The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 990

INTRODUCER: Senator Montford

SUBJECT: Rural Communities

DATE: January 12, 2018 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Swift	McKay	CM	**Pre-meeting**
2.			ATD	
3.			AP	

I. Summary:

SB 990 creates s. 288.062, F.S., the Florida Rural Community Jobs and Business Resiliency Act, which requires the state to allot $200 million worth of tax credits to approved rural growth funds. Rural growth funds are financial entities approved by the Department of Economic Opportunity (DEO) that must invest in rural areas in Florida in an amount equal to the value of the tax credits received. The bill requires the DEO to accept applications for rural growth funds, defines relevant terms, and delineates the application requirements for qualification.

This bill also allows for the reinvestment of rural growth investments, outlines the necessary steps for a rural growth fund to withdraw from the program, and describes the parameters that would warrant revoking a rural growth fund's tax credit certificate.

The bill specifies the requirements of the report that a rural growth fund must submit to the DEO, gives the DEO authority to adopt rules, and requires the DEO to inform the Department of Revenue of any insurance company that has been allocated tax credits.

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

II. Present Situation:

Florida New Markets Development Program (NMDP)

The Florida New Markets Development Program (NMDP) became effective July 1, 2009, and, somewhat similarly to the program created by this bill, is based on the use of tax credits, rather than appropriations. It allows Florida taxpayers to earn tax credits by investing in Qualified Community Development Entities (CDEs) that make Qualified Low-Income Community Investments in Qualified Active Low-Income Community Businesses. CDEs are domestic corporations or partnerships with a primary role in administering the tax credit programs, acting as intermediaries between the investors, financiers, and low-income community businesses. The NMDP works in conjunction with a federal program that is the model from which NMDP was developed.[1]

The total allocated investment cap for the NMDP is $216.34 million.[2]

Rural Economic Development

In Florida, 8.8% of the population live in rural areas; 22 of Florida's counties are mostly rural, and three counties are completely rural. Population density and decline are challenges to economic development in rural areas. The five counties with an average annual wage greater than the statewide average are all urban counties.[3]

III. Effect of Proposed Changes:

Florida Rural Community Jobs and Business Resiliency Act

This bill creates s. 288.062, F.S., the Florida Rural Community Jobs and Business Resiliency Act, which requires the Department of Economic Opportunity (DEO) to accept applications for rural growth funds. It also defines rural growth funds, creates definitions, and delineates the application requirements for qualification.

The bill provides that the DEO will approve applications and certify rural growth funds. The rural growth funds will manage the rural growth investments, which must be approved by the DEO, and administer the financial benefits on these investments to rural businesses in rural communities. Companies that make rural investments to rural growth funds will receive tax credits against their state premium tax liability as incurred under ss. 624.509, F.S. or 624.5091, F.S.

The bill defines a rural business as a company that:

- Has fewer than 200 employees;
- Has its principal place of business operations in one or more rural communities; and
- Participates in one of the following industries: agribusiness, manufacturing, plant sciences, services, or technology. (Other industries can be approved if the DEO determines that the investment in the company would be to the benefit of rural communities in Florida.)

The bill defines a "principal place of business operations" as the place at which business operations are located, and where at least 60% of its employees work, or 60% of its payroll is paid.

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[1] *Economic Evaluation for Select State Economic Development Incentive Programs*, a report by the Florida Legislature Office of Economic and Demographic Research, available at: http://edr.state.fl.us/Content/returnoninvestment/ROISELECTPROGRAMS2017final.pdf (last visited January 12, 2018).
[2] Section 288.9914(3)(c), F.S.
[3] Presentation by the Florida Legislature Office of Economic and Demographic Research to Commerce and Tourism Committee (November 13, 2017), *available at http://www.flsenate.gov/PublishedContent/Committees/2016-2018/CM/MeetingRecords/MeetingPacket_4036.pdf* (last visited January 12, 2018).

A rural community is defined as a county with a population of 75,000 or fewer.

Application Process

The DEO can begin accepting applications for rural growth funds on September 1, 2018. The application must include the following:

- A business plan including the total investment authority sought;
- A copy of the license as a rural business investment company, under 7 U.S.C. s. 2009cc, or as a small business investment company, under 15 U.S.C. s. 681;
- Proof that the applicant or affiliates has invested a minimum $100 million in non-metropolitan counties, as defined by the federal Office of Management and Budget;
- An estimate of the number of jobs that will be created or retained as a result of the investments made by the applicant;
- A business plan prepared by a nationally recognized third party economic forecasting firm that includes revenue impact assessment projecting state and local tax revenue and uses a dynamic economic forecasting model;
- A signed affidavit from each investor stating the amount of investor contributions each taxpayer commits to make; and
- An application fee of $5,000.

Application Approval

The DEO has 30 days after receiving a completed application to grant or deny the application. The DEO must deny an application if it is not complete, the application fee is not paid in full, the revenue impact state in the business plan does not show a positive economic impact for the state over a ten year period, investor contributions do not total at least 60% of the total investment authority sought, or the maximum amount of investment authority and investor contributions has already been reached. The applicant has 15 days after being notified that their application was denied in order to rectify any errors and resubmit. The DEO must review all supplemental information provided within 30 days of the initial submission.

If the application is granted, the DEO will provide a tax credit certificate to each taxpayer who made an investor contribution, for the amount of the investor contribution. Twenty percent of the tax credit may be used in each taxable year from the second year through the seventh year. The tax credit may not be sold or transferred. The amount of tax credit claimed each year may not exceed the state premium tax liability of the taxpayer allocated that credit. Unused tax credits may be carried forward ten years, but no more. In order for a taxpayer to utilize their tax credit, they must submit a copy of their tax credit certificate with their tax return.

Limitations and Parameters

The DEO is limited in that it may not approve more than $200 million in investment authority. The DEO may not approve investor contributions equaling more than 3.75% of the total investment authority in the third through seventh taxable years. The DEO must proportionally reduce the investment authority and investor contributions for each application in order to avoid exceeding the $200 million or 3.75% limitations.

The DEO must revoke a tax credit certificate if 100% of the authorized investment has not been invested 100% in a rural growth investment within two years. If a rural growth fund fails to maintain 100% investment in rural growth through its seventh year, the DEO must revoke their tax credit certificate.

This bill also allows for the reinvestment of rural growth investments, the necessary steps for a rural growth fund to withdraw from the program, and the parameters that would warrant revoking a rural growth fund's tax credit certificate.

This bill specifies the requirements of the report that the rural growth fund must submit to the DEO.

The bill gives the DEO authority to adopt rules for the implementation of this act, and requires the DEO to inform the DOR of any insurance company that has been allocated tax credits.

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:

Businesses in rural areas may get access to funds to which they may not otherwise have received access.

C. Government Sector Impact:

The bill specifies the maximum amount of tax credits available as $200 million. The bill has not yet been reviewed by the Revenue Estimating Conference.

VI. Technical Deficiencies:

None.

VII. Related Issues:

It is unclear if s. 288.062(5)(a)3., F.S., which requires 100% investment, supersedes s. 288.062(5)(a)2., F.S., which allows for less than 100% invested in rural development.

It is unclear from s. 288.062(5)(a)2., F.S., whether a rural growth fund is required to be 100% invested in rural development during the entire time between years three and seven.

In regards to revoking tax credit certificates, it appears that the burden of proof lies with the DEO, and not the entity holding the tax credit certificate.

The bill does not specify the transaction structure of the investments.

"Taxpayer" is used throughout the bill without definition; it appears to be synonymous with "investor." If the terms are synonymous, the bill might be clearer by using only one of the terms.

VIII. Statutes Affected:

This bill creates section 288.062 of the Florida Statutes.

IX. Additional Information:

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

None.

B. Amendments:

None.