullfilment, Inc.
- Tempo Miami, A Rock Resort

OTHER PROGRAMS

Florida Opportunity Fund

The Florida Opportunity Fund was created because the Florida Legislature found there was a need to increase the availability of seed capital and early stage venture equity capital for emerging companies in Florida, including, without limitation, enterprises in life sciences, information technology, advanced manufacturing processes, aviation and aerospace, homeland security and defense, as well as other strategic technologies.

The Florida Opportunity Fund receives administrative services from Enterprise Florida and investment management services from Florida First Partners (FFP). FFP is a joint venture between MILCOM Venture Partners (MVP) and the Credit Suisse Customized Fund Investment Group (CFIG). MVP, a leading Florida fund manager and venture capital firm, has invested in companies in the power, energy, communications, software and materials science sectors. CFIG is the leading primary private equity fund-of-funds investment group of global banking giant Credit Suisse. CFIG also manages in-state private equity investment programs in Ohio, Michigan, Indiana, New York and Oregon.

The Florida Opportunity Fund is currently comprised of two programs – 1) the Fund of Funds Program and 2) the Clean Energy Investment Program:

Fund of Funds Program

Launched in 2008, the Fund of Funds Program was created to realize significant long-term capital appreciation by identifying and investing in a diversified, high-quality portfolio of seed and early stage venture capital funds that target (in whole or in part) investment opportunities within Florida.

The State of Florida provided $29.5 million to capitalize the Fund of Funds Program. As of June 30, 2011, $27.0 million out of the $29.5 million had been committed to six venture capital funds and approximately $6.1 million had been funded. These six venture funds were:

- Inflexion Fund II, a fund with offices in Orlando, Gainesville, and Tampa that focuses on seed or early-stage medical technology, clean technology and information technology. In September 2009, Florida Opportunity Fund announced its $4.0 million commitment to this fund.
- New Enterprise Associates, a fund with a long track record of success in financing startup companies in Florida. In November 2009, Florida Opportunity Fund announced its $4.0 million commitment to this fund.
- Harbert Venture Partners, a fund that focuses on early-stage information technology and biotech opportunities. In January 2010, Florida Opportunity Fund announced its $4.0 million commitment to this fund.
- 5AM Ventures III, a bioscience venture capital fund whose managing partner is the former chairman of The Scripps Research Institute. In February 2010, Florida Opportunity Fund announced its $3.0 million commitment to this fund.
- Stonehenge Growth Equity, a fund that includes a team in Tampa that has focused on early-stage ventures in Florida for the past decade, investing in more than 17 Florida companies. In March 2010, Florida Opportunity Fund announced its $4.0 million commitment to this fund.
- HIG BioVentures, a bioscience venture capital fund based out of Miami. Florida Opportunity Fund committed $4.0 million to this fund in January 2011.

The participating funds are performing well, providing material gains over the past couple of fiscal years. To date, three investments totaling $35.5 million have been made by participating fund managers that also generated approximately $96.1 million in additional co-investment from outside equity partners. To date, approximately 91 Florida-based employees have been positively impacted by this investment. All investments to date have been made to relatively new growth companies.

Clean Energy Investment Program

Launched in 2010, the Clean Energy Investment Program (CEIP) was created to promote the adoption of energy efficient or renewable energy (EE/RE) products and technologies in Florida by providing funding to businesses to increase the use of EE/RE technologies, equipment and materials in the State. The Florida Energy & Climate Commission provided approximately $36.1 million to capitalize the CEIP.

Examples of possible structures for funding opportunities include project financing, asset-based lending, mezzanine financing and equity investments. The Program's Focus Areas for investment are:

- Facility and Equipment Improvement – Implementing, expanding, upgrading or demonstrating energy efficient products, equipment and materials for use by companies in their existing facilities and buildings in Florida.
- Renewable Energy Products – Acquiring, upgrading or demonstrating small-scale renewable energy products, equipment and materials for use by companies in their operations in Florida.
- Process Improvement – Determining potential energy efficiencies and then executing actions to reduce consumption or increase the efficient use of energy in existing production, manufacturing, assembly or distribution processes, including the purchase of equipment and materials to make processes more energy efficient.

The CEIP may invest alongside additional private capital that will allow funding for activities beyond those permitted by the CEIP. The CEIP targets funding opportunities ranging from $500,000 to $5,000,000.

As of the fiscal year ended June 30, 2011, one $5,000,000 direct investment commitment had closed and $2,000,000 had been funded. The company estimates the investment will result in the creation of 50 new jobs over a three-year period.

Florida Development Finance Corporation

Florida Development Finance Corporation (FDFC) was specifically formed pursuant to Florida Statutes, Chapter 288 Part IX to facilitate economic development in Florida by working in partnership with the Florida financial services industry and local development organizations to create access to competitive sources of finance for creditworthy small manufacturers and other firms critical to the economic base of Florida. FDFC receives its administrative support entirely from Enterprise Florida.

FDFC offers tax-exempt, low interest bond financing to qualified, financially sound, manufacturers and 501(c)(3) non-profit organizations. Because rules, regulations and historical case law are extensive and can affect eligibility, case by case eligibility for manufacturers is ultimately determined by bond counsel after review of all the factors.

If a transaction does not meet IRS qualifying rules for tax-exempt finance, it can be financed with taxable bonds through FDFC. For taxable transactions, IRS qualifying rules governing tax-exempt financing do not apply. However, the project must still meet project-type parameters as outlined per Florida Statute.

With the slow, but gradual, restoration of market confidence through 2010 and into 2011, the global credit market continued to experience a relatively anemic recovery. In this environment, however, FDFC completed the three conduit bond issuances in the fiscal year ending June 30, 2011, as shown in Table 38.

Table 38
FDFC BOND ISSUANCES IN FY 2010-2011

BORROWER	COUNTY	AMOUNT
Renaissance Charter Schools	Broward, Duval, Miami-Dade, St. Lucie	$68,200,000
Lake Eola Charter School Foundation	Orange	$1,963,500
Renaissance Charter Schools	Broward, Duval, Miami-Dade	$89,235,000
Total		$159,398,500

Florida Export Finance Corporation

Access to up to $500,000 in loan guarantees is available to Florida's small and medium-sized businesses through the Florida Export Finance Corporation (FEFC). The FEFC was created by the State in 1993 as a not for profit corporation with a mandate to expand employment and income opportunities to Florida residents by increased exports of goods and services resulting from assistance given by the FEFC to Florida companies. Information, technical, and consulting assistance is offered. However, financial assistance is the primary service offered by the FEFC. Guarantees are transaction specific but normally issued as a revolving line of credit. This program, operating in partnership with Florida's banking community, is designed to assist the State's smaller exporters by giving them improved access to affordable working capital. As of December 31, 2010, FEFC reported total assets of $6,029,971.72 and total liabilities of $0. The full copy of the FEFC annual report is included with the Annual Incentives Report, as required by §288.7771, F.S.

Florida Small Business Technology Growth Fund

The Florida Small Business Technology Growth Program (FSTGP) was established in 1998 to provide financial assistance to businesses in this state having high job growth and emerging technology potential and fewer than 100 employees. The program is administered and managed by Enterprise Florida. All moneys in FSTGP ($921,626 as of June 30, 2011) are continuously appropriated to the FSTGP and may be used for loan guarantees, letter of credit guarantees, cash reserves for loan and letter of credit guarantees, payments of claims pursuant to contracts for guarantees, subordinated loans, loans with warrants, royalty investments, equity investments, and operations.

During FY 2010-2011, Enterprise Florida implemented a pilot program using funds from FSTGP working in partnership with the Institute for Commercialization of Public Research. The pilot program was established to loan $50,000 as seed funding for Florida start-up companies commercializing public research, provided the company raises a matching $50,000 from other sources. The loans are unsecured, with a bullet payment due five years from issuance. Enterprise Florida also received warrants for the purchase of common stock of each of the borrowers. These warrants entitle Enterprise Florida to purchase at any time within the five year term of the loan, shares of common stock of the borrowers. Table 39 lists companies participating during the fiscal year.

Table 39
FSTGP TRANSACTIONS IN FY 2010-2011

COMPANY	COUNTY	AMOUNT
NanoPhotonica	Orange	$50,000
GLG Pharma	Hillsborough	$50,000
Cvergenx	Hillsborough	$50,000
Total		**$150,000**

All of the participating companies above were very-early stage and were in the pre-revenue stage, therefore no employment growth or sales revenue growth resulted from the loans. Each of the participating companies provided evidence of a minimum of $50,000 matching investment to participate in the pilot program.

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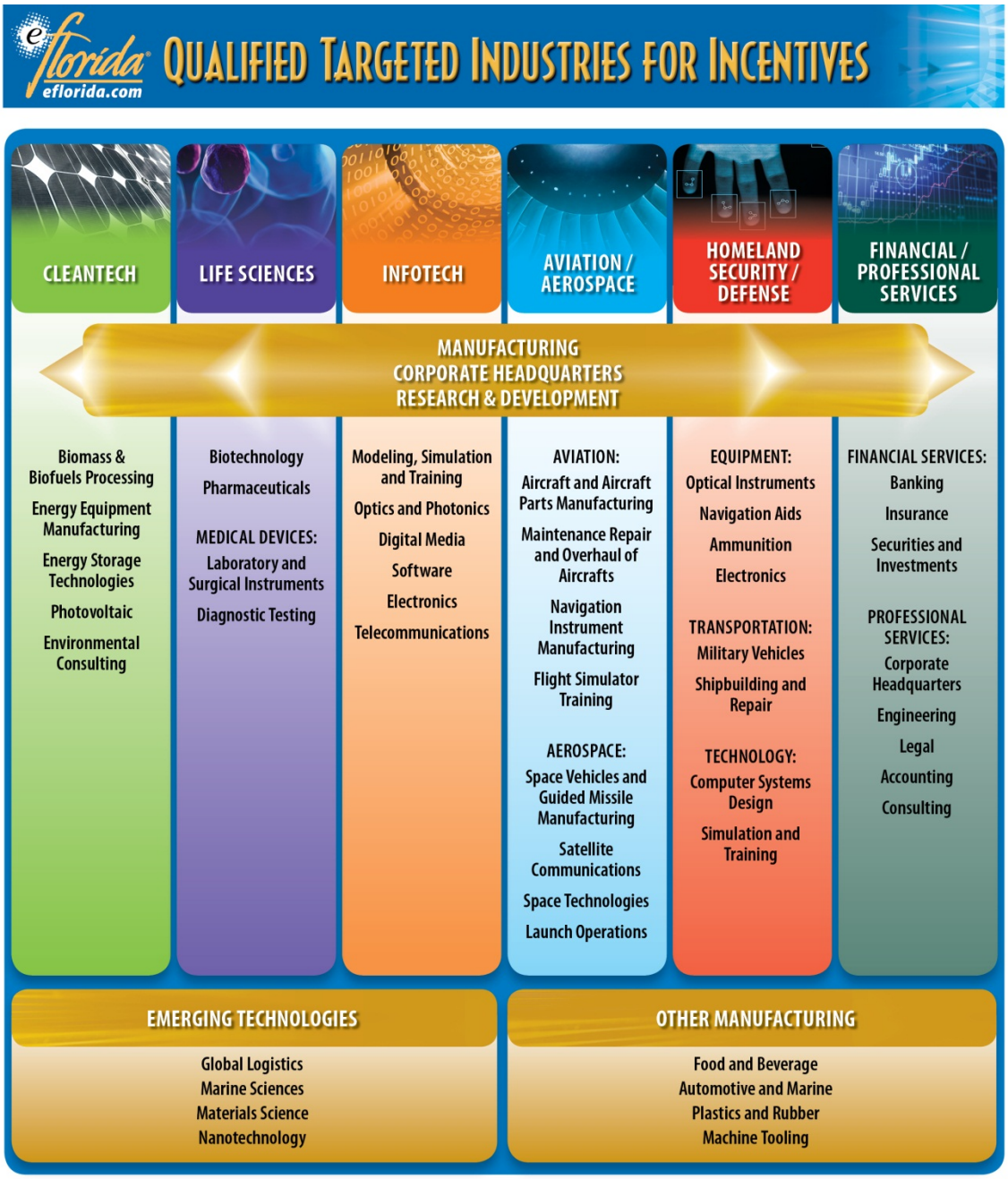
Appendix

APPENDIX A - TARGETED INDUSTRY LIST



Businesses able to locate in other states and serving multi-state and/or international markets are targeted. Call Centers and Shared Service Centers may qualify for incentives if certain economic criteria are met. Retail activities, utilities, mining and other extraction or processing businesses, and activities regulated by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation are statutorily excluded from consideration. All projects are evaluated on an individual basis and therefore operating in a target industry does not automatically indicate eligibility.

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APPENDIX B – KEY ACRONYMS

The following acronyms are used throughout this report:

- BF – Brownfield
- QACF or Closing Fund– Quick Action Closing Fund
- CITC – Capital Investment Tax Credit
- DEO – Department of Economic Opportunity
- DoD – Department of Defense
- EDO – Economic Development Organization
- EDTF or Road Fund – Economic Development Transportation Fund
- EFI – Enterprise Florida, Inc.
- EZ – Enterprise Zone
- FEFC – Florida Export Finance Corp.
- FTE – Full time equivalent job
- FOF – Florida Opportunity Fund
- LGDAMG – Local Government Distressed Area Matching Grant Program
- HIPI – High Impact Performance Incentive
- IIP or IIF – Innovation Incentive Program / Fund
- IWT – Incumbent Worker Training
- JUTC – Jobs for the Unemployed Tax Credit
- MSA – Metropolitan Statistical Area
- MSII – Manufacturing and Spaceport Investment Incentive
- OTTED – Office of Tourism, Trade, and Economic Development
- QDSC – Qualified Defense and Space Contractor
- QRT – Quick Response Training
- QTI – Qualified Target Industry
- RACEC – Rural Area of Critical Economic Concern
- REDI – Rural Economic Development Initiative
- RIF – Rural Infrastructure Fund
- RJTC – Rural Jobs Tax Credit
- SDST – Semiconductor, Defense, and Space Technology
- TGF – Technology Growth Fund
- UJTC – Urban Jobs Tax Credit

APPENDIX C – INCENTIVE AGREEMENTS EXECUTED

Table 40 lists projects with executed incentive agreements during fiscal year 2011. Incentives noted in italics are for contracts executed as of December 2011, but not executed during fiscal year 2011. Values noted in dark blue are currently held by Enterprise Florida in an escrow account until the business meets pre-determined payment criteria; therefore, these funds have not been paid to the business. Since most of these are active incentive agreements, the average wage commitment cannot be disclosed per §288.075(6)(a)2. However, several agreements were executed by the business but have since been terminated (therefore are no longer active). The wage commitments for these projects have been footnoted, even though the project is not expected to happen. QACF, QDSC, and EDTF awards may also be partially based upon retained jobs, if there were jobs at jeopardy of leaving the State. All contracts require existing Florida companies to maintain their current employment levels. Some communities are eligible to request a waiver of the local financial support requirements. These are denoted as " - " in the respective column.

Table 40
INCENTIVE AWARDS GRANTED – FY 2011

COMPANY	INDUSTRY	CONTRACT-ED NEW JOBS	EXPECTED CAPITAL INVESTMENT	MAXIMUM STATE INCENTIVE PAYMENTS	STATE PROGRAM	LOCAL FINANCIAL SUPPORT COMMITMENTS
21st Century Oncology Management Service, Inc.	Financial / Professional Services	40	$10,000	$160,000	QTI	$40,000
AAR Airlift Group, Inc.	Aviation / Aerospace	225	$17,500,000	$2,000,000	QACF	$2,234,100
				$498,750	QRT	
AcAeSoftware, LLC	Infotech	93	$1,034,000	$297,600	QTI	$74,400
Adecco Group North America	Corporate Headquarters	100	$300,000	$240,000	QTI	$60,000
Alinean, Inc.	Infotech	10	$380,000	$60,000	QTI with BFB	$15,000
Altadis USA, Inc.	Corporate Headquarters	55	$730,000	$236,000 (escrow)	QACF	$125,000
				$264,000	*QTI*	
American Clinical Solutions, LLC	Life Sciences	60	$1,370,000	$144,000	QTI	$36,000
American Energy Innovations, LLC	Cleantech	600	$14,980,000	$750,000	QACF	$435,000
				$157,854	QRT	
				$1,440,000	QTI	
ARINC Advanced Aviation & Maritime Engineering	Homeland Security / Defense	21	$2,820,000	$67,200	QTI	$16,800
Ascend Performance Materials, LLC	Manufacturing	102	$56,100,000	$400,000	QACF	$3,140,373
				$118,204	QRT	
				$326,400	QTI	
Australia Yachts, LLC	Manufacturing	120	$1,015,000	$384,000	QTI	$96,000
Avaya Inc./Global Inside Sales Division	Financial / Professional Services	180	$4,600,000	$720,000	QTI with BFB	$90,000
Aviation Systems Engineering Company	Financial / Professional Services	10	$133,000	$40,000	QTI	$10,000
BAE Systems Technology	Aviation / Aerospace	135	$2,250,000	$1,884,696	EDTF	-

COMPANY	INDUSTRY	CONTRACT-ED NEW JOBS	EXPECTED CAPITAL INVESTMENT	MAXIMUM STATE INCENTIVE PAYMENTS	STATE PROGRAM	LOCAL FINANCIAL SUPPORT COMMITMENTS
Bing Energy, Inc.	Corporate Headquarters	244	$17,450,000	$1,561,600	QTI	$390,400
Bright Star Energy Corporation	Cleantech	180	$49,850,000	$864,000	QTI	-
Camphor Technologies, Inc.	Life Sciences	18	$805,000	$72,000	QTI	$18,000
CEC Motor and Utility Services	Manufacturing	30	$515,000	$72,000	QTI	$18,000
Chromalloy Gas Turbine, LLC	Aviation / Aerospace	52	$6,400,000	$500,000	QACF	$272,800
				$291,200	QTI	
Clearwire US, LLC	Financial / Professional Services	500	$3,500,000	$2,200,000	QTI with BFB	$2,500,000
				$1,000,000	QRT	
				$2,000,000 (funds repaid to the State by Company)	*QACF*	
Columbia Technology, Inc.	Cleantech	165	$102,600,000	$900,000	EDTF	-
				$792,000	*QTI*	
CONFIDENTIAL	Aviation / Aerospace	14	$10,300,000	$600,000 (escrow)	QACF	$162,000
				$78,400	*QTI*	
CONFIDENTIAL	Homeland Security / Defense	40	$750,000	$160,000	QTI	$40,000
CONFIDENTIAL	Financial / Professional Services	250	$2,543,341	$800,000	QTI	$200,000
CONFIDENTIAL	Aviation / Aerospace	200	$28,000,000	$657,500 (escrow)	QACF	$751,000
				$360,000	QRT	
CONFIDENTIAL	Manufacturing	350	$150,000,000	$3,000,000 (escrow)	QACF	$12,600,000
CONFIDENTIAL	Aviation / Aerospace	50	$1,500,000	$220,000	QTI with BFB	$157,407
CONFIDENTIAL	Manufacturing	60	$2,620,000	$120,000	Brownfield Bonus	-
Cool Sound Industries, Inc.	Cleantech	350	$13,885,000	$2,380,000	QTI with BFB	$595,000
Customed USA, LLC.	Life Sciences	11	$1,168,813	$6,600	QTI	$6,600
Discovery Latin America, LLC	Infotech	40	$5,000,000	$256,000	QTI	$64,000
				$2,000,000	*QACF*	
DRS Training & Control Systems, LLC	Homeland Security / Defense	150	$20,098,100	$300,000	Brownfield Bonus	$429,702
				$1,056,000	QDC	
Embraer Aircraft Holding, Inc.	Aviation / Aerospace	50	$3,700,000	$150,000	QTI	$1,679,476
				$400,000 (escrowed in previous FY)	*QACF*	
Emerson Process Management, LLLP	Corporate Headquarters	51	$2,176,000	$250,000 (escrow)	QACF	$147,900
				$285,600	*QTI*	
Environmental Services Sales and Marketing, LLC	Cleantech	97	$65,000	$232,800	QTI	$58,200

COMPANY	INDUSTRY	CONTRACT-ED NEW JOBS	EXPECTED CAPITAL INVESTMENT	MAXIMUM STATE INCENTIVE PAYMENTS	STATE PROGRAM	LOCAL FINANCIAL SUPPORT COMMITMENTS
Ernst & Young U.S. LLP	Financial / Professional Services	30	$151,000	$96,000	QTI	$24,000
Event Photography Group, Inc.	Corporate Headquarters	35	$300,000	$84,000	QTI	$21,000
Executive Wings, Inc.	Aviation / Aerospace	10	$1,680,000	$20,000	Brownfield Bonus	-
Feld Entertainment, Inc.	Corporate Headquarters	235	$34,000,000	$650,000 (escrow)	QACF	$1,422,310
				$689,400	QRT	
Fidelity Information Services, Inc.	Financial / Professional Services	300	$7,600,000	$960,000	QTI	$240,000
Fiserv, Inc.	Financial / Professional Services	120	$2,200,000	$480,000	QTI	$120,000
Florida Research Instruments, Inc.	Life Sciences	30	$2,410,000	$120,000	QTI	$175,224
Forensic Innovation Center, LLC	Financial / Professional Services	40	$14,155,000	$208,000	QTI with BFB	$52,000
Gartner, Inc.	Infotech	200	$4,950,000	$500,000	QACF	$890,000
				$960,000	QTI	
Global Aviation Holdings, Inc.	Aviation / Aerospace	53	$650,000	$159,000	QTI	$31,800
Global Components, Inc.	Manufacturing	50	$1,400,000	$240,000	QTI	$60,000
Gordon Food Service, Inc.	Emerging Technologies	366	$50,000,000	$726,980	EDTF	$219,650
				$878,400	*QTI*	
INEOS New Planet BioEnergy, LLC	Cleantech	55	$105,000,000	$132,000	QTI	$33,000
Innovative Medical Device Solutions	Life Sciences	35	$1,650,000	$112,000	QTI	$28,000
It Works Global, Inc.	Corporate Headquarters	90	$5,150,000	$432,000	QTI	$108,000
John Bean Technologies Corporation	Manufacturing	23	$16,000,000	$164,200 (escrow)	QACF	$127,495
				$73,600	QTI	
L-3 Communication Integrated Systems LP Crestview Aerospace	Aviation / Aerospace	340	$13,720,000	$1,300,000 (escrow)	QACF	$1,136,911
				$923,848	QTI	
Landmark Aviation, LLC	Aviation / Aerospace	11	$720,000	$44,000	QTI	$11,000
Lender Processing Services, Inc.	Financial / Professional Services	350	$1,500,000	$2,380,000	QTI with BFB	$595,000
Lockheed Martin Corporation	Homeland Security / Defense	28	$103,000	$156,800	QTI	$39,200
Lockheed Martin Information Systems & Global Services	Homeland Security / Defense	100	$2,350,000	$200,000	Brownfield Bonus	$120,823
				NA	SDST	
				$573,600	QDC	
Mako Surgical Corp.	Life Sciences	90	$1,920,107	$288,000	QTI	$72,000
Marquis Industries Inc.	Manufacturing	20	$4,000,000	$260,000	EDTF	-
				$96,000	QTI	

COMPANY	INDUSTRY	CONTRACT-ED NEW JOBS	EXPECTED CAPITAL INVESTMENT	MAXIMUM STATE INCENTIVE PAYMENTS	STATE PROGRAM	LOCAL FINANCIAL SUPPORT COMMITMENTS
Masonite International Corporation	Corporate Headquarters	13	$106,000	$52,000	QTI	$13,000
Mayport Wholesale Seafood, Inc.,	Emerging Technologies	30	$4,150,000	$60,000	Brownfield Bonus	-
				$557,470	*EDTF*	
MDVIP, Inc.	Life Sciences	28	$350,000	$89,600	QTI	$22,400
MH Operations, LLC	Manufacturing	125	$1,883,000	$850,000	QTI with BFB	-
MidairUSA, Inc.	Aviation / Aerospace	400	$30,000,000	$1,542,000	EDTF	$400,000
				$2,400,000	QTI with BFB	
National Healing Holding[14]	Life Sciences	40	$700,000	$96,000	QTI	$24,000
Off-Grid Solar, Inc.[15]	Cleantech	150	$9,750,000	$360,000	QTI	$90,000
Optical Crime Prevention, Inc.	Infotech	100	$25,500,000	$750,000 (escrow)	QACF	$100,000
				$400,000	QTI	
Oscor, Inc.	Life Sciences	70	$9,400,000	$168,000	QTI	$42,000
Overhead Door Corporation	Manufacturing	40	-	$96,000	QTI	$24,000
Pace Analytical Services-Florida	Financial / Professional Services	25	$2,100,000	$60,000	QTI	$15,000
Pershing LLC	Financial / Professional Services	300	$4,583,000	$720,000	QTI	$180,000
Pierce Manufacturing, Inc.	Manufacturing	66	$5,760,000	$650,000	QACF	$150,000
				$264,000	QTI	
Pierce Manufacturing, Inc.	Manufacturing	50	$1,130,000	$160,000	QTI	$40,000
PLS Logistics Services, Inc.	Financial / Professional Services	100	$1,133,000	$240,000	QTI	$60,000
PRG Packing Corp.	Manufacturing	70	$3,500,000	$336,000	QTI	-
Prime Conduit, Inc.	Manufacturing	20	$4,325,650	$48,000	QTI	$12,000
ProSolus Pharmaceuticals, LP	Life Sciences	45	$9,675,000	$216,000	QTI	$54,000
Qypsys, LLC	Infotech	35	$250,000	$112,000	QTI	$28,000
Raymond James Financial, Inc.	Financial / Professional Services	750	$50,000,000	$4,500,000 (escrow)	QACF	$4,736,023
				NA	CITC	
Redpine Healthcare Technologies, Inc.	Infotech	410	$2,150,000	$400,000	QACF	$2,818,000
				$1,312,000	*QTI*	
Row Sham Bow, Inc.	Infotech	60	$235,000	$456,000	QTI with BFB	$114,000
Sanborn Studios LLC	Infotech	117	$13,800,000	$468,000	QTI	$117,000
Science Applications International Corporation	Infotech	65	$200,000	$364,000	QTI	$91,000
Science Applications International Corporation	Infotech	110	$240,000	$616,000	QTI	$154,000
				$170,510	QRT	

[14] Incentive agreement is no longer active - average wage commitment was $49,946.
[15] Incentive agreement is no longer active - average wage commitment was $50,000.

COMPANY	INDUSTRY	CONTRACT-ED NEW JOBS	EXPECTED CAPITAL INVESTMENT	MAXIMUM STATE INCENTIVE PAYMENTS	STATE PROGRAM	LOCAL FINANCIAL SUPPORT COMMITMENTS
SeaAway Family of Companies, Inc.	Homeland Security / Defense	100	$104,000,000	$240,000	QTI	$385,952
Sky King, Inc.	Aviation / Aerospace	50	$645,000	$120,000	QTI	$30,000
SolarSink, LLC	Cleantech	30	$25,000,000	$1,000,000	HIPI	$30,000
				$120,000	QTI	
SunnyLand Solar, LLC	Cleantech	35	$25,035,000	$1,000,000	HIPI	$35,000
				$140,000	QTI	
Systems Research & Applications Corporation	Homeland Security / Defense	150	$1,303,000	$600,000	QTI	$150,000
Systems Services Enterprises, Inc.	Homeland Security / Defense	60	$1,109,523	$192,000	QTI	$48,000
T. Rowe Price Associates, Inc.	Financial / Professional Services	1,215	$191,595,304	$12,000,000	HIPI	$7,164,828
				$3,000,000	*EDTF*	
				$2,224,000	QTI	
				$1,664,000	QTI	
				NA	CITC	
TZ Insurance Solutions LLC[16]	Financial / Professional Services	91	$500,000	$218,400	QTI	$54,600
				$130,286	QRT	
Universal Insurance Managers, Inc.	Financial / Professional Services	70	$2,001,000	$168,000	QTI	$420,000
UTC Fire & Security Corporation	Corporate Headquarters	22	$15,000,000	$88,000	QTI	$62,000
UTC Fire & Security Corporation	Corporate Headquarters	23	-	$92,000	QTI	$92,000
				$625,000	*QACF*	
VFT FL, LLC	Manufacturing	60	$18,750,000	$120,000	Brownfield Bonus	$444,000
Wal-Mart Stores East, LP	Not in a Target Industry	180	$25,000,000	$360,000	Brownfield Bonus	$90,000
Wal-Mart Stores East, LP	Not in a Target Industry	210	$29,100,000	$420,000	Brownfield Bonus	-
WestPoint Home, Inc.	Manufacturing	75	-	$360,000	QTI	-
				$237,138	QRT	
				$540,000	*QACF*	
Wheeled Coach Industries, Inc.	Manufacturing	105	$2,374,029	$252,000	QTI	$63,000
Xorail, Inc.	Financial / Professional Services	55	$326,000	$132,000	QTI	$33,000
Xymogen	Infotech	58	$7,150,000	$139,200	QTI	$34,800

[16] Incentive agreement is no longer active - average wage commitment was $41,176

APPENDIX D – INCENTIVE PAYMENTS

Table 41 lists all businesses receiving incentive payments from the QTI, QDSC, Brownfield Bonus, HIPI, Closing Fund, Innovation Incentive, and EDTF programs. The majority of these payments are for QTI and other programs that do not require confirmation of capital investment. For programs with a capital investment requirement, the confirmed investment has been footnoted. The average wage for specific projects remains confidential if there is an active incentive agreement in place, per §288.075(6)(a)(3), F.S.

The local incentive payment indicates the amount of local financial support provided to leverage the State's investment for that fiscal year. Additional local incentive payments are made in the years preceding and following fiscal year 2011. Enterprise Florida is not aware of any Federal incentives received by these projects. For Innovation Incentive projects, the local incentive payment indicates required matching funds to date. QACF, QDSC, and EDTF awards may also be partially based upon retained jobs, if there were jobs at jeopardy of leaving the State.

Table 41
INCENTIVE PAYMENTS – FISCAL YEAR 2011

APPLICANT	CONFIRMED NEW JOBS	STATE PROGRAM	SCHEDULED FISCAL YEAR	PAYMENT DATE	STATE INCENTIVE PAYMENT	LOCAL INCENTIVE PAYMENT (MINIMUM)
21st Century Oncology Management Services, Inc.	114	QTI	2010-2011	9/1/2010	$42,000.00	$10,500.00
AAR Airlift Group, Inc.	NA	QACF	2010-2011	2/23/2011	$2,000,000.00	NA
Access Mediquip, LLC	45	QTI	2010-2011	1/4/2011	$19,015.77	$4,753.94
ADT Security Services, Inc.	NA	QACF	2009-2010	9/17/2010	$1,235,830.00	NA
AppRiver, LLC	16	QTI	2010-2011	9/1/2010	$12,000.00	$3,000.00
Beall's, Inc.	273	QTI	2009-2010	8/23/2010	$45,000.00	$11,250.00
Biotest Pharmaceuticals Corporation	53	QTI	2010-2011	10/11/2010	$8,000.00	$2,000.00
BobCad-Cam, Inc.	20	QTI	2010-2011	12/6/2010	$11,279.52	$2,819.88
Burnham Institute for Medical Research[17]	190	IIF	NA	6/25/2011	$3,700,000.00	NA
		IIF	NA	10/20/2010	$17,059,000.00	
Cardinal Glass Industries, Inc.	114	QTI	2010-2011	1/11/2011	$64,314.00	$16,078.50
Cellynne Holdings	49	QTI	2010-2011	9/29/2010	$24,000.00	$6,000.00
Charles Stark Draper Laboratories[18]	50	IIF	NA	11/17/2010	$3,000,000.00	$15,300,000.00
Chico's FAS, Inc.	555	QTI	2009-2010	8/11/2010	$28,000.00	$7,000.00
Chico's FAS, Inc.	461	QTI	2009-2010	8/11/2010	$398,000.00	$99,500.00
Chico's FAS, Inc.	132	QTI	2009-2010	8/11/2010	$52,000.00	$13,000.00
CIT Technology Financing Services, Inc.	342	QTI	2010-2011	12/6/2010	$183,600.00	$45,900.00
Citrix Systems, Inc.	421	QTI	2009-2010	8/11/2010	$104,000.00	$26,000.00
City of Jacksonville (Pilot Corporation of America)	NA	EDTF	NA	10/29/2010	$98,692.31	NA

[17] Confirmed capital investment is $43,387,054.00.
[18] Confirmed capital investment is $5,008.769.

APPLICANT	CONFIRMED NEW JOBS	STATE PROGRAM	SCHEDULED FISCAL YEAR	PAYMENT DATE	STATE INCENTIVE PAYMENT	LOCAL INCENTIVE PAYMENT (MINIMUM)
City of Key West	NA	EDTF (Member)	NA	4/7/2011	$101,212.68	NA
City of Lake Wales	NA	EDTF (Member)	NA	2/7/2011	$566,855.00	NA
City of Marianna (Ice River Springs Marianna, LLC)	NA	EDTF	NA	9/3/2010	$819,832.50	NA
City of Melbourne (DRS Sensors & Targeting Systems, Inc./Optronics)	NA	EDTF	NA	6/15/2011	$464,686.68	NA
City of Melbourne Airport Authority (Embraer Aircraft Holding, Inc.)	NA	EDTF	NA	8/31/2010	$190,808.07	NA
				8/31/2010	$517,939.83	
				12/22/2010	$242,658.75	
City of Winter Haven (Hanson Pipe and Products, Inc.)	NA	EDTF	NA	1/7/2011	$30,662.17	NA
				8/9/2010	$63,805.02	
				8/9/2010	$101,627.81	
Clearwire US, LLC	NA	QACF	2009-2010	9/29/2010	$2,000,000.00[19]	$0.00
Conax Florida Corporation	65	QTI	2010-2011	12/17/2010	$22,200.00	$5,550.00
Connextions.net, Inc.	760	QTI	2010-2011	12/29/2010	$120,000.00	$30,000.00
		QTI	2009-2010	8/11/2010	$210,000.00	$52,500.00
Consulate Management Company, LLC	95	QTI	2010-2011	10/13/2010	$22,000.00	$5,500.00
Contemporary Machinery & Engineering Services, Inc.	8	QTI	2010-2011	3/17/2011	$10,500.00	$2,625.00
Crestview Aerospace Corporation	344	QTI	2010-2011	9/29/2010	$34,800.00	$8,700.00
Danfoss Turbocor Compressors, Inc.	150	QTI	2010-2011	12/29/2010	$131,982.02	$32,995.51
DEGC Enterprises (U.S.), Inc.	602	QTI	2010-2011	12/6/2010	$60,000.00	$15,000.00
Deutsche Bank	414	QTI	2010-2011	10/19/2010	$150,000.00	$37,500.00
DHL Express (USA), Inc.	517	QTI	2010-2011	5/5/2011	$389,616.00	$97,404.00
Discovery Latin America, LLC	NA	QACF	2009-2010	9/17/2010	$2,000,000.00	NA
EDAK, Inc.	19	QTI	2010-2011	3/17/2011	$9,600.00	$4,709.03
Electronic Arts, Inc.-Tiburon	576	QTI	2010-2011	3/23/2011	$376,290.00	$94,072.50
Embraer Aircraft Holding, Inc.	NA	QACF	2009-2010	9/13/2010	$400,000 (in escrow)	NA
Enterprise Rent-A-Car Co., Inc.	146	QTI	2010-2011	9/29/2010	$78,666.86	$19,666.72
Family Dollar Services, Inc.	370	QTI	2010-2011	9/28/2010	$196,944.00	$49,236.00
Fidelity National Financial, Inc. & Subsidiaries	280	Brownfield Bonus (with QTI)	2009-2010	7/13/2010	$100,000.00	$25,000.00
Fidelity National Financial, Inc. & Subsidiaries	98	Brownfield Bonus (with QTI)	2009-2010	7/13/2010	$300,000.00	$75,000.00

[19] Payment was made to company after achievement of certain performance milestones; however, company later changed its decision regarding expansion and repaid the entire QACF award to the State.

APPLICANT	CONFIRMED NEW JOBS	STATE PROGRAM	SCHEDULED FISCAL YEAR	PAYMENT DATE	STATE INCENTIVE PAYMENT	LOCAL INCENTIVE PAYMENT (MINIMUM)
Florida Agriculture Center & Horse Park Authority	NA	EDTF (Member)	NA	11/15/2010	$278,991.00	NA
				2/23/2011	$23,107.99	
Florida Institute of Technology	NA	EDTF (Member)	NA	6/1/2011	$26,912.28	NA
Florida State University	NA	EDTF (Member)	NA	3/31/2011	$699,142.76	NA
				6/1/2011	$41,771.49	
FSV Payment Systems	181	QTI	2010-2011	10/29/2010	$30,000.00	$7,500.00
GE Security, Inc.	137	QTI	2010-2011	10/29/2010	$31,111.20	$7,777.80
			2009-2010	8/31/2010	$31,111.20	$7,777.80
Geographic Solutions, Inc.	18	QTI	2010-2011	11/30/2010	$6,000.00	$1,500.00
Global Stevedoring, LLC[20]	38	Brownfield Bonus (stand-alone)	2010-2011	9/29/2010	$17,874.00	$0.00
Green Circle Bio Energy, Inc.	68	QTI	2010-2011	8/17/2010	$71,400.00	$0.00
GTECH Printing Corporation	128	QTI	2010-2011	3/11/2011	$1,976.59	$494.15
			2009-2010	8/10/2010	$247.51	$61.88
Guardian Ignition Interlock Manufacturing, Inc	25	QTI	2010-2011	2/28/2011	$8,000.00	$3,495.89
H. Lee Moffitt Cancer Center & Research Institute, Inc.	77	QTI	2009-2010	8/23/2010	$31,700.85	$10,462.61
Hillsborough County (Lear Corporation)	NA	EDTF	NA	5/5/2011	$511,047.34	NA
Hillsborough County (Tropical Sportswear International, Inc.)	NA	EDTF	NA	11/4/2010	$179,007.21	NA
				11/4/2010	$291,041.87	
Ignition Entertainment, Limited	59	QTI	2010-2011	9/29/2010	$16,999.35	$4,249.84
IKEA US East, LLC[21]	191	Brownfield Bonus (stand-alone)	2010-2011	1/31/2011	$89,207.74	$0.00
Iowa College Acquisition Corporation dba Kaplan University	173	QTI	2009-2010	8/11/2010	$103,800.00	$25,950.00
Iowa College Acquisition Corporation dba Kaplan University	660	QTI	2009-2010	8/11/2010	$300,000.00	$75,000.00
J & P Cycles, Inc.	63	QTI	2010-2011	10/11/2010	$7,800.00	$1,950.00
JetBlue Airways Corporation	244	QTI	2010-2011	10/8/2010	$123,200.00	$30,800.00
L-3 Communications Advanced Laser Systems Technology, Inc.	67	QTI	2010-2011	1/11/2011	$30,000.00	$7,500.00
Lance Mfg., LLC	43	Brownfield Bonus	2010-2011	2/16/2011	$20,199.40	$0.00
		QTI	2010-2011	2/16/2011	$48,478.56	$12,119.64
Lender Processing Services, Inc.	597	Brownfield Bonus	2010-2011	3/14/2011	$70,000.00	$17,500.00
		QTI	2010-2011	3/14/2011	$84,000.00	$21,000.00

[20] Confirmed capital investment is $25,448,374.00.
[21] Confirmed capital investment is $2,531,783.73.

APPLICANT	CONFIRMED NEW JOBS	STATE PROGRAM	SCHEDULED FISCAL YEAR	PAYMENT DATE	STATE INCENTIVE PAYMENT	LOCAL INCENTIVE PAYMENT (MINIMUM)
Liberty Tire Recycling LLC	61	QTI	2010-2011	9/29/2010	$34,498.80	$22,218.38
LiveTV, LLC	25	QTI	2010-2011	10/11/2010	$9,000.00	$3,222.53
Lockheed Martin Corporation - Maritime Systems & Sensors	62	QDSC	2010-2011	11/22/2010	$363,000.00	$72,600.00
Lockheed Martin Financial Services	117	QTI	2010-2011	9/1/2010	$16,000.00	$4,000.00
Lockheed Martin Corporation - FBM	57	QDSC	2010-2011	12/29/2010	$170,000.00	$42,500.00
Lowe's Home Centers, Inc.	682	QTI	2010-2011	3/9/2011	$360,000.00	$90,000.00
			2009-2010	10/6/2010	$360,000.00	$90,000.00
			2008-2009	9/20/2010	$300,000.00	$75,000.00
Mainstream Engineering Corporation	24	QTI	2010-2011	9/29/2010	$3,926.88	$981.72
Max Planck Florida Corporation[22]	39	IIF	NA	6/16/2011	$24,090,000.00	NA
				1/31/2011	$30,000,000.00	
McKibbon Hotel Management, Inc	86	BFR	2010-2011	2/25/2011	$37,300.60	$0.00
Metropolitan Life Insurance Company	267	QTI	2009-2010	8/23/2010	$144,000.00	$36,000.00
			2008-2009	8/23/2010	$144,000.00	$36,000.00
Miami Institute for Human Genomics	199	IIF	NA	4/19/2011	$11,000,000.00	NA
				11/17/2010	$5,200,000.00	
Mitsubishi Power Systems, Inc.	86	QTI	2010-2011	11/30/2010	$40,000.00	$10,000.00
Mitsubishi Power Systems, Inc.	312	QTI	2010-2011	3/16/2011	$125,600.00	$31,400.00
NeoGenomics Laboratories, Inc.	34	QTI	2010-2011	12/29/2010	$16,000.00	$4,000.00
New Millennium Building Systems, LLC	176	QTI	2010-2011	12/6/2010	$56,000.00	$0.00
Nipro Diagnostics, Inc.	105	QTI	2010-2011	4/11/2011	$63,000.00	$15,750.00
Office Depot, Inc.	243	QTI	2010-2011	8/18/2010	$86,000.00	$21,500.00
One-to-One Gulf Coast	12	QTI	2010-2011	11/30/2010	$12,000.00	$3,000.00
Orange County (Darden Restaurants, Inc.)	NA	EDTF	NA	8/31/2010	$676,239.80	NA
Orbeco-Hellige Inc.	11	QTI	2010-2011	11/23/2010	$6,000.00	$1,500.00
Oscor, Inc.	78	QTI	2010-2011	12/6/2010	$33,000.00	$8,250.00
Oshkosh Corporation[23]	NA	QACF	2010-2011	4/11/2011	$650,000.00	NA
Pall Corporation	56	QTI	2010-2011	3/16/2011	$39,692.16	$19,686.63
Palm Beach County (Office Depot, Inc.)	NA	EDTF	NA	1/7/2011	$1,094,899.79	NA

[22] Confirmed capital investment is $5,694,615.00.
[23] Confirmed capital investment is $2,021,822.74.

APPLICANT	CONFIRMED NEW JOBS	STATE PROGRAM	SCHEDULED FISCAL YEAR	PAYMENT DATE	STATE INCENTIVE PAYMENT	LOCAL INCENTIVE PAYMENT (MINIMUM)
Paramount Transportation Logistics Services	18	QTI	2010-2011	10/1/2010	$1,489.51	$372.38
PegasusTSI, Inc.	70	QTI	2009-2010	8/10/2010	$8,000.00	$2,000.00
Pilgrim's Pride Corporation	NA	QACF	2009-2010	9/13/2010	$500,000.00	NA
Pilot Corporation of America	39	QTI	2010-2011	10/29/2010	$8,000.00	$2,000.00
Plasma-Therm, LLC	66	QTI	2010-2011	12/17/2010	$61,940.79	$15,485.20
Pneumatic Scale Corporation	31	QTI	2010-2011	3/17/2011	$8,000.00	$2,000.00
Polk County (ArrMaz Custom Chemicals, Inc.)	NA	EDTF	NA	9/1/2010	$23,049.43	NA
PRC, LLC	457	QTI	2010-2011	9/29/2010	$193,300.77	$0.00
PricewaterhouseCoopers LLP-Knowledge Service Org	328	QTI	2009-2010	12/6/2010	$256,000.00	$64,000.00
			2008-2009	10/29/2010	$256,000.00	$64,000.00
PSS World Medical, Inc.	268	QTI	2010-2011	3/23/2011	$144,598.00	$36,149.50
Raydon Corporation	29	QDSC	2010-2011	9/24/2010	$189,600.00	$37,920.00
Remington Administrative Services, Inc.	121	QTI	2010-2011	9/29/2010	$40,392.00	$10,098.00
Rulon Company	89	QTI	2009-2010	3/15/2011	$49,999.99	$12,500.00
			2008-2009	3/15/2011	$43,333.33	$10,833.33
			2007-2008	2/16/2011	$31,210.16	$7,802.54
Ruth's Chris Steak House, Inc.	70	QTI	2010-2011	9/29/2010	$60,000.00	$15,000.00
Sarasota County (PGT Industries, Inc.)	NA	EDTF	NA	9/1/2010	$127,424.19	NA
Space Florida	NA	EDTF (Member)	NA	12/8/2010	$1,300,000.00	NA
SRI St. Petersburg[24]	83	IIF	NA	5/9/2011	$948,852.80	NA
Tandel Systems, Inc.	30	QTI	2010-2011	3/31/2011	$20,366.00	$5,091.50
Target Corporation	178	QTI	2010-2011	8/17/2010	$96,000.00	$0.00
Target Corporation	131	Brownfield Bonus (stand-alone)	2010-2011	3/17/2011	$61,871.50	$0.00
TBC Corporation	48	QTI	2010-2011	4/6/2011	$14,400.00	$3,600.00
The Bank of New York	372	QTI	2010-2011	3/31/2011	$210,792.24	$52,698.06
The Newport Group, Inc.	82	QTI	2010-2011	8/17/2010	$60,000.00	$15,000.00
Torrey Pines Institute for Molecular Studies[25]	110	IIF	NA	12/15/2010	$4,000,000.00	NA
TradeStation Group, Inc.	226	QTI	2010-2011	3/16/2011	$16,000.00	$4,000.00
Triad Isotopes, Inc.	21	Brownfield Bonus	2010-2011	12/17/2010	$10,000.00	$2,500.00
		QTI	2010-2011	12/17/2010	$13,624.81	$3,406.20
Ultramatics, Inc.	44	QTI	2010-2011	12/17/2010	$17,422.42	$4,355.61
United Rentals, Inc.	236	QTI	2008-2009	8/11/2010	$20,037.20	$5,009.30
United States Specialty Sports Association	16	QTI	2010-2011	11/29/2010	$4,000.00	$1,000.00

[24] Confirmed capital investment is $1,574,000.00.
[25] Confirmed capital investment is $3,608,657.00.

APPLICANT	CONFIRMED NEW JOBS	STATE PROGRAM	SCHEDULED FISCAL YEAR	PAYMENT DATE	STATE INCENTIVE PAYMENT	LOCAL INCENTIVE PAYMENT (MINIMUM)
University Clinical Research - Deland, LLC	33	QTI	2010-2011	10/6/2010	$13,200.00	$3,300.00
UTC Fire & Security Corporation	NA	QACF	2009-2010	9/29/2010	$625,000.00	NA
VaxDesign Corporation	38	QTI	2010-2011	4/19/2011	$12,941.60	$3,235.40
			2009-2010	3/30/2011	$33,048.60	$8,262.15
VISA Global Customer Care Services[26]	NA	QACF	2009-2010	9/30/2010	$80,000.00	NA
Volvo Parts North America, LLC	53	QTI	2010-2011	10/13/2010	$31,200.00	$7,800.00
Wal-Mart Stores East - DeSoto Grocery Distribution	701	QTI	2010-2011	10/19/2010	$180,000.00	$0.00
			2009-2010	8/25/2010	$540,000.00	$0.00
Wal-Mart Stores East, LP - Auburndale	284	Brownfield Bonus (stand-alone)	2009-2010	10/6/2010	$118,500.00	$0.00
Web.com Group, Inc.	109	QTI	2010-2011	10/21/2010	$87,200.00	$21,800.00
World Duty Free Americas	139	QTI	2009-2010	8/12/2010	$24,000.00	$6,000.00
			2008-2009	8/11/2010	$80,000.00	$20,000.00

[26] Confirmed capital investment is $315,856.00.

Florida Export Finance Corporation

A NOT FOR PROFIT CORPORATION
CREATED AND FUNDED BY THE STATE OF FLORIDA

Annual Report
2010

10400 NorthWest 33rd Street, Suite 200, Miami, Fl. 33172-5902
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FLORIDA EXPORT FINANCE CORPORATION

A NOT FOR PROFIT CORPORATION
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FLORIDA EXPORT FINANCE CORPORATION

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ANNUAL REPORT

January 1, 2010 - December 31, 2010

The 1993 Legislature enacted the "Florida Export Finance Corporation Act by S.S. 288.770-288.778, Florida Statutes which required the FEFC annual report to be sent to the Governor, the President of the Florida Senate, the Speaker of the Florida House of Representatives, the Senate Minority Leader, the House Minority Leader, and Enterprise Florida, Inc. The 2010 Legislature amended the act to require the report to be sent only to Enterprise Florida, Inc. to be included in the Enterprise Florida annual report.

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PRESIDENT'S MESSAGE

Florida depends on international business for the vitality of its economy more than any other state. Many of Florida's business and government leaders are aware that international trade is the largest segment of our economy and has out paced the growth of any other sector by a wide margin. That we are so dependent on international trade should not be surprising given Florida's geographic location and multi ethnic population. One aspect of international trade is exporting, and exports have been increasing for the past several years.

We rely on small business to make those exports far more than any other state. Most of the small business exporters in Florida are trading intermediaries. By a wide margin over any state Florida depends on these intermediaries to make our export business move forward, and almost all trading intermediaries are small businesses. These are the entities that bear the largest burden in the decline of exports and benefit the least in increasing exports. The benefits to small business from increased exports over the past several years has lagged that of our state's larger companies; however, there is evidence that many small exporters are experiencing increased demand.

The expenses and time required to obtain an export order are huge but the largest impediment is the ability, more properly described as the inability, of the small exporter to obtain adequate financing to allow fulfillment of that export order. This impediment is particularly true for an intermediary exporter who generally has a small asset base of inventory or receivables on which traditional financing can be based.

Florida's banking community is large and provides enormous amounts of funding for international trade. Banking is a highly regulated industry with those regulations designed first and foremost to protect the ordinary citizen who deposits money in the bank, and secondly to protect the shareholders of the bank. This is proper, but it automatically forces banks to lend to the highest level of loan repayment expectations. In general, small business does not fall into this expectation category. Nor does the financing of export sales. Nor does the financing of an intermediary. There is no misperception here as history shows this to be true. However, exports produce a benefit to our society far greater than domestic sales and cannot be ignored simply because they have a higher risk. Nor can small business, because it is the backbone of our country and, even more so, our state. The multitude of new regulations that have been implemented since the events of "9-11" have increased the difficulty for all exporting companies but more for small business. The current lending slow down has affected everyone and has created a lack of assistance for small exporters.

Since our inception more than 100 banks have agreed to cooperate with the FEFC in various ways to provide assistance to exporters. Many of these banks had not previously been involved in export trade finance. In the past, bank support for small exporters has grown as they recognize the huge business potential vested in this market. The consolidation taking place among banks does not seem to have either helped or hindered trade finance overall, except in the case of small business where it hurts. It is very clear that the larger a bank the larger it wants its customers to be.

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Many years ago the federal government gave recognition to the importance of exports by creating the Export-Import Bank of the United States, and to small business by creating the Small Business Administration (the FEFC has partnership agreements with both). Both Ex-Im Bank and SBA continue to improve their efforts to make their assistance programs available to small exporters but are clearly affected by increasing regulations and the economic slow down.

Florida's government - cities, counties, and state - know this importance and have done many things to help small business and to increase Florida exports. However, it is a never-ending process of improvements and continuing support that will and can enhance Florida's economy through small business and exports. Florida needs more manufacturers. Our ratio of trading intermediaries to manufacturers is very heavily weighted to intermediaries. This ratio in the business of Florida's exports is almost exactly inverse to California's. Our exporting structure and the vast amount of port volume are heavily dependent on manufactured products flowing through from other states and even other countries. Florida is more in the business of exporting other states' products than those from Florida simply because of our lack of manufacturing. Economic development designed to enlarge our existing small business manufacturers, and to bring more manufacturers into Florida, would in years to come benefit the state as much or more than anything Florida is now doing.

For a number of years the preceding, with appropriate and periodic updates, has been the cornerstone of FEFC's message. During most of that time the business of exporting continually grew and banks continually increased their commitment to trade finance. This trend stopped in 2008 when both actual exports and bank support decreased for the small exporters.

2008 saw a downturn of small business exports and 2009 was much worse and 2010 was even worse for small business . Overall exports increased in 2010. Small exporters are the first to feel a slowdown and the last to recover. An increasing number of foreign buyers are defaulting on payments to their Florida suppliers. This has created problems for many Florida banks and many have reduced their level of trade finance, especially to small business. Even with new efforts by all Federal and State entities offering support to exporters, both large and small, the business of almost all small individual entities declined. Our guarantee level rose from the prior year due to new incentive with additional funding from the State of Florida. 2011 is expected to be a recovery year.

The Florida Export Finance Corporation has dedicated itself to provide all Florida small business with an opportunity of ensuring that no valid export order is lost due to the lack of financing. The key words are all small business - manufacturer, agriculture, service, or intermediary. A further key is that every export sale, no matter what its size, is beneficial to Florida. Small becomes large only step by step with each sale. The goal of the FEFC is to help small business grow, not just to make loans. This goal is achieved by offering consulting services and structuring advice to achieve stability and long term growth in addition to financial assistance.

J. Stephen Fancher, President & CEO

3/15/11
Date

THE FLORIDA EXPORT FINANCE CORPORATION

STATEMENT OF POLICY

Florida Statute 288.770, effective July 1, 1993, created and funded the Florida Export Finance Corporation (FEFC) as a not for profit corporation with an economic development mandate to expand employment and income opportunities for Florida residents.

Fulfillment of the mandate is to be accomplished by increased exports of goods and services resulting from informational, technical, and financial assistance given by FEFC to small and medium sized Florida domiciled businesses. No specific Florida content is required for the exported items but preference is given to Florida value-added transactions.

Information and technical assistance to business is offered and the FEFC will cooperate and work with other organizations to enhance the ability of Florida exporters to increase their sales and their access to programs designed to assist them. However, financial assistance is the primary service offered by the FEFC. FEFC financial assistance is available to small and medium sized companies registered to do business in the State of Florida; with less than 250 employees and less than a $6,000,000 net worth; only for direct export transactions; only for goods and services being shipped from Florida; and only when the inability to obtain financing elsewhere is demonstrated.

FEFC financial assistance is in the form of a loan guarantee generally for short term transactions. The FEFC may have guarantees outstanding at any one time not greater than five times the FEFC Fund amount at such time.

In order to make full use of its leveraging authority FEFC financial assistance to exporters is in the form of guarantees given to commercial lenders who make loans to exporters to support a verified foreign order. The exporter may apply directly to the FEFC for a loan guarantee or, a lender may apply on behalf of an exporter. The maximum amount FEFC will consider guaranteeing is $500,000 and the FEFC guarantee may not exceed 90% of the loan value. The loan is to be secured by the foreign receivable generated by the sale. Ex-Im Bank or other acceptable foreign risk insurance should be obtained where possible.

The FEFC does not make grants nor will it issue loan guarantees unless they can be secured in a manner which assures a high probability of repayment. The FEFC paperwork will be the minimum necessary and its fees and rates will be as low as possible. FEFC loan guarantees will require the lender to follow all customary and prudent lending practices.

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The FEFC will consider guarantees to exporters only when commercial lenders have turned down an exporter's loan request. This could occur, even if an exporter is creditworthy, when a transaction is too small or too short term to produce a profit for the lender. If the need of the exporter is post-shipment related, i.e., offering payment terms to the foreign buyer, FEFC with assist the exporter in applying for coverage under a foreign risk insurance policy which mitigates the risk of an exporter loan default due to non payment by a foreign buyer. Many exporters will also need pre-shipment loans, i.e., purchasing the materials required to fill the order of a foreign buyer.

The agreement of lenders to accept the FEFC guarantee is dependent on many factors. The question of safety is paramount and is reflected by FEFC's credit policy, the risk mitigation arrangements which the FEFC might have, and the size of the FEFC Fund. Where possible FEFC will use the risk mitigation programs of Ex-Im Bank or other acceptable means. FEFC's credit policy and procedures have been formulated by FEFC's Board of Directors to evolve based on FEFC's delineated market and acting as an economic development entity. These individuals all have extensive experience in commercial lending, export sales, and trade finance representing and blending the expertise of banks and exporters, both large and small.

FEFC's Board of Directors recognizes the wide gap between the financing needs of small and medium sized exporters and the conservative approach required of conventional lenders, especially when it concerns trading companies who by many lending definitions are viewed as being undercapitalized with insufficient collateral. The bridging of this financial "gap" and the mandate to assist and nurture the growth of qualified Florida exporters is the guiding principle of FEFC's Board of Directors. Application of FEFC's credit policy and procedures will always consider this factor.

The FEFC accounts and records are maintained by the Corporation with audits by independent auditors and regular reviews by the State of Florida. The FEFC Fund is under the full control of FEFC's Board of Directors and is separate from any other funds. Additional funding may be appropriated each year by the State of Florida or from other sources, both public and private. The Corporation's administrative expenses are allocated from the FEFC Fund in accordance with an operating budget approved by the Board of Directors. All fees, interest income, investment income, or any other income is deposited directly to the FEFC Fund. Investments are made under rules established in Florida Statutes and in accordance with policy established by FEFC's Board of Directors.

The policy of the Board of Directors is to operate the FEFC in a sound and prudent manner which will accomplish the purposes and requirements of the Corporation as set forth in Florida Statutes while safeguarding and increasing its assets. The Board has established a credit committee, an audit and examination committee, an asset and liability committee, a management review committee, and an executive committee. Each committee has specific responsibilities concerning establishing and overseeing policies and procedures of the Corporation.

FLORIDA EXPORT FINANCE CORPORATION

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YEAR 2011 FACT SHEET

*July 5, 1992	- Business Plan presented to and approved by Governor's Office
*July 1, 1993	- Enabling Statute FS 288.770/8
*August 16, 1993	- First employee
*November 5, 1993	- Programs/Policies approved by Board and Governor's Office
*February 2, 1994	- Began accepting Loan Guarantee applications
*November 1, 1994	- Became member of Ex-Im Bank City/State Program
*May 1, 1995	- Signed Co-Guarantee Agreement with SBA
*December 1, 1995	- Ex-Im Bank Umbrella Insurance Policy activated
*July 1, 1996	- Increased Capital Grant by State
*September 18, 1996	- Ex-Im Bank Delegated Authority received
*July 1, 1997	- State Grants Self-Sufficiency Capital
*December 31, 1998	- Achieved Self-Sufficiency
*July 1, 2010	- Additional capital appropriated by the State

Note: figures are cumulative from inception except where noted	12/31/10
Medium term (over 1yr.) loans commitments arranged on behalf of small Florida exporters	$1,462,665,000
Export value of Political and Credit Risk Insurance arranged to support sales of small Florida exporters	$ 191,000,000
Export value covered by FEFC loan guarantee commitments for small Florida exporters	$ 319,310,600
Total value assisted (100% small business/ approx. 72% minority and women owned)	$1,972,975,600
Total for 2009 activities	$ 118,779,600
Total State Grants received (1993/1997)	$ 6,600,000
$5,600,000 Capital - $1,000,000 Operating Expenses	
Additional capital received in 2010	$ 1,225,000
Net Worth of FEFC - 12/31/10	$ 6,029,972

Total number of seminars -	367
FEFC seminar attendance - Exporters	12,197
- Bankers	2,333

FEFC Status - Non stock not for profit corporation with IRS 501(c)3 status
15 Member Board of Directors (5 Government/10 Private Sector)
Loan Defaults – 19 ($1,952,496 Net Loss)

Legislative Mandate - To increase job opportunities and income for residents of Florida by providing financial, technical, and consulting assistance to small and medium sized Florida companies in support of their export sales.

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Florida Export Finance Corporation

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To Financial Professionals:

All of us who offer financial services to businesses in the State of Florida know the unique nature of our market. Many of your clients could be defined as small businesses, and many of those export goods and services to foreign markets. Indeed, small businesses are the major engine of employment, economic growth, and exporting in our State.

Despite their importance to our economy, far too often they lack access to the financing they need. This is especially true of small business which need financing for their export transactions. The Florida Export Finance Corporation (FEFC) was created by the State of Florida as a not-for-profit corporation, with a mandate to expand employment and income opportunities by supporting the export of goods and services from the State.

The FEFC offers information, technical and consulting assistance to exporters throughout the State of Florida. Financial assistance, though, is our chief service. The FEFC will guarantee a lender's revolving line up to a maximum of $500,000. Applicants for a loan guarantee must be exporters based in Florida who have been turned down by at least one potential lender.

The FEFC is a member of the City/State program of the Export-Import Bank of the United States and offers Florida exporters access to U.S. Government export assistance programs offered by the Ex-Im Bank and the SBA. Services include packaging for the loan, insurance and guarantee programs offered by these agencies. The FEFC has delegated authority for Ex-Im Bank working capital loan guarantees up to $1,000,000 and SBA loans for up to $1,500,000.

This pamphlet reviews our general services. We ask that you bring to your client's attention the many opportunities available to them to enhance their success as exporters. One call or visit to our offices is all that is necessary to learn about these opportunities. Applications are available on the Internet or upon request.

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FLORIDA EXPORT FINANCE CORPORATION

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EXPORT FINANCE ASSISTANCE FOR FLORIDA COMPANIES

A major hurdle for many businesses seeking to take advantage of the opportunities offered by expanding foreign markets is access to affordable working capital. The State of Florida, working in partnership with the federal government and the State's banking community has lowered this hurdle for small and medium-sized businesses.

FLORIDA EXPORT FINANCE CORPORATION

Access up to $500,000 in loan guarantees is available to Florida's small and medium-sized businesses through the Florida Export Finance Corporation (FEFC). The FEFC was created by the State in 1993 as a not for profit corporation with a mandate to expand employment and income opportunities to Florida residents by increased exports of goods and services resulting from assistance given by the FEFC to Florida companies. Information, technical, and consulting assistance is offered. However, financial assistance is the primary service offered by the FEFC. Guarantees are transaction specific but normally issued as a revolving line of credit. This program, operating in partnership with Florida's banking community, is designed to assist the State's smaller exporters by giving them improved access to affordable working capital.

FEFC FEATURES:

- Loan guarantees for the lesser of 90% of the loan or $500,000.
- No minimum size.
- May be used to support loan or standby letter of credit.
- Available for pre-export working capital and/or post-export receivables financing.
- Maximum term for pre or post-export is 180 days, combination is 360 days.
- Reduced turn-around time for approval.
- Flexible collateral requirements.

FEFC PROGRAM CRITERIA

- Shipment must be from Florida.
- Products do not have to be made in Florida.
- Must be a small/medium sized Florida company.
- Must have received a turndown from conventional lender or apply jointly with a lender.

FEFC PROGRAM FEES:

- $250 application fee.
- A facility fee based on maximum allowable outstanding at any one time.

EXPORT-IMPORT BANK OF THE UNITED STATES AND SMALL BUSINESS ADMINISTRATION CITY/STATE PROGRAM

The FEFC is a member of the City/State program and offers Florida exporters access to export assistance programs offered by the Ex-Im Bank and the SBA. Services include packaging for Ex-Im Bank and SBA export working capital guarantees, and other loan, insurance and guarantee programs offered by these agencies.

FEFC PACKAGING, CREDIT INSURANCE, AND CO-GUARANTEE PROGRAMS

Financing assistance provided by the City/State Program focuses on the packaging and expedited processing of applications. The FEFC will assist exporters and lenders in arranging loans exceeding the FEFC limit in order to complete an export sale of any size including Ex-Im Bank product and project loans and SBA loans. The FEFC will assist exporters and lenders in obtaining credit insurance to mitigate foreign risk. FEFC can combine its guarantee with that of the SBA for a total guarantee value of up to $1,500,000. FEFC has delegated authority from Ex-Im Bank and can combine its guarantee with that of Ex-Im Bank for a $1,000,000 guarantee. This delegated authority is primarily designed to work with community banks in support of their customers.

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REFERRAL SERVICES

FEFC staff maintains up-to-date knowledge of exporter assistance programs offered by these federal agencies, as well as working relationships with their staffs. This combination allows us to recommend the best match between an exporter's financial need and available assistance and provide quick access to that assistance.

Products offered by Ex-Im Bank include:

- working capital guarantees/ medium-term guarantees/direct project guarantees/foreign credit insurance

SBA also offers working capital guarantees in support of export sales.

The export working capital guarantee programs of Ex-Im Bank and SBA are organized in a complimentary fashion. These programs are collectively referred to as the Export Working Capital Program. This program offers:

EWCP FEATURES:

- Guarantees to support specific transactions or a revolving line
- No minimum or maximum amount (though the amount requested will determine which agency will make the guarantee)

EWCP ELIGIBILITY CRITERIA:

- Exporter must have been in business at least one year
- Exporter must be able to demonstrate financial strength to support loan
- Export transaction must involve a country approved by Ex-Im Bank's Country Limitation Schedule
- Exporting company must have business operations in Florida.

Though the EWCP is operated jointly by the two agencies, certain features of the program are unique to each agency. The financing needs of the exporter, the nature of their business and the products being exported will determine which of the agencies will make the guarantee.

The most important of the defining criteria is the amount of financing being requested:

Ex-Im Bank
Guarantee requests exceeding $1,000,000
(Up to 90% of loan)

UNIQUE EX-IM BANK FEATURES

- Maximum term of financing is 1 year
- Exporter must be profitable
- No military sales
- Export product must exceed 50% U.S. origin
- Preliminary commitment for 6 months
- FEFC delegated authority for up to a $1,000,000 guarantee
- Master Agreements with community banks thru FEFC

SBA
Guarantee requests below $1,000,000
(Up to 90% of loan)

UNIQUE SBA FEATURES:

- Exporter must be a small business as defined by SBA
- Maximum term of financing is 3 years
- Military sales are allowed
- No. U.S. content requirement
- Preliminary commitment for 60 days
- Combined SBA/FEFC guarantee for up to $1,500,000

PLEASE CALL THE FEFC OFFICE FOR FURTHER INFORMATION ON PROGRAM LIMITATIONS & CRITERIA

FLORIDA EXPORT FINANCE CORPORATION

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President & CEO: J. Stephen Fancher

BOARD OF DIRECTORS

	Represents		
1.	NW Florida: Region 1	Todd G. Kocourek, President & CEO Florida First Capital Finance Corp. P. O. Box 4166 Tallahassee, FL 32315-4166 850/222-5198 FAX 850/222-7284	10/13
2.	NE Florida: Region 2	Cathy Hagan University of North Florida Small Business Development Center 12000 Alumni Drive Jacksonville, FL 32224 904/620-2478 Fax 904/	07/12
3.	Central Florida: Region 3 National Bank	Kenneth S. Nadler, Vice President Global Trade Services Fifth Third Bank 5425 State Road 54 New Port Richey, FL 34652 727/807-2254 FAX	04/12
4.	West Central Florida: Region 4	Salvatore M. Pontillo 3521 Autumn Glen Dr. Valrico, FL 33594 813/505-2157	04/12
5.	SW Florida: Region 5	Penny S. Phillippi, Executive Director Collier County Redevelopment Agency 2210 Immokallee Drive Immokallee, FL 34142 Cel: 239/285-7635	06/13
6.	South Florida: Region 6	Adolfo D. Martinez, Executive Director ADM Financial LLC 9230 S.W. 36th Street Miami, FL 33165 305/798-3392 FAX 305/207-3425	04/12
7.	Insurance:	Art Warner, Vice President ARI – Global Brokers of Accounts Receivables Insurance 19106 Two River Lane Boca Raton, FL 33498 561/353-1170 Fax 561/353-1172	01/12

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8.	Foreign Bank:	Efrain Lopez General Manager Caixa Galicia 1111 Brickell Avenue, Suite 2100 Miami, FL 33131 305/349-3965 Fax 305/579-1889	03/12
9.	State Bank	Open	
10.	Small/medium exporter:	Daniel M. Schwartz International Financing Network 1221 Brickell Avenue, Suite 947 Miami, FL 33131 305/319-01411 Cel. 786/942-5335	07/11
11.	Secretary of State:	Kurt Browning	
	Designee:	Jennifer Kennedy, Deputy Secretary Florida Department of State R. A. Gray Building 500 S. Bronough Tallahassee, FL 32399-0250 850/245-6525 FAX 850/245-6125	
12.	Chief Financial Officer:	Jeff Atwater, CFO	
	Designee:		
13.	Enterprise Florida CEO:	Gray Swoope	
	Designee:	Manny Mencia, Vice President Enterprise Florida International Trade 201 Alhambra Circle #610 Coral Gables, FL 33134 305/808-3660 Fax 305/808-3586	
14.	BBIB Board Chair:	Open	

FLORIDA EXPORT FINANCE CORPORATION
Balance Sheet
As of December 31, 2010

	Dec 31, 10
ASSETS	
Current Assets	
Checking/Savings	
DEPOSIT	183,785.60
FEFC/SPIA - see notes	5,011,967.45
OPERATING ACCT	-10.95
Total Checking/Savings	5,195,742.10
Other Current Assets	
LOANS - see notes	831,516.12
SECURITY DEPOSIT	2,713.50
Total Other Current Assets	834,229.62
Total Current Assets	6,029,971.72
TOTAL ASSETS	**6,029,971.72**
LIABILITIES & EQUITY	
Equity	
OPENING CAPITAL	100,000.00
PAID IN CAPITAL	6,725,000.00
RETAINED EARNINGS	-553,960.30
Net Income	-241,067.98
Total Equity	6,029,971.72
TOTAL LIABILITIES & EQUITY	**6,029,971.72**

FLORIDA EXPORT FINANCE CORPORATION
Profit & Loss
January through December 2010

	Jan - Dec 10
Income	
APP FEES	9,250.00
GUAR FEES	130,391.07
INVESTMENT INCOME	97,593.94
LOAN INTEREST	158.33
RECOVERIES	96,562.50
REIMB EXP	25,298.96
SERVICE FEES	19,002.00
Total Income	378,256.80
Expense	
BANK CHARGES	1,351.98
BOARD	2,580.49
CLAIMS	73,862.50
DUES	1,240.00
EMPLOYEE BENEFITS	100,810.26
EQUIP RENT	4,633.54
INSURANCE	10,424.00
LICENSES	61.25
MISC EXPENSES	2,056.20
OFFICE SUPP/PRINTING	8,138.61
PAYROLL	315,000.12
PAYROLL TAXES	23,379.96
POSTAGE	1,708.69
PROFESSIONAL FEES	12,400.00
RENT	41,119.82
REPAIR & MAINT	775.00
TAXES	25.00
TELEPHONE	7,258.58
TRAVEL	9,941.33
UTILITIES	2,557.45
Total Expense	619,324.78
Net Income	**-241,067.98**

FLORIDA EXPORT FINANCE CORPORATION
Profit & Loss Prev Year Comparison
January through December 2010

	Jan - Dec 10	Jan - Dec 09	$ Change	% Change
Income				
APP FEES	9,250.00	9,250.00	0.00	0.0%
GUAR FEES	130,391.07	55,625.74	74,765.33	134.4%
INVESTMENT INCOME	97,593.94	107,896.02	-10,302.08	-9.6%
LOAN INTEREST	158.33	0.00	158.33	100.0%
RECOVERIES	96,562.50	23,335.00	73,227.50	313.8%
REIMB EXP	25,298.96	28,143.56	-2,844.60	-10.1%
SERVICE FEES	19,002.00	25,786.37	-6,784.37	-26.3%
Total Income	378,256.80	250,036.69	128,220.11	51.3%
Expense				
BANK CHARGES	1,351.98	1,883.44	-531.46	-28.2%
BOARD	2,580.49	3,474.18	-893.69	-25.7%
CLAIMS	73,862.50	965,623.87	-891,761.37	-92.4%
DUES	1,240.00	1,080.00	160.00	14.8%
EMPLOYEE BENEFITS	100,810.26	98,144.38	2,665.88	2.7%
EQUIP RENT	4,633.54	4,132.55	500.99	12.1%
INSURANCE	10,424.00	11,803.00	-1,379.00	-11.7%
LICENSES	61.25	61.25	0.00	0.0%
MISC EXPENSES	2,056.20	314.73	1,741.47	553.3%
OFFICE SUPP/PRINTING	8,138.61	8,446.61	-308.00	-3.7%
PAYROLL	315,000.12	315,000.12	0.00	0.0%
PAYROLL TAXES	23,379.96	23,312.76	67.20	0.3%
POSTAGE	1,708.69	2,251.43	-542.74	-24.1%
PROFESSIONAL FEES	12,400.00	15,564.95	-3,164.95	-20.3%
RENT	41,119.82	44,306.84	-3,187.02	-7.2%
REPAIR & MAINT	775.00	105.00	670.00	638.1%
TAXES	25.00	25.00	0.00	0.0%
TELEPHONE	7,258.58	7,444.61	-186.03	-2.5%
TRAVEL	9,941.33	10,295.93	-354.60	-3.4%
UTILITIES	2,557.45	2,275.00	282.45	12.4%
Total Expense	619,324.78	1,515,545.65	-896,220.87	-59.1%
Net Income	**-241,067.98**	**-1,265,508.96**	**1,024,440.98**	**81.0%**

NOTES TO FEFC FINANCIAL STATEMENTS
12/31/10

1. The FEFC is a 501(c)3 Not For Profit Corporation utilizing modified cash accounting.

2. Florida Statutes establish the FEFC **Guarantee Account** as the net worth of the FEFC. This amount is available to pay any claims against FEFC loan guarantee commitments.

3. Florida Statutes authorize the FEFC to have outstanding loan guarantee commitments (contingent liabilities) of five times the balance of the Guarantee Account, and allow the FEFC Board of Directors to reduce this leveraging ratio at its discretion. The leveraged amount is the FEFC **Guarantee Authority**.

4. The FEFC **Guarantee Fund** was established by the FEFC, within the Guarantee Account, and represents grants by the State specifically directed by the board to support FEFC loan and loan guarantee commitments. The FEFC uses the Guarantee Fund as a conservative base for establishing the Guarantee Authority.

5.

	Guarantee Account	Guarantee Fund	Guarantee Authority
12/31/10	$6,029,972	$5,011,967	$25,059,835
Outstanding		2,950,000	14,750,000
Available		2,061,967	10,309,835

A) Guarantee Account - Net worth of the FEFC at any point in time.

B) Guarantee Fund - Guarantee Account less retained earnings and other capital not specifically designated for loan and loan guarantee commitments.

C) Guarantee Authority - Five times the Guarantee Fund. (See note 5D)

D) Outstanding - Existing FEFC guarantee commitments (contingent liabilities) at full value against the Guarantee Authority and at 20% of such value against the Guarantee Fund. FEFC loans are applied at full value against both the Guarantee Authority and the Guarantee Fund. (See Note 6)

E) Available - Guarantee Authority/Fund less Outstandings.

F) At 12/31/10 loans and loan guarantee commitments outstanding equal to 2.45 times the Guarantee Account, 2.94 times the Guarantee Fund, and 58.9 % of the Guarantee Authority.

6. All outstanding loans ($831,516) were originally guarantees which were converted to loans by FEFC as a result of paying the lender claims. All loans are performing marginally and if all were considered as total losses and eliminated from the Balance Sheet FEFC's resulting net worth would be $5,198.456.

7. The 2010 Florida Legislature appropriated $4,900,000 in additional capital for FEFC. Such amount will be disbursed to FEFC in four equal quarterly amounts. The first disbursement of $1,225,000 was made in December 2010.

FLORIDA EXPORT FINANCE CORPORATION

INCOME STATEMENT
TWELVE MONTHS ENDING ON DATE SHOWN

	12/31/93	12/31/94	12/31/95	12/31/96	12/31/97	12/31/98	12/31/99	12/31/00	12/31/01
Income	$ 6,389	$174,950	$407,997	$432,654	$564,150	$681,845	$489,603	$539,123	$697,994
Expenses	29,566	162,824	232,073	289,522	335,362	497,265	418,072	447,443	570,335
Profit(Loss)	(23,177)	12,126	175,924	143,132	228,778	184,580	71,531	91,680	127,689

	12/31/02	12/31/03	12/31/04	12/31/05	12/31/06	12/31/07	12/31/08	12/31/09	12/31/10	Cumulative
Income	. $399,537	$728,196	$266,870	$535,702	$833,310	$925,082	$ 585,981	$ 250,037	$378,257	$8,897,678
Expenses	764,003	502,043	471,708	386,735	463,160	861,906	1,125,819	1,515,546	619,325	9,692,707
Profit(Loss)	(364,466)	226,153	(204,838)	148,967	370,150	63,176	(539,837)	(l,265,509)	($241,068)	($795,029)

BALANCE SHEET
AS OF DATE SHOWN

	12/31/93	12/31/94	12/31/95	12/31/96	12/31/97	12/31/98	12/31/99
Capital	$1,000,000	$1,000,000	$1,000,000	$2,500,000	$4,800,000	$5,600,000	$5,600,000
Retained Earnings	(23,177)	(11,051)	164,874	308,007	536,795	721,375	792,906
Net Worth	976,823	988,949	1,164,874	2,808,007	5,336,795	6,321,375	6,392,906

	12/31/00	12/31/01	12/31/02	12/31/03	12/21/04	12/31/05	12/31/06
Capital	$5,600,000	$5,600,000	$5,600,000	$5,600,000	$5,600,000	$5,600,000	$5,600,000
Retained Earning	884,586	1,012,245	647,779	873,931	669,094	818,061	1,188,210
Net Worth	6,484,586	6,612,245	6,247,779	6,473,931	6,269,094	6,418,061	6,788,510

	12/31/07	12/31/08	12/31/09	12/31/10
Capital	$5,600,000	$5,600,000	$5,600,000	$6,825,000
Retained Earnings	1,251,386	711,549	(553,960)	(795,028)
Net Worth	6,851,386	6,311,549	5,046,040	$6,029,972

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 Commerce and Tourism Committee

BILL: SB 392

INTRODUCER: Senator Bogdanoff

SUBJECT: Ticket Sales

DATE: January 18, 2012 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hrdlicka	Hrdlicka	CM	**Pre-meeting**
2.			JU	
3.			BC	
4.				
5.				
6.				

I. Summary:

SB 392 creates requirements for the sale of tickets in Florida by an original ticket seller for an event that takes place at a venue that receives public funding. The requirements include:

- Advance public notice that includes specific information, including a certification that the original ticket seller meets the requirements of the section;
- Maintenance of a toll-free phone number for handling customer issues; and
- Implementation and publication of a standard refund policy.

Further, the bill specifies prohibited actions by an original ticket seller. In general, the prohibitions limit an original ticket seller's ability to restrict or control the resale of tickets. Prohibitions include:

- Imposing license or contractual terms on the initial sale of event tickets;
- Requiring the purchaser to agree not to resell the ticket or tickets;
- Requiring the purchaser to agree to resell through a specific channel;
- Bringing legal action or imposing a penalty for the resale of a ticket;
- Using technology to limit the resale of a ticket; and
- Limiting the amount for which a ticket may be resold.

Violation of the section by an original ticket seller is a violation of the Florida Deceptive and Unfair Trade Practices Act.

There are two exemptions to the new requirements: sponsors or promoters of charitable events for which all tickets are free of charge; and athletic event tickets distributed by a nonprofit

educational institution to (1) students, faculty, staff, and alumni without charge, or (2) booster members.

This bill substantially amends s. 817.357, F.S.

II. Present Situation:

Ticket Sales

Generally a ticket of admission is a license for the person to whom it is issued for some right or privilege.[1] However, recent court decisions – mainly in bankruptcy cases – have determined that the interest in tickets is a property interest, which gives the ticket holder more rights over the ticket, such as in transferability issues.[2]

Generally there is little regulation on the initial sale of tickets by original ticket issuers and their agents.

The resale of tickets is regulated by states for various reasons; these include the belief that resale of tickets for exorbitant prices above the face value of the ticket are unfair; that resale can lead to fraud by the sale of fake tickets and this harms innocent consumers; or that purchasers of resold tickets may not be properly reimbursed if the event is cancelled.[3] States approach regulation of ticket resales in different manners: some states have no restrictions on resales,

> …some prohibit the resale for any amount greater than the face-value of the ticket; others permit resellers to charge a certain percentage above the face-value of the ticket; and yet others permit a ticket reseller to charge a "reasonable fee" for services rendered in selling a ticket. Many states also impose restrictions on the locations at which ticket resales may take place, including: prohibiting resales on the property where the event is held, prohibiting sales within a specified distance from that property, and prohibiting sales in public. In addition to state statutes limiting or prohibiting the resale of tickets, many municipalities impose their own restrictions on ticket resales.[4]

Also, some states require individuals or entities to register as ticket resellers or ticket brokers in order to participate in this industry.

While traditionally tickets have been sold by venues or promoters, or resold by scalpers outside of venues where events are taking place, the Internet has come to dominate the ticket sale industry. Entities such as auction and marketplace websites, sports teams, and concert promoters work together and utilize the internet to sell tickets. Some examples include Tickets.com,[5]

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[1] Black's Law Dictionary (8th ed. 2004), ticket.

[2] See Davis, Danette R., "The Myth and Mystery of Personal Seat Licenses and Season Tickets: Licenses or More?" 51 STLULJ 241 (Fall 2006); and Happel, Stephen and Marianne m. Jennings, "The Eight Principles of the Microeconomic and Regulatory Future of Ticket Scalping, Ticket Brokers, and Secondary Ticket Markets," 28 JLCOM 115 (Spring 2010).

[3] "Anti-Scalping Laws: Should They Be Forgotten?" Benitah, Jonathan C., 6 TXRESL 55, 60 (2005).

[4] "Whose Game is it Anyway? Sports Teams' Right to Restrict (and Control) Ticket Resale." Dreyer, Anthony J., and Mitchell P. Schwartz, 17 FDMIPMELK 753, 756 (2007).

[5] Tickets.com is owned by MLB Advanced Media, LP, the interactive media and Internet division of Major League Baseball, and generally acts as an original ticket seller. Website available at http://us.provenue.com/index.php/company-info/about-us (last visited 10/24/2011).

Ticketmaster,[6] StubHub,[7] and EBay.[8] In fact, some promoters and owners "hold-back" tickets from the primary sales in order to sell them on the secondary market or distribute them to artists, staff, radio stations, and others who may then sell or distribute the tickets as they wish.[9]

Resale of Tickets in Florida

Current law prohibits the resale of tickets for more than $1 over the original admission price, but limits the application of that restriction to the following transactions:

- Tickets sold for passage or accommodation on any common carrier in Florida;[10]
- Multiday or multi-event tickets to a park or entertainment complex, or a concert, entertainment event, permanent exhibition, or recreational activity within a park or complex, including an entertainment/resort complex;[11]
- Tickets for events for which 3,000 or fewer tickets are issued by a 501(c)(3) charitable organization;[12] and
- Tickets sold through an internet website unless authorized by the original ticket seller or when the website makes and posts certain guarantees and disclosures.[13]
    - For tickets resold through websites, one required guarantee is that the website will make a full refund of the amount paid for the ticket including any servicing, handling, or processing fees, if such fees are not disclosed, when the event is canceled, the ticket purchaser is denied admission to the event, or the ticket is not delivered to the purchaser which creates an inability for the purchaser to attend the event.
    - The website operator must disclose that it is not the issuer, original seller, or reseller of the ticket or items and does not control the pricing of the ticket or items, which may be resold for more than their original value.

Any ticket outside the four categories listed above may be sold at any amount over the original admissions price. Any sales tax due on resold tickets is to be remitted to the Florida Department of Revenue in accordance with s. 212.04, F.S.[14]

If a ticket is resold in violation of the statute, or if a person uses software to circumvent a ticket seller's website, a civil penalty of treble the amount of a ticket or tickets resold is imposed.[15]

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[6] Ticketmaster now operates through several websites, including Live Nation, which allows for the company to act as an original ticket seller and as a ticket reseller. See company profile for Live Nation Entertainment available at http://phx.corporate-ir.net/phoenix.zhtml?c=194146&p=irol-homeprofile (last visited 10/24/2011).

[7] StubHub, a subsidy of EBay, acts as a facilitator for the resale of tickets by third parties. The User Agreement contains the obligations that a ticket reseller must agree to in order to use the website. User Agreement available at http://www.stubhub.com/user_agreement/ (last visited 10/24/2011).

[8] EBay acts as a facilitator for both the primary and resale of tickets. Ticket Sale Policy available at http://pages.ebay.com/help/policies/event-tickets.html (last visited 10/24/2011).

[9] See Happel, 28 JLCOM at 160-163. See also pp. 163-173 for a detailed chart and information on the companies and organization of primary and secondary ticket markets.

[10] Section 817.36(1)(a), F.S. This does not apply to travel agencies that have an established place of business in the state and are required to pay state, county, and city occupational license taxes.

[11] Section 817.36(1)(b), F.S. "Entertainment/resort complex" is defined in s. 516.01(18), F.S.

[12] Section 817.36(1)(c), F.S. The tickets must be printed with a phrase that notifies the ticket holder that the ticket may not be resold for more than $1 over the original price. This does not apply to tickets issued or sold by a third party contractor ticketing service provider on behalf of the organization, unless the disclaimer is printed on the tickets.

[13] Section 817.36(1)(d), F.S.

[14] Section 817.36(3), F.S. Section 212.04, F.S., imposes a tax on the sales price or actual value of admissions.

Regulation of Fraudulent Ticket Sales
Section 817.361, F.S., makes it a second degree misdemeanor to offer for sale, sell, or transfer, with or without consideration, any nontransferable multiday or multievent ticket that has been used at least once for admission. Second or subsequent violations are first degree misdemeanors.

Section 817.355, F.S., makes the sale of any counterfeit, forged, altered ticket, or possession of any ticket with the intention to defraud a facility, a first degree misdemeanor.

Section 817.357, F.S., states that it is a violation of the Florida Deceptive and Unfair Trade Practices Act[16] for knowingly purchasing a quantity of tickets from the original ticket seller that exceeds the maximum ticket limit quantity set, with the intent to resell such tickets. This does not apply to "original ticket sellers," meaning "the issuer of such ticket or a person or firm who provides distribution services or ticket sales services under a contract with such issuer."

Current Issues with the Resale of Tickets
Many professional sports teams have limited the resale of season tickets to games – either by requiring season ticket holders to resell the ticket to the team, which will then sell the ticket itself, or resell tickets through an approved team secondary website.[17]

The advent of "paperless tickets" has also been said to limit the secondary ticket market. These efforts by promoters and owners to limit fraudulent tickets and make it easy for ticket purchasers to avoid will-call or lost or forgotten tickets have also limited the easy transferability of tickets.

In 2010, New York passed into law a prohibition on the restriction of the resale of season tickets and a prohibition on the use of paperless ticketing systems that do not permit the transferability of tickets.[18]

III. Effect of Proposed Changes:

SB 392 creates additional requirements for the sale of tickets in Florida by an original ticket seller.

Section 1 amends s. 817.357, F.S.

The bill redefines "original ticket seller" to mean a person other than the operator of an Internet resale marketplace that initially sells admission tickets to the general public. It may include the operator of a venue, an event sponsor or promoter, a sports team, a theatre company, a musical group, or an agent of any such person.

Additional requirements for the sale of tickets in Florida by an original ticket seller for an event that takes place at a venue that receives any public funding include:

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[15] Section 817.36(4) and (5), F.S.
[16] Sections 501.201 – 501.213, F.S.
[17] Dreyer, Anthony J. and Mitchell P. Schwartz, "Whose Game is it Anyway: Sports Teams' Right to Restrict (and Control) Ticket Resale," 17 FDMIPMELJ 753 (Spring 2007).
[18] NY ART & CULT AFF s. 25.30. New York also requires the licensing of ticket resellers.

- Advance public notice that includes specific information, including a certification that the original ticket seller meets the requirements of the section;
- Maintenance of a toll-free phone number for handling customer issues; and
- Implementation and publication of a standard refund policy.

The advance public notice must be posed conspicuously on the website of the original ticket seller and at any physical locations where tickets are sold. The notice must include:

- Information which identifies the event;
- The total number of tickets to be issued and the number made available to the public, and a breakdown of the number of tickets by class, tier, or level of admission for each;
- The prices for each class, tier, or level of tickets made available to the public;
- Whether the ticket being sold was not available at the time of public sale;
- The date and time of the initial public sale;
- A complete list of where publicly available tickets will be sold, including internet websites;
- The toll-free phone number for customer issues; and
- The refund policy and process.

An original ticket seller must establish a full refund policy to repay the full price paid by the customer for the ticket, including any fees, such as convenience fees, processing fees, at home printing charges, shipping and handling charges, or delivery fees. The refund may be conditioned upon return of the ticket. Full refunds must be made for events that are:

- Canceled before the scheduled occurrence of the event and not rescheduled;
- Counterfeit tickets purchased;
- Tickets cancelled by the ticket issuer for nonpayment by the original ticket purchaser "or any other reason other than act or omission by the consumer";
- Tickets that materially fail to conform to the description of the event by the seller or reseller to the detriment of the consumer; or
- Tickets not delivered to the consumer prior to the occurrence of the event, unless such failure was due to any act or omission by the consumer.

Further, the bill specifies prohibited actions by an original ticket seller. Prohibitions include:

- Imposing license or contractual terms on the initial sale of event tickets;
- Requiring the purchaser to agree not to resell the ticket or tickets;
- Requiring the purchaser to agree to resell through a specific channel;
- Bring legal action or impose a penalty for the resale of a ticket;
- Use technology to limit the resale of a ticket; and
- Limit the amount for which a ticket may be resold.

Violation of the section by an original ticket seller is a violation of the Florida Deceptive and Unfair Trade Practices Act.[19] Further, the bill eliminates the safe harbor provision under the Florida Deceptive and Unfair Trade Practices Act for original ticket sellers who purchase more than the maximum amount of admissions tickets to an event, with the intent to resell those tickets.

[19] Codified at part II, ch. 501, F.S.

There are two exemptions to the new requirements: sponsors or promoters of charitable events for which all tickets are free of charge; and athletic event tickets distributed by a not-for-profit educational institution to (1) students, faculty, staff, and alumni without charge, or (2) booster members who have made substantial financial contributions to the institution.

Resale of tickets would still be restricted as set forth in current law, and discussed above in the Present Situation.

Section 2 provides an effective date of July 1, 2012, and provides that the bill applies to all ticket sales made on or after that date.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Consumers will be able to resell their event tickets without limitation by the original ticket seller.

The bill requires the original ticket seller to provide a refund to a consumer of the full price paid upon the occurrence of certain events, some of which are outside the control of the original ticket seller. The original ticket seller may be liable to repay to consumers an amount more than the original ticket price, for example if the consumer purchased a ticket for a higher price from a secondary sales website and incurred additional fees.

C. Government Sector Impact:

To the extent that the State Attorneys or the Attorney General enforces the restrictions imposed by this bill, and the restrictions in current law, there will be corresponding costs associated with such enforcement.

VI. Technical Deficiencies:

None.

VII. Related Issues:

While the bill requires a full refund by ticket sellers, it does not specify that any sales taxes paid be refunded to the consumer.

Charitable organizations are not exempted from the provisions of the bill. However, under s. 817.36, F.S., charitable organizations are currently permitted to restrict the resale price of a ticket and print such restrictions on the ticket. Passage of this bill would create a conflict for event tickets sold by charitable organizations.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

CourtSmart Tag Report

Room: SB 401 **Case:** **Type:**
Caption: Senate Committee on Commerce & Tourism **Judge:**

Started: 1/19/2012 8:08:28 AM
Ends: 1/19/2012 10:00:48 AM Length: 01:52:21

8:08:48 AM	Roll Call
8:09:06 AM	Tab 5
8:09:11 AM	Senator Sipling Presents
8:12:26 AM	Questioin by Senator Lynn
8:13:26 AM	Answer by Senator Sipling
8:14:28 AM	Amendment - explained by Senator Detert
8:17:35 AM	Amendment to the amendment explained by Detert
8:18:05 AM	Vote on Amendment to amendment - adopted with no Nay's
8:19:34 AM	Vote on Strike-all amendment - no Nay's
8:19:45 AM	Senator Siplin closes
8:20:26 AM	Motion by Senator Detert for CS
8:20:51 AM	Tab 4
8:21:01 AM	Senator Bennett presents
8:21:46 AM	Roll Call
8:22:53 AM	Tab 12
8:23:16 AM	Presentation
8:23:19 AM	Question from Senator Lynn
8:24:15 AM	Answer
8:24:17 AM	Senator Lynn follow-up.
8:25:06 AM	David Yates speaks
8:26:40 AM	Kathleen Peters
8:28:13 AM	Question by Detert for Rep. Hooper
8:28:27 AM	Roll Call
8:29:04 AM	Tab 7
8:29:06 AM	Senator Wise presents
8:31:54 AM	Senator Dockery
8:32:14 AM	Answer
8:32:22 AM	Senator Dockery
8:32:41 AM	Answer
8:32:54 AM	Senator Dockery
8:33:59 AM	Senator Lynn question
8:37:31 AM	Detert - question
8:39:02 AM	Senator Dockery comment
8:40:22 AM	Roll Call
8:40:51 AM	Tab 10
8:41:23 AM	Presented by Senator Richter's aid
8:41:34 AM	aide
8:42:06 AM	Amendment by Dockery
8:43:35 AM	Slater Bayliss
8:46:13 AM	Roll Call
8:46:45 AM	Tab 11
8:46:51 AM	Presentation by Senator Richter's aide
8:47:25 AM	Question - Senator Lynn
8:48:50 AM	Senator Dockery
8:49:36 AM	Roll Call
8:50:11 AM	Tab 6
8:50:32 AM	Presentation
8:51:14 AM	Roll Call
8:51:32 AM	Tab 1
8:51:40 AM	Senator Dockery has chair
8:51:57 AM	Senator Detert presents
8:53:36 AM	Amendment - Detert

8:55:01 AM	Senator Dockery question
8:57:13 AM	Amendment adopted
8:57:19 AM	Second amendment presented by Detert
8:58:07 AM	Amendment adopted
8:58:53 AM	Roll Call
8:59:21 AM	Tab 2
8:59:27 AM	Detert presents
9:00:04 AM	Amendment
9:00:38 AM	Amendment adopted
9:00:45 AM	Amendment - Dockery
9:01:13 AM	Amendment adopted
9:02:22 AM	Senator Detert has the chair
9:02:37 AM	Tab 3
9:02:50 AM	Senator Flores presents
9:05:00 AM	Amendment
9:05:16 AM	Amendment passed
9:05:27 AM	Senator Lynn question
9:06:20 AM	Grace Lovett speaks to Lynn's question
9:11:21 AM	Roll Call
9:12:19 AM	Tab 13
9:12:25 AM	Gray Swoope presentation (Secretary of Commerce)
9:18:46 AM	Senator Dockery question
9:22:18 AM	Senator Lynn
9:37:15 AM	Senator Dockery
9:38:08 AM	Senator Montford
9:40:18 AM	Tab 14
9:40:23 AM	Senator Bogdanoff
9:45:33 AM	Senator Dockery - Question
9:49:02 AM	Senator Lynn
9:52:07 AM	Chuck Lavalles
9:55:55 AM	Allen Johnson
9:57:56 AM	Tim Center
9:59:37 AM	Bogdanoff closes
10:00:38 AM	Move to close