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DATE: April 21, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/CS SB 760 (Second Engrossed)

RELATING TO: Economic Development

SPONSOR(S): Senate Committees on Ways and Means and Commerce and Economic Opportunities and
Senator Sullivan and Senator Harris

COMPANION BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE
 - (2) TRANSPORTATION AND ECONOMIC DEVELOPMENT APPROPRIATIONS
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

This committee substitute (second engrossed) provides in its principal provisions numerous economic development initiatives, tourism marketing initiatives, provisions on international trade growth and several provisions requiring reports from EFI and OTTED.

This committee substitute (second engrossed) in its principal provisions:

- Authorizes OTTED to coordinate the implementation of a one-stop permit registry;
- Affects various enterprise zone tax credits programs;
- Specifies certain fiduciary responsibilities of OTTED and EFI;
- Requires several different reports from OTTED, EFI and Florida's foreign offices;
- Creates the PRIDE Job Placement Incentive Program;
- Creates the Florida Business Expansion Corporation;
- Provides for the appointment of "Commissioners of Deeds," by the Governor;
- Provides for the Secretary of State to maintain certain records regarding foreign judgments; and,
- Provides for the "Florida State International Archive and Repository" within the Department of State, Division of Library and Information Services.

The combined fiscal impact of CS/CS SB 760 is estimated to be (\$1.6) million, recurring. The fiscal impact on local governments is determined to be insignificant at (\$0.1) million.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Because of the welfare system enacted in 1996, which punctuated the importance of creating jobs and developing a qualified workforce, a perspective was sought from the business community on steps state government could take to create a business environment conducive to economic growth. Some of the measures adopted in this area in the 1997 legislative session were first steps in the direction of fostering an economy capable of generating approximately 100,000 jobs needed to make it possible for welfare recipients to move from welfare to work, striving to enhance Florida's competitive position as a gateway to foreign markets, simplifying the permitting processes, clarifying EFI's role in the strategic development of Florida's economy, encouraging investment in economically distressed communities and facilitating job-training and entrepreneurship opportunities among welfare recipients.

Permit Information

In 1996, the Office of Tourism, Trade, and Economic Development (OTTED) assumed responsibilities similar to those held by the former Florida Department of Commerce for evaluating the impact of the state regulatory climate on businesses and for helping businesses navigate regulatory waters. Under s. 14.2015(6), F.S., OTTED is required to report to the Legislature annually, beginning October 1, 1997, on methods to eliminate, simplify, or expedite permits, and on agency rules repealed or modified to improve the regulatory climate. In addition, OTTED is required, in its first such report to the Legislature, to provide recommendations on an operating plan and funding level for a one-stop permit registry that would provide, among other things, access by computer network to permit applications and approval requirements of state agencies. Under s. 288.7015(4), F.S., the rules ombudsman appointed by the governor is required to submit a report, similar to OTTED's, to the Legislature each December on the nexus between agency rules and economic development, including information on agency rules repealed in order to improve the state's business climate. Additionally, under s. 14.2015(2), F.S., OTTED is required to assist the governor in preparation of an annual report, due by January 1, on the state's business climate. These various statutory provisions contain potentially overlapping requirements relating to reports on rules.

In its first report to the Legislature, OTTED found that many state agencies are currently using the Internet to make agency information available to the public. OTTED's report notes the potential for the state to capitalize upon the communication power of the Internet by creating an identifiable and central point of entry into an electronic world of permit information. Using a Web site for the governor's office, for example, a gateway could be created under which businesses might provide basic information and then be linked electronically to the sites of the appropriate governmental regulatory agencies. In this fashion, a business could move through an apparent seamless system to gather regulatory information specific to its needs and circumstances. Agency sites could include relevant permit application forms and instructions for printing or downloading by the public, and ultimately might feature interactive components to facilitate the submission of application information electronically. (See *Improving Florida Business Permitting*, OTTED, December 1997.)

Urban/Rural Area Job Tax Credit Programs

The Department of Revenue has identified an apparent internal inconsistency in the statutory language authorizing the programs under which tax credits are provided to eligible businesses

based upon job creation in certain distressed urban and rural communities (ss. 212.097 and 212.098, F.S.). Under the programs, a business entity that operated an eligible business in the qualified area within 48 months before the date it applies for the tax credits is not considered to be a new business. (See, e.g., s. 212.097(2)(c), F.S.) Elsewhere, however, the statute provides that a new business may apply for the program's tax credits at any time during its first year of operation. (See, e.g., s. 212.097(3), F.S.) A new business that applies for its credits five months, for example, after it begins operations would technically not meet the definition of a new business because -- at the time of application -- it would have violated the 48-month requirement. The department has recommended that the Legislature amend the language to clarify that the prohibition on having operated in the area would be based upon 48 months before the entire period open for credit application, rather than 48 months before the actual date of application.

Enterprise Zone Program

The Florida enterprise zone program offers incentives to businesses to invest in specifically designated areas of the state suffering from economic distress. For example, under ss. 212.096 and 220.181, F.S., a business that is located in an enterprise zone and that hires a new employee is eligible to claim a job-creation credit against sales tax or corporate income tax. In order to provide a basis for the credit, however, the new employee generally must be a resident of the enterprise zone (ss. 212.096(1)(c) and 220.03(1)(q), F.S.). The credit is calculated as a percentage of the new employee's monthly wages. If the new employee, in addition to living within the enterprise zone, is a Work and Gain Economic Self-sufficiency (WAGES) Program participant, a higher percentage is applied in calculating the credit (ss. 212.096(2)(b) and 220.181(1)(a), F.S.).

Prior to legislative reforms enacted in 1994, a new employee who was a recipient of Aid to Families with Dependent Children (AFDC) or was an economically disadvantaged Job Training Partnership Act participant could provide a basis for tax credits, regardless of whether the person was a resident of the enterprise zone. At that time, Florida also allowed businesses located outside an enterprise zone to claim certain credits under the program.

In addition to the tax credits based upon job-creation in an enterprise zone, other enterprise zone incentives include: a credit against corporate income taxes based upon ad valorem taxes paid on new or improved property in an enterprise zone (s. 220.182, F.S.); a sales tax exemption, which inures in the form of a refund of taxes paid, for building materials used in the rehabilitation of real property in an enterprise zone (s. 212.08(5)(g), F.S.); a sales tax exemption, which inures in the form of a refund of taxes paid, for business property used in an enterprise zone (s. 212.08(5)(h), F.S.); and a sales tax exemption for electrical energy used in an enterprise zone (s. 212.08(15), F.S.). The tax benefit provided to eligible businesses under these provisions is maximized if at least 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary employees.

Under s. 370.28, F.S., Florida has designated certain enterprise zones in communities negatively affected by the constitutional amendment limiting the use of nets to harvest marine species. In an exception to the general requirement that a new employee who provides a basis for the job-creation credits against sales or corporate income tax must be an enterprise zone resident, a business located in a net ban enterprise zone is authorized to claim such credits based on the employment of a person residing within the jurisdiction of the larger community that nominated the enterprise zone (s. 370.28(4), F.S.).

Confidentiality of Economic Development Leads

In working with and assisting companies that are relocating or expanding, economic development agencies compile information and records that if released could expose sensitive business information and potentially injure companies in the marketplace. Section 288.075, F.S., provides that, upon written request from a private corporation, the records of an economic development agency that contain or would provide information concerning the plans, intentions, or interests of that corporation to relocate or expand in Florida are confidential and exempt from the requirements of the state's public-records statute. Prior to 1995, this statute also provided:

No public officer or employee *acting in his individual capacity* shall enter into a binding agreement with any corporation, partnership, or person when such public officer or employee has knowledge that information concerning such corporation, partnership, or person is confidential pursuant to this section, until 90 days after such information is made public.

(s. 288.075(4), F.S. (1993), emphasis added.)

In 1995, the law was amended to include within the definition of an economic development agency certain entities that are authorized by a local government to promote the general business interests of that community (s. 1, ch. 95-378, L.O.F.). When the revisions to the definition of economic development agency were adopted, the Legislature also revised the provision regarding a public officer's ability to enter into an agreement with a locating business in his individual capacity. Among other changes, the Legislature deleted from the statute the language "acting in his individual capacity." As a result, under the provision as currently written, a public officer is prohibited from entering into any binding agreement with a corporation that is considering relocating to Florida until 90 days after the disclosure of any information relative to the relocation that is being kept confidential by an economic development agency.

It appears that the pre-1995 language -- by referring to the individual capacity of a public officer -- was designed to prevent a public official from benefiting personally from an agreement entered into on the basis of "inside" or confidential information about an expanding or relocating company. There may, however, be valid circumstances in which the state needs to enter into an agreement with a relocating business that has requested confidentiality so its competitors in the marketplace do not use the information to their advantage. The 1995 revision may have the inadvertent effect of tying the state's hands during sensitive economic development negotiations.

Tax Refund Programs

The Qualified Tax Industry (QTI) Tax Refund Program, s. 288.106, F.S., allows new or expanding businesses in certain key industrial sectors or corporate headquarters to be approved for tax refunds of up to \$5,000 per job created (\$7,500 in an enterprise zone). To be eligible, a new business must create at least 10 full-time jobs, and an expansion of an existing business must result in a 10-percent increase in employment. Approved applicants may receive refunds based on the payment of sales and use taxes, corporate income taxes, intangible personal property taxes, emergency excise taxes, excise taxes on documents, ad valorem taxes paid, and insurance premium taxes. Tax refunds are approved by OTTED, with initial application evaluation being conducted by Enterprise Florida, Inc. The refunds are paid to a participating business over a period of several years. As part of the Brownfields Redevelopment Act, ch. 97-277, L.O.F., the Legislature provided that businesses eligible for tax refunds under the QTI program could receive bonus refunds for jobs

created in certain abandoned, idled, or under-used industrial and commercial properties where redevelopment is complicated by environmental contamination. (See s. 288.107, F.S.)

Similar to the QTI program, the Qualified Defense Contractor (QDC) Tax Refund Program, s. 288.1045, F.S., provides for refunds based upon jobs created or saved in Florida through the conversion of defense jobs to civilian production, the acquisition of a new defense contract, or the consolidation of a defense contract.

Refunds under both the QTI and QDC programs are subject to annual appropriation by the Legislature and require a specified local government match. Prior to the 1997 legislative session, s. 288.095, F.S., which governs the Economic Development Trust Fund, specified that OTTED could not approve refunds pursuant to the QTI and QDC programs for a given fiscal year of more than \$10 million or the amount appropriated for such refunds -- whichever was less. (See s. 288.095, F.S., 1996 Supp.) Meanwhile, the QDC statute, s. 288.1045(2)(d), F.S., cites a cap of \$25 million or the amount appropriated for refunds, whichever is less. The conflicting figures has resulted in confusion as to which figure governs.

Citing increased activity under the QTI program in particular, administrators expressed concern that the state was fast approaching the \$10 million cap and would no longer be able to permit additional businesses to participate in what is one of the state's key economic development incentives. During the 1997 session, the Legislature removed the specific \$10 million cap from s. 288.095, F.S., clearing the way for additional use of the program; however, language was retained that refunds may not exceed the amount appropriated for those refunds.

For fiscal year 1997-98, \$4.9 million in general revenue was appropriated to satisfy the state share of pledged QTI refunds payable for that year. Program administrators have estimated, given current activity levels, that approximately \$11 million in general revenue will be required to fully pay the state share of QTI tax refunds for fiscal year 1998-99, and that the refund liability in future fiscal years could exceed \$26 million before beginning to plateau. If for any fiscal year the Legislature appropriates an amount less than the amount that will come due during that fiscal year, participating businesses would receive a portion of the tax refund for which they originally contracted (s. 288.095(3)(b), F.S.). Administrators of the QTI program and other economic development professionals are seeking guidance on the long-term outlook and operation of this program.

Florida Commission on Tourism

Sections 288.122-288.1227, F.S., relate to the activities of the Florida Commission on Tourism, which was created in 1992 to facilitate greater private-sector involvement in the state's tourism promotion efforts. When the Florida Department of Commerce was dissolved in 1996 (ch. 96-320, L.O.F.), tourism-promotion functions comparable to those perform by the department's Division of Tourism were assigned to the commission, and the commission's membership was expanded. Under s. 288.1224(4), F.S., the commission was directed to recommend, by December 31, 1996, the tenets of a four-year marketing plan for tourism promotion. Section 288.1223(2), F.S., which governs the membership of the commission, provides that the commission shall biennially elect a vice chairman from among its tourism-industry-related members. This section also provides that the commission shall hold its first meeting no later than September 1992 and must meet at least quarterly.

Enterprise Florida Matching Private Funds

In providing for the dissolution of the Department of Commerce and the assumption of comparable economic development, international trade, and tourism responsibilities by public-private partnerships, the Legislature in 1996 imposed upon both Enterprise Florida, Inc. (EFI), and the Florida Commission on Tourism responsibilities for generating private support for their activities.

Section 114, ch. 96-320, L.O.F., provided that an increasing percentage of the general revenue funds that EFI received each fiscal year would be placed in reserve until EFI demonstrated that private matching funds equal to the amount put in reserve had been contributed during the same fiscal year. Specifically, for fiscal year 2000-2001, the amount placed in reserve would be 50 percent of the general revenue funds appropriated to OTTED for its contract with EFI. The 1996 legislation provided broad latitude on what types of contributions could be considered private matching funds for the purposes of EFI's match requirements. During the 1997 session, however, the Legislature revised EFI's matching private fund requirements by creating two distinct categories of such funds. The first category includes payments of cash made in response to a solicitation by EFI and used exclusively by EFI in its operations or programs. Excluded from that category are payments of cash made in connection with state or local incentive programs or received by EFI pursuant to a grant or contract. The second category of matching private funds includes a conveyance of property or distribution of property or anything of value, including in-kind contributions and payments of cash not counted under the first category. Employee wages paid during training were eliminated as a form of matching funds. In addition to creating two categories of private matching funds, the Legislature specified that at least 55 percent of the matching private funds that EFI is required to raise in each fiscal year must be cash contributions under the first category. (See s. 288.90151, F.S.)

EFI and OTTED raised concerns -- prior to and since adoption of the 1997 amendments -- about EFI's ability to satisfy the revised private matching fund requirements. In the wake of the 1997 legislative session, participants in the Florida Economic Summit created a working group on the issue, and OTTED coordinated a series of staff-level meetings during September and October 1997 to address this issue, inviting representatives of EFI, the Florida Tourism Industry Marketing Corporation, OTTED, and Senate and House legislative staff. Among the areas explored by the staff-level working group were what activities may be reasonably counted as cash or in-kind contributions, how contributions may be valued, and how contributions may be documented.

Some of the concerns voiced by EFI are that, particularly as its required percentage of private matching funds increases from its current level of 20 percent of general revenue funds appropriated to the fiscal year 2000-2001 level of 50 percent, EFI will have to compete with local economic development organizations for private contributions, may have to charge for services currently provided free of charge, and will have to redirect staff energies into fund-raising activities. In addition, EFI fears that, as a larger portion of its general revenue appropriation is placed in reserve each year, it will experience increased pressure to raise and collect all of the required matching private-sector contributions in the first half of the year in order to have the reserved funds released, or the organization will experience funding shortfalls in the remainder of the year.

Microenterprises

Microenterprise development is one of the options being explored by some federal and state policy makers to help create opportunities for employment, including self-employment, for individuals, particularly those who may be economically disadvantaged. A microenterprise has been described as a sole proprietorship, partnership, or family business that employs fewer than five people and that has initial credit needs ranging from \$500 to \$5,000. Amid concerns that the capital needs of small and potentially risky ventures may not be fully met by conventional lending sources, a variety

of targeted lending and technical assistance programs have been developed by community, charitable, and government organizations in support of microenterprises.

Section 288.9618, F.S., which was enacted in 1997, authorizes OTTED to contract with the capital development unit of EFI or with another appropriate not-for-profit or governmental organization for actions the office deems necessary to foster the development of microenterprises in Florida. Such actions may include: coordinating microenterprise capital and assistance programs throughout the state, helping local organizations that are attempting to establish new microenterprise programs, encouraging private-sector investment in microenterprises, fostering mentoring relationships among microenterprises and other businesses, incorporating microenterprise components into the programs of EFI, providing organizational and financial support for microenterprise conferences, providing matching grants to support the operational expenses of organizations engaged in microenterprise activities, and identifying opportunities for WAGES Program participants to create microenterprises.

Pride and Correctional Facilities

Chapter 946, F.S., governing inmate labor and correctional work programs, allows the Florida Department of Corrections to lease land and buildings to a not-for-profit corporation authorized to operate the correctional work programs (s. 946.504, F.S.). The corporation operating under such authority is Prison Rehabilitative Industries & Diversified Enterprises, Inc. (PRIDE). PRIDE is organized as a not-for-profit corporation under ch. 617, F.S., and is led by a board of directors appointed by the governor.

Under s. 946.513, F.S., an inmate may be employed by PRIDE, or by any other private entity operating on the grounds of a correctional facility, prior to the last 24 months of the inmate's confinement. The goods produced by PRIDE in a correctional facility work program may be furnished or sold to the agencies of state government, among other organizations (s. 946.515, F.S.).

According to PRIDE, there is an increasing trend, influenced in part by a tight labor supply, among private companies in the United States to partner with correctional facilities to utilize prison inmates in the production of goods. PRIDE reports that some Florida-based companies are currently out-sourcing some of their work to PRIDE.

Establishment of Jobs and Benefits Offices

As part of the Work and Gain Economic Self-sufficiency (WAGES) Act adopted in 1996, the Legislature provided for the establishment of one-stop employment and career centers as the new front door for public assistance programs (s. 414.055, F.S.). The act requires applications, reapplications, and redetermination of eligibility for public assistance to be done at jobs and benefits offices. To facilitate this effort, the Legislature provided in s. 414.25, F.S., that the Department of Labor and Employment Security and the Department of Children and Family Services are exempt from the requirements of s. 255.25, F.S., which relate to the procurement of leased real property. Section 255.25, F.S., among other elements, requires certain approvals from the Department of Management Services prior to the leasing of building space. The exemption expires June 30, 1998.

B. EFFECT OF PROPOSED CHANGES:

CS/CS SB 760 is the result of the Senate's Job Opportunities and Business Stimulus (JOBS) initiative. The measure implements several recommendations from the Senate's 1997-98 interim project titled *JOBS II: Job Opportunities and Business Stimulus*, Report Number 97-P-06, November 1997. In addition, the committee substitute makes various other revisions to existing economic development programs and creates new economic development initiatives not specifically addressed in the report.

Please see the section-by-section analysis of the legislation.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Yes.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

Yes. The committee substitute revises the definition of a new employee under the enterprise zone program, to allow an employee who does not reside in the zone but who is a Job Training Partnership Act classroom training participant or a WAGES Program participant to provide a basis for the employer's job credit against sales tax or corporate income tax. In addition, the committee substitute provides for the establishment of a new enterprise zone in a community that is the site of a U.S. Environmental Protection Agency brownfield pilot program. Further, the measure revises provisions governing enterprise zones created in communities affected by the net ban to: 1) allow a business to claim the maximum amount of tax credits and exemptions if at least 20 percent of its employees reside in the county in which the zone is located, 2) provide conditions under which business property used in certain boats or vessels may be eligible for the enterprise zone sales tax exemption, and 3) to authorize a business to claim certain tax credits and exemptions even though the time period for claiming such credits or exemptions may have passed.

These changes expand the breath of enterprise zone program and are expected to have a negative fiscal impact.

d. Does the bill reduce total fees, both rates and revenues?

See comments in 2. c., above.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Yes. This committee substitute makes substantive revisions to several existing economic development incentives that are utilized by the private sector, such as the tax credit programs for rural areas or urban high-crime areas, the tax refund program for qualified target industry businesses, and the enterprise zone program. The committee substitute also creates new initiatives that also may be utilized by the private sector, such as the establishment of a new enterprise zone, creation of a PRIDE Job Placement Incentive Program and creation of the Florida Business Expansion Corporation.

The Florida Business Expansion Corporation is authorized to become self-sufficient through compensation derived for services including fees, equity participation, or any other form of revenue recovery from its operations.

The precise impact of the measure on the private sector is indeterminate; however, companies participating in these measures will do so by choice.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

This committee substitute substantially amends the following sections of the Florida Statutes: 14.2015, 15.18, 55.604, 55.605, 212.08, 212.096, 212.097, 212.098, 220.03, 220.181, 257.34, 288.012, 288.075, 288.095, 288.1045, 288.106, 288.1221, 288.1222, 288.1223, 288.8175, 288.90151, 288.9618, 370.28, 414.25, 479.261.

This committee substitute creates ss. 288.9530, 288.9531, 288.9532, 288.9533, 288.9534, 288.9535, 288.9536, 288.9958, 721.96, 721.97, and 721.98, F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1 amends s.14.2015, F.S., governing the powers of the Office of Tourism, Trade, and Economic Development (OTTED), to authorize the office, subject to legislative appropriation, to coordinate the establishment of a one-stop permit registry, including working with all appropriate state agencies on implementation of the operational plan submitted to the Legislature in December 1997. The committee substitute also revises OTTED's annual reporting requirement relating to permit simplification and repeal or modification of agency rules, to provide for the inclusion of such information within the annual report on Florida's business climate that is required, under s. 14.2015(2)(e), F.S., to be submitted to the Legislature by January 1, thus reducing the number of reports required of OTTED.

Section 2 amends s. 212.08(5)(h), F.S., relating to the sales tax exemption for business property used in an enterprise zone. The committee substitute specifies that, if a licensed commercial fishing vessel, a fishing guide boat, or a ecotourism guide boat leaves and returns to a fixed location within an enterprise zone designated in a community affected by the net limitations, then business property used exclusively in such vessel or boat is eligible for the sales tax exemption. The vessel or boat, however, must be owned by a business that is eligible to receive the exemption. Further, the exemption does not apply to the purchase of a vessel or boat.

Section 3 amends s. 212.096, F.S., relating to the enterprise zone jobs credit against sales tax, to provide that, in addition to a person who is a resident of an enterprise zone, a person who is a qualified Job Training Partnership Act (JTPA) classroom training participant or a person who is a WAGES Program participant may be considered a new employee, regardless of whether he or she resides in the zone, and therefore may provide a basis for the credit. This revision does not change the requirement that the employer must be located within the enterprise zone. This section also makes a conforming revision to the information that an employer must submit to claim the credit

Sections 4-5 amend ss. 212.097 and 212.098, F.S., relating to the Urban High-Crime Area Job Tax Credit Program and the Rural Job Tax Credit Program, to make a technical correction to the definition of a "new business" under the programs. The committee substitute clarifies that the restriction on a business having operated in the community, and still being considered a "new business," is based upon 48 months prior to the *entire* period open for credit application, rather than upon 48 months prior to the date of actual application. The effect of this change is that a business, consistent with the provision that allows a new business to apply for credits anytime within its first year of operation, could wait until several months into its operation before applying for the credits and still be considered a new business. Sections 4-5 also provide that a call center or similar customer service operation that services a multi-state or an international market may be considered an eligible business for participation in the programs

Sections 6-7 amend ss. 220.03 and 220.181, F.S., relating to the enterprise zone jobs credit against corporate income taxes, to provide that, in addition to a person who is a resident of an enterprise zone, a person who is a qualified JTPA classroom training participant or a person who is a WAGES Program participant may be considered a new employee, regardless of whether he or she resides in the zone, and therefore may provide a basis for the credit. This revision does not change the requirement that the employer must be located within the enterprise zone. Section 7 makes a conforming revision to the information that an employer must submit to claim the credit.

Section 8 amends s. 288.075, F.S., relating to confidentiality provided to information about a business' plans to relocate or expand, to specify that a public officer or employee or an economic

development agency employee may not enter into a contract with an entity that has requested confidentiality under the provision until 90 days after the confidential information is made public -- unless the public officer or employee or economic development agency employee is acting in an official, rather than individual, capacity.

Section 9 amends s. 288.095, F.S., relating to the economic development trust fund, to provide that the combined total amount of the state share of tax refunds that may be approved by OTTED in a single fiscal year for the Qualified Target Industry Tax Refund Program, the Qualified Defense Contractor Tax Refund Program, and the brownfield redevelopment bonus program may not exceed the lesser of \$30 million or the amount appropriated by the Legislature for such refunds for the fiscal year. The provision has the effect of establishing a statutory cap on refunds under these programs to guide administrators in assessing how many businesses can be approved to participate in the program, while retaining statutory language making the refunds subject to annual legislative appropriation. The committee substitute specifies that the statutory cap applies to the state share of tax refunds, rather than to the combined state and local tax refund.

Section 10 amends s. 288.1045, F.S., governing the Qualified Defense Contractor (QDC) Tax Refund Program, to limit the amount of refunds that may be approved in a fiscal year under this program to the amount appropriated by the Legislature for such refunds -- rather than the lesser of \$25 million or the amount appropriated, as provided in current law. The change attempts to avoid potential confusion with **Section 9** of the committee substitute, which amends s. 288.095, F.S., to establish a combined total cap on refunds under the QDC program and two other similar refund programs of \$30 million or the amount appropriated for refunds, whichever is less. (See Section 9 above.) **Section 10** also changes references relating to the administration of the QDC program from the Department of Commerce to OTTED. In addition, the committee substitute replaces a *requirement* that the department adopt rules for the QDC program with permissive authority for OTTED to adopt such rules.

Section 11 amends s. 288.106, F.S., relating to the Qualified Target Industry (QTI) Tax Refund Program, to allow OTTED to permit an expanding business to participate in the program even if the expansion results in a net increase in employment of less than 10 percent at such business, provided the expansion takes place in a rural city, a rural county, or an enterprise zone. The local governing body recommending the project and Enterprise Florida, Inc., must make a written request to OTTED for relaxation of the statutory definition of an "expansion of an existing business," which ordinarily requires the expansion to result in at least a 10 percent net increase in employment. OTTED must conclude that the merits of the individual project or the specific circumstances in the community in relationship to the project warrant the disparate treatment.

Section 12 amends s. 288.1221, F.S., relating to legislative intent on the creation of a public-private partnership for tourism promotion, to change the time period envisioned for the partnership's tourism marketing plan to four years, from five years. The four-year time period conforms with the time period for the marketing plan that the Florida Commission on Tourism was required to prepare under s. 288.1224, F.S.

Section 13 amends s. 288.1222, F.S., relating to the definition of "tourist," to clarify that the term includes a person who participates in trade or recreation activities outside his county, rather than country, of permanent residence. The term "country" was enacted as a result of a drafting error during revisions to this section made in 1996. (See footnote 2 to s. 288.1222, F.S.)

Section 14 amends s. 288.1223, F.S., relating to the creation and membership of the Florida Commission on Tourism, to delete an historical reference to the first meeting of the commission in

favor of simply stating that the commission shall meet on at least a quarterly basis. In addition, this section provides that the commission shall elect a vice chairman on an annual, rather than biennial, basis.

Section 15 provides legislative findings that tourism related to the natural, cultural, and historical assets of the state constitutes one of the fast-growing segments of the tourism industry, and that such tourism holds significant economic potential for the state. This section also includes a statement of legislative recognition that ecotourism and heritage tourism assets must be protected in order to be enjoyed by future generations. The committee substitute includes a statement of the Legislature's intent to encourage the promotion of sustainable ecotourism and heritage tourism.

This section also authorizes the Division of Recreation and Parks of the Department of Environmental Protection, subject to legislative appropriation, to establish an ecotourism program designed to encourage visitation to state parks and to other natural resources in the state. Funds may be used: 1) to make infrastructure improvements to, or otherwise rehabilitate, state parks or other natural resources under the division's jurisdiction; 2) to develop marketing materials describing ecotourism resources under the division's jurisdiction, including the proximity of the resources to commercial tourism sites in a region or to other ecotourism sites in a region; and 3) to award promotion grants to assist localities and regions in promoting ecotourism or the economic development activities related to such tourism.

An eligible grant applicant is a governmental or not-for-profit tourism or economic development organization in the state. A grant application must include a detailed plan governing use of the award, and one of the evaluation criteria must be the extent to which the plan links tourism sites within the community or region or links tourism sites within two or more communities or regions. A grant award, which may not exceed \$30,000, may be used to market ecotourism sites; to market areas as appropriate sites for the location or expansion of businesses engaged in, or that facilitate, ecotourism activities; or to establish local or regional ecotourism and heritage tourism advisory and promotion organizations for specific state parks.

Section 16 amends s. 288.90151, F.S., governing the matching private fund-raising requirements of Enterprise Florida, Inc. (EFI), to provide for the partial release of general revenue funds for the state's contract with EFI that are annually placed in reserve pending a showing by EFI that it has met its fund-raising requirements. Under the committee substitute, in fiscal years 1999-2000 and 2000-2001, 50 percent of the general refunds placed in reserve could be released through the budget amendment process if EFI establishes that it has raised three-quarters of its required matching private funds for the respective fiscal year. The balance could be released upon a showing that EFI had fully satisfied the fund-raising requirements for the year. The committee substitute also revises the description of payments that satisfy the required cash category of private matching funds. The measure eliminates the requirement that payments under the cash category be made in response to a *solicitation* by EFI and be used *exclusively* by EFI in its operations and programs.

Section 17 amends s. 288.9618, F.S. relating to the microenterprise program, to specify that no more than 15 percent of the funds appropriated for this program may be used for administrative expenses of OTTED or of the organization with which OTTED contracts to carry out the program.

Section 18 creates s. 288.9958, F.S., the PRIDE Job Placement Incentive Program, to encourage the use of the expertise and resources of the not-for-profit corporation that manages correctional work programs under ch. 946, F.S., in job training and employment assistance. The program allows the Workforce Development Board of EFI to make a \$1,000 grant, payable in three increments, to the corporation authorized under ch. 946, F.S., to manage correctional work programs or to a

business working in association with such corporation, based upon the full-time employment of a WAGES participant. The grant is to offset costs of business location and training the local workforce. The board may also authorize a grant of \$2,400 to the corporation or to a business working in association with the corporation for full-time employment of a WAGES participant and where the corporation provides on-the-job training to the WAGES participant.

The WAGES participant must be employed in one of the five workforce development regions in the state with the fewest employment opportunities per WAGES participant or, if approved by the board, employed at one of two sites where the corporation has facilities or resources. The WAGES program participant may work in facilities not operated within the secured perimeters of the prison grounds that are managed by the corporation, and in other areas as approved by the Department of Corrections. A safety plan must be completed by the corporation in cooperation with the department.

Grants may not be issued for the employment of an individual who has participated in a prison rehabilitative industry program longer than six months in the two years prior to employment.

Section 19 directs Enterprise Florida, Inc. (EFI), as part of its economic development strategy of targeting certain business sectors, to examine the current and potential contribution to the Florida economy of the biotechnology industry and other health-technology industries. This examination, which must be conducted in conjunction with representatives of the industries, must include the identification of impediments to the development of these businesses in Florida. The committee substitute requires EFI to report to the Legislature by October 1, 1998, with recommendations for actions to improve the business climate for these industries.

Section 20 provides for the creation of an enterprise zone in a community that has a county population of less than one million and that contains a U.S. Environmental Protection Agency brownfield pilot project which was designated as of May 1, 1997. The enterprise zone must encompass the brownfield pilot project. OTTED shall establish the initial effective date for the enterprise zone; however, the application of such enterprise zone must be submitted by December 31, 1999.

Section 21 amends s. 370.28, F.S., relating to enterprise zones designated in communities affected by the net limitations, to provide that, if at least 20 percent of the employees of a business located in a net ban enterprise zone are residents of the county in which the zone is located, the business may claim the maximum amount of: 1) the sales tax exemption for building materials used in the rehabilitation of real property in an enterprise zone, 2) the sales tax exemption for business property used in an enterprise zone, 3) the sales tax exemption for electrical energy used in an enterprise zone, and 4) the corporate income tax credit for property taxes paid on new or improved property in an enterprise zone. This authority is provided notwithstanding the requirement in statute that at least 20 percent of the employees of a business must be residents of the enterprise zone for the business to claim the maximum exemption or credit amounts. This statute is further amended to clarify that a business located in a net ban enterprise zone may claim the job-creation tax credit based upon the employment of a person who lives within the jurisdiction of the entire county in which the enterprise zone is located, rather than within the jurisdiction of the community that nominated the enterprise zone.

The committee substitute also provides that a business that was eligible to receive tax credits under the statute governing net ban enterprise zones from January 1, 1997, to June 1, 1998, must submit an application for the tax credits by December 1, 1998. The authority to apply for the tax credits by

December 1 is provided notwithstanding the time-limitations imposed elsewhere in the Florida Statutes on claiming such tax credits.

Section 22 amends s. 414.25, F.S., to extend the expiration date until June 30, 2000, from June 30, 1998, of an exemption for the Department of Labor and Employment Security and the Department of Children and Family Services from the provisions of s. 255.25, F.S., that relate to the procurement of leased property. The exemption is to facilitate the establishment of jobs and benefits offices in connection with the Work and Gain Economic Self-sufficiency (WAGES) Program.

Section 23 amends s. 479.261, F.S., relating to the interstate highway logo sign program, to expand the program to include the provision of information to motorists about regional or local heritage, historic, or scenic trails.

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Section 24 directs Enterprise Florida, Inc., to prepare a strategic plan for Florida to capitalize on economic opportunities associated with the Caribbean nations and South Africa. EFI is directed to solicit the input of individuals having expertise in these areas. The plan may include legislative recommendations and it must be submitted to the Governor and the Legislature before January 1, 1999.

Section 25 directs Enterprise Florida, Inc., to prepare a master plan for integrating public-sector and private-sector international-trade and reverse-investment resources to provide comprehensive assistance and information efficiently for businesses. The plan may be included within the annual update or modification to the strategic plan required under s. 288.905, F.S., must be submitted to the Legislature and the Governor before January 1, 1999.

Section 26 directs Enterprise Florida, Inc., in conjunction with OTTED, to prepare a plan for promoting direct investment in Florida by foreign businesses. The plan must include a focus on Florida's weaknesses and strengths in attracting foreign direct investment. The plan may be included within the annual update or modification to the strategic plan required under s. 288.905, F.S., must be submitted to the Legislature and the Governor before January 1, 1999.

Section 27 directs Enterprise Florida, Inc., to prepare a strategic plan for Florida to capitalize on the economic opportunities associated with a free Cuba. The plan must be submitted to the Governor and Legislature before January 1, 1999.

Section 28 amends s. 14.2015, F.S., providing that OTTED shall ensure the prompt disbursement of funds. Funds not disbursed on or before legislatively or contractually prescribed disbursement dates must be reported to the President of the Senate President and the Speaker of the House explaining the reason for the delay.

Section 29 amends s. 15.18, F.S., providing that the Secretary of State, as "Florida's Chief Cultural Officer," shall coordinate international activities with Enterprise Florida, Inc., and any other organization deemed appropriate to establish a list prescribed in s. 55.605(2)(g), relating to recognition of foreign money judgements. This section relates to judgements rendered that need not be recognized if certain situations or circumstances apply.

Section 30 amends s. 55.604, F.S., providing that foreign judgments shall be filed with the Department of State as well as the clerk of the court and that such filing does not create a lien on any property.

Section 31 amends s. 55.605(2)(g), F.S., requiring the Secretary of State to maintain a list of foreign jurisdictions where a foreign judgment was not recognized pursuant to this section.

Section 32 creates s. 257.34, F.S., establishing the Florida State International Archive and Repository within the Division of Library and Information Services of the Department of State for the purpose of preserving records such as manuscripts, international judgements involving disputes between domestic and foreign businesses and any other public matters the department or the Florida Council of International Development deems relevant to international issues. The division is given duties and responsibilities in this regard, including the authority to promulgate rules necessary to implement the provisions of this section.

Section 33 amends s. 288.012, F.S., requiring by October 1, of each year, each foreign office must submit to OTTED a detailed report on its activities and accomplishments during the preceding fiscal year and the report must include certain information specifically required.

Section 34 amends s. 288.8175, F.S., to allow linkage institutes to apply to OTTED for Targeted Market Pilot Project Grants defined in s. 14.2015, F.S.

Section 35 creates s. 288.9530, F.S., creating the Florida Business Expansion Corporation (FBEC) authorized under ch. 617, to provide assistance to businesses having job growth or emerging technology potential and fewer than 50 employees with the purpose of:

- Assisting Florida businesses to grow through cross-border transactions.
- Defining cross-border transactions as formation of joint venture, strategic alliance, investment, technology transfer or licensing, co-development, or other commercial relationships between Florida Businesses and non-Florida entities.

The FBEC is to become, within 3 years, “self-sufficient” meaning its annual expenses of operation shall be less than or equal to the total value of the compensation derived including fee, equity participation, or any other form of revenue generation or recovery from the operations of the corporation, by June 30, 2001.

Section 36 creates s. 288.9531, F.S., providing for the powers and duties of the FBEC including promoting and preparing Florida businesses for expansion and growth in cross-border transactions.

Section 37 creates s. 288.9532, F.S., creating the board of directors for the FBEC, consisting of:

- EFI’s president, or designee, serves as chair;
- Comptroller, or designee;
- Insurance Commission, or designee;
- Chair, Florida Black Business Investment Board, or designee;
- Chair, Florida Export Finance Corporation, or designee;
- Chair, Florida First Capital Finance corp., or his designee; and,
- 10 at large members from the private sector if approve by the members specifically listed above.

Section 38 creates s. 288.9533, F.S., providing for the powers and duties of the Board of Directors for the Florida Business Expansion Corporation.

Section 39 creates s. 288.9534, F.S., providing for the management of the Florida Business Expansion Corporation with a private sector entity meeting certain requirements.

Section 40 creates s. 288.9535, F.S., establishing the Florida Business Expansion Account for receiving state, federal and private financial resources and return for the employment of such resources. Authorized purposes of expending such funds and the control of such funds by the board is established.

Section 41 creates s. 288.9536, F.S., requiring the following reporting and review requirements:

- By September 1, 1999, OPPAGA and the corporation shall develop research design, including goals and measurable objectives for the corporation which will provide the legislature with a quantitative evaluation of the corporation. The corporation shall use the monitoring mechanisms and reports so developed and provide them to the Governor, President of the Senate, Speaker of the House, and OPPAGA.
- January 31, 2000, and on January 31, of each succeeding year, the corporation shall prepare a report on the financial status of the corporation and the account and also included shall be a list of businesses assisted, and their benefits realized and the report shall be submitted to the Governor, President of the Senate, Speaker of the House, and the President of EFI.
- Prior to 2001 Legislative Session, OPPAGA shall perform a review of the corporation based on the research design promulgated pursuant to this section and submit it to the Legislature prior to the 2001 session.

Section 42 creates sections 721.96, 721.97, and 721.98, F.S., providing for the appointment of "Commissioners of Deeds" by the Governor to take acknowledgments, proofs of execution and oaths outside the United States in connection with the execution of any deed, mortgage, deed of trust, contract, power of attorney, or any other agreement, instrument or writing concerning, relating to, or to be used or recorded in connection with timeshare estate, timeshare license, any property subject to a timeshare plan, or the operation of a timeshare plan located within this state.

- "Commissioners of Deeds" appointments shall be for four years.
- Persons seeking to be a commissioner of deeds must take an oath, to well and faithfully execute and perform such duties, before a notary public in Florida or any other state, or before a person authorized to take oaths in another country and the oath shall be filed with the Department of State prior to the person being commissioned.
- Specifies that the Division has no duty or authority to regulate, enforce or ensure compliance with any provision of this part.

Section 43 provides that subject to appropriation, OTTED is authorized to contract with Enterprise Florida, Inc., for the award of Inner City Redevelopment Assistance Grants in connection with the Urban Initiative of Enterprise Florida, Inc., pursuant to s. 212.097, F.S., the Urban High-Crime Area Job Tax Credit Program.

Section 44 provides that before January 1, 2000, the Legislature may review the areas approved by OTTED for use of tax credits under the Urban High-Crime Area Job Tax Credit Program and those areas found not to be in the highest crime areas in the county, or city, based upon the criteria established in this section, will cause reimbursement to be due to the state from the local government that made application in the amount equal to the tax credit.

Section 45 provides an effective date of July 1, 1998.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

General Revenue estimated at (\$1.5) million. (See Senate Ways and Means analysis on CS/CS SB 760).

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

General Revenue estimated at (\$1.5) million. (See Senate Ways and Means analysis on CS/CS SB 760).

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

(\$0.1) million. (Insignificant, see Senate Ways and Means analysis on CS/CS SB 760).

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

The Florida Business Expansion Corporation is authorized to become self-sufficient through compensation derived for services including fees, equity participation, or any other form of revenue recovery from its operations.

The precise impact of the measure on the private sector is indeterminate; however, companies participating in these measures will do so by choice.

2. Direct Private Sector Benefits:

This committee substitute makes substantive revisions to several existing economic development incentives that are utilized by the private sector, such as the tax credit programs for rural areas or urban high-crime areas, the tax refund program for qualified target industry businesses, and the enterprise zone program. The committee substitute also creates new initiatives that also may be utilized by the private sector, such as the establishment of a new enterprise zone and the creation of a PRIDE Job Placement Incentive Program. The precise impact of the measure on the private sector, however, is indeterminate.

3. Effects on Competition, Private Enterprise and Employment Markets:

Indeterminate.

D. FISCAL COMMENTS:

The fiscal comments made in this analysis are taken from the analysis of CS/CS SB 760 by the Senate committee on Ways and Means.

The committee substitute makes technical revisions to the definition of a "new business" under the urban high-crime area and rural job tax credit programs and also expands the list of eligible businesses under these programs to include certain call centers or customer service operations. However, the committee substitute does not alter the existing statutory caps of \$5 million in credits available annually under each of these programs.

Further, the committee substitute's establishment of a combined \$30 million statutory cap on approved refunds for a fiscal year under the tax refund programs for qualified target industry businesses, qualified defense contractors, and brownfield redevelopment does not change the provision that tax refunds are subject to annual legislative appropriation and cannot exceed the annual appropriation if it is less than \$30 million.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Sections 24 through 44 were amended onto CS/CS SB 760 on the Floor of the Senate. This analysis reflects CS/CS SB 760 second engrossed.

VII. SIGNATURES:

COMMITTEE ON BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE:

Prepared by:

Legislative Research Director:

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