

STORAGE NAME: h2195a.bdt

DATE: April 15, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
BUSINESS DEVELOPMENT & INTERNATIONAL TRADE
ANALYSIS**

BILL #: HB 2195 (PCB BDIT 99-02)

RELATING TO: Economic Development

SPONSOR(S): Committee on Business Development & International Trade and Representative Bradley

COMPANION BILL(S):

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

(1) BUSINESS DEVELOPMENT & INTERNATIONAL TRADE YEAS 6 NAYS 0

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I.

The bill creates the Florida Trade Council within the Executive Office of the Governor consisting of twelve members responsible for developing a comprehensive strategic plan for the establishment and maintenance of a statewide international program. The director of OTTED serves as the chair of the Council and the Governor is directed to appoint an executive director. The Council's strategic plan must include: the international programs of those entities represented on the Council; a commercial strategy for Florida's trading partners; the identification of international policy issues; the identification of trade development programs to assist minority firms in accessing global markets; and the development of performance measures. The council is specifically directed to allocate sufficient appropriated funds to effectuate the strategies delineated in its strategic plan and to create a transportation improvement plan for economic development projects.

The bill makes various changes to the governance structure of Enterprise Florida, Inc. (EFI). In particular, the bill authorizes EFI to create or dissolve advisory committees within its corporate structure, deletes public-private boards from EFI's corporate structure, and modifies the procedure for filling vacancies on the EFI board.

The bill refines EFI's mission and strategic plan requirements to provide for aggressive marketing and assistance in the creation of, retention, and expansion of business and job growth in rural communities and urban core areas.

The bill revises private sector match provisions to remove the requirement that at least 55 percent of the matching funds required must be cash payments, and it requires performance measures in EFI's contracts.

The bill states that the Workforce Development Board is the principal workforce development organization in the state and makes revisions in the Workforce Development Board provisions to reflect the changes in the nominating process.

The bill repeals the pilot matching grant program provisions which have expired, provisions relating to the International Trade and Economic Development Board (ITED), the Technology Development Board, the Capital Development Board and other obsolete provisions.

The bill states that the president of EFI is appointed by and serves at the pleasure of the Governor.

The fiscal impact of this bill is indeterminate.

The bill would become effective on October 1, 1999.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Enterprise Florida, Inc.

In 1992, the Legislature created Enterprise Florida, Inc., (EFI) to assist in the coordination of the state's economic development efforts and to develop a strategic plan for economic development for Florida. In 1993, the Legislature created two additional Enterprise Florida Partnerships -- The Enterprise Florida Innovation Partnership, and the Enterprise Florida Capital Partnership. The partnerships were established to foster the growth of high technology and value-added industries, assist in the commercialization of technological products, and foster access to capital for Florida firms. In 1994, the Legislature created the Enterprise Florida Jobs and Education Partnership to coordinate state training programs to promote the availability of a skilled work force. The Legislature created all of these entities as separate corporations with EFI serving as the "umbrella" organization.

The Legislature directed EFI and each partnership to develop performance measures to measure the effectiveness of their individual programs and services. The Legislature directed the Office of Program Policy Analysis and Governmental Accountability (OPPAGA) to review EFI and its partnerships prior to the 1996 Regular Session. The OPPAGA provided individual reports to the Legislature in October 1995 (see, OPPAGA reports 95-07, 95-08, 95-09, 95-15, and 95-16). These reports found that existing performance measures did not contain adequate review criteria, but noted that not enough time had elapsed to determine whether EFI and its partnerships were accomplishing their statutory missions.

In 1996, the Legislature restructured the management and control over most state domestic and international economic development operations from two state entities -- the Florida Department of Commerce (FDC) and the Florida International Affairs Commission (FIAC) -- into two public/private entities -- EFI and the Florida Tourism Commission (FTC). The partnerships were redesignated as boards, and the Enterprise Florida International Trade and Economic Development Board was created. Administrative oversight over these entities and other fundamentally public-sector programs and responsibilities were placed within the Office of Tourism, Trade, and Economic Development (OTTED) in the Executive Office of the Governor. The FDC and FIAC were dissolved effective December 31, 1996.

EFI and its affiliated boards were specifically required to address the issue of performance and accountability. The EFI was required to develop a strategic plan with recommended performance measures by January 1, 1997. These measurable performance objectives and outcomes were required to be finalized by July 1, 1997. Recently, the OPPAGA was required to review EFI and its boards prior to the 1999 Regular Session.

OTTED is required to submit a unified legislative budget request for economic development and trade for the FTC, EFI, and other public-private partnerships. The FTC, EFI, and other public-private partnerships were subject to performance based program budgeting review during FY 1998-99, when the Executive Office of the Governor was scheduled to be reviewed.

Enterprise Florida, Inc., is statutorily directed to obtain "matching private funds." An increasing amount of funds appropriated to Enterprise Florida are to be set aside each year and released upon a matching amount of private funds being received by Enterprise Florida. For FY 1996-97, 10 percent of such funds were set aside and the amount is increased by 10 percent each year, to a maximum of 50 percent in FY 2000-01.

OPPAGA's Review of EFI and Affiliated Boards

OPPAGA issued its most recent series of reports on EFI's operations in 1998 (See OPPAGA reports 98-30, 98-31, 98-33, 98-34, and 98-44). These reports reviewed the Technology Development Board, the private sector matching contributions to EFI, the Cypress Equity Fund of the Capital Development Board, the Workforce Development Board, and the International Trade and Economic Development Board of Enterprise Florida. The reports pointed out potential concerns with various aspects of EFI's operations, including problems with meeting the private sector match requirement, the lack of utility of the Cypress Equity Fund, the lack of coordination in the workforce development system, and a lack of attention in the creation of jobs except in urban areas.

Enterprise Florida, Inc., 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 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.

Because of the increasing percentage of required private-sector matching funds (reaching 50 percent in fiscal year 2000-01), EFI has voiced concern that their options for meeting the private-sector match increases the possibility that EFI will have to: compete with local economic development agencies for contributions; charge for services currently provided free of charge; and 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.

B. EFFECT OF PROPOSED CHANGES:

Enterprise Florida Governance Structure

The bill makes various changes to the governance structure of Enterprise Florida, Inc. (EFI). In particular, the bill authorizes EFI to create or dissolve advisory committees within its corporate structure, deletes the International Trade and Economic Development Board (ITED), the Capital Development Board, and the Technology Development Board from the Enterprise structure. It modifies the procedure for filling vacancies on the EFI board and adds the Governor to the EFI executive committee. It removes the requirement that the Governor, President of the Senate and Speaker of the House each appoint a member of the executive committee, and deletes provisions relating to the authority of the president.

The bill refines EFI's mission and strategic plan requirements to provide for aggressive marketing and assistance in the creation of, retention, and expansion of business and job growth in rural communities and urban core areas. The bill requires the involvement of EFI's advisory committee and its local and regional partners, including local governments, in the development of policies, strategies, and programs.

Provisions governing the matching private fund-raising requirements of EFI are revised to remove the requirement that at least 55 percent of the matching private funds EFI is required to raise in each fiscal year be cash contributions under the first category. Additionally, 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. It also requires performance measures in its contracts.

The bill states that the president of EFI is appointed by and serves at the pleasure of the Governor. It also requires EFI staff and board members to cooperate with all duly authorized staff of OTTED, the Chief Inspector General, the Auditor General, OPPAGA, and the Florida Legislature.

The bill states that the Workforce Development Board is the principal workforce development organization in the state and makes revisions in the Workforce Development Board provisions to reflect the changes in the nominating process.

The bill repeals the pilot matching grant program provisions which have expired; provisions relating to the ITED board, the Technology Development Board, and the Capital Development Board; and other obsolete provisions.

The bill conforms the provisions of Chapter 288, F.S., to reflect the structural changes provided in this bill.

The Florida Trade Council

This bill creates the Florida Trade Council within the Executive Office of the Governor consisting of twelve members responsible for developing a statewide strategic plan relating to international trade and infrastructure programs. The twelve Members of the Council are:

- * The director of OTTED (chair of the Council);
- * The Commissioner of Agriculture, or the Commissioner's designee;
- * The Secretary of State, or the Secretary's designee;
- * The Secretary of Transportation, or the Secretary's designee;
- * A representative of EFI;
- * A representative from the Florida Seaport Transportation and Economic Development Council;
- * A private sector representative designated by the President of the Senate;
- * A private sector representative designated by the Speaker of the House; and,
- * Four private sector members nominated by the previous eight members and appointed by the Governor.

The council's strategic plan is required to include:

- * the international programs of the entities represented on the council such as the strategic development plan of Enterprise Florida, the international and cultural relations plans developed by the Secretary of State and the 5-year Florida Seaport Mission Plan with the seaport intermodal projects developed by the Florida Seaport Transportation and Economic Development Council;
- * a commercial strategy for Florida's trading partners, as well as emerging markets that present potential benefits for Florida's economy based on information from EFI, the Florida Trade Data Center, local economic development organizations, and federal sources;
- * the identification of international policy issues relating to economic, social, and cultural matters;
- * the identification of trade development programs that will enhance the capabilities of minority businesses to access global markets; and,
- * the development of performance measures to ensure accountability.

The Council would allocate appropriate resources to the activities and programs that are incorporated in the strategies outlined in the strategic plan and act as a wholesale agent for the activities and programs. Additionally, the Council is directed to create a transportation plan for economic development projects.

Finally, the Governor is directed to appoint an executive director to the Council, who in turn may employ staff as directed by the Council. Staff of the Council are exempt from part II of chapter 110, F.S., and their salaries and benefits shall be set in accordance with the Selected Exempt Service; provided the Council has complete authority for fixing the salary of the executive director.

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. The Florida Trade Council is given *all powers necessary* to effectuate and carry out the purposes of its creation including the power to make and enter into contracts and other instruments with public or private sector entities.

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

No.

(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?

Some the programs of EFI's International Trade and Economic Development Board become the responsibility of the Florida Trade Council.

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

Indeterminate.

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

Collapsing the boards; including the Governor on the executive board; and delineating that the president of EFI serves at the pleasure of the Governor, creates a higher level of accountability.

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?

No.

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

No.

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?

N/A

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?

N/A

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:

Amends chapter 288, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Creates the Florida Trade Council in the Governor's office responsible for developing a statewide strategic plan relating to international trade and infrastructure programs and it provides for membership and authority of the council. It provides requirements and criteria for a strategic plan; authorizes the council to allocate appropriate resources to the activities and programs that incorporate with the strategies outlined in the strategic plan; provides that the council would act as a wholesale agent for the activities and programs; and requires the council to create a transportation plan for economic development projects. Creates s. 14.2019, F.S.

Section 2. Includes a reference to "advisory committees;" removes obsolete provisions; deletes the ITED, capital development, and technology development board chairs from EFI board; and modifies language re: filling vacancies on EFI board. Amends s. 288.901, F.S.

Section 3. Refines EFI's mission and strategic plan requirements. Requires EFI to aggressively market and assist in the creation, retention, and expansion of businesses and job growth in rural communities and urban core areas. Removes requirement that EFI prepare a business guide and checklist. Amends s. 288.9015, F.S.

Section 4. Revises private sector match provisions to remove the requirement that at least 55 percent of the matching funds required must be cash payments. Removes obsolete language. Amends s. 288.90151, F.S.

Section 5. Revises nomination procedures for board membership. Amends s. 288.9802, F.S.

Section 6. Provides that the president is appointed by and serves at the pleasure of the Governor. Adds the Governor to the EFI executive committee. Removes a requirement that Governor, President, and Speaker each appoint a member of the executive committee. Deletes provisions relating to the authority of the president. Amends s. 288.903, F.S.

Section 7. Requires performance measures in contracts. Authorizes EFI board to create and dissolve advisory committees within its corporate structure with the exception of the Workforce Development Board. Amends s. 288.904, F.S.

Section 8. Requires the involvement of EFI's advisory committee and its local and regional partners in the development of policies, strategies, and programs. Requires strategies for economic development and job creation to input from local governments and economic development organizations, to include urban core areas, and to take a long-term approach to development. Amends s. 288.905, F.S.

Section 9. Makes a reference to advisory committees. Requires EFI staff and board members to cooperate with all duly authorized staff of OTTED, the Chief Inspector General, the Auditor General, OPPAGA, and the Florida Legislature. Amends s. 288.906, F.S.

Section 10. Conforms this section to the repeal of the ITED board. Amends s. 288.9415, F.S.

Section 11. Conforms this section to the repeal of the Technology Development Board. Amends s. 288.9515, F.S.

Section 12. Conforms this section to the repeal of the Technology Development Board. Amends s. 288.95155, F.S.

Section 13. Conforms this section to the repeal of the Technology Development Board. Amends s. 288.9520, F.S.

Section 14. Conforms this section to the repeal of the Capital Development Board. Amends s. 288.9603, F.S.

Section 15. Conforms this section to the repeal of the Capital Development Board. Amends s. 288.9604, F.S.

Section 16. Conforms this section to the repeal of the Capital Development Board. Amends s. 288.9614, F.S.

Section 17. Conforms this section to the repeal of the Capital Development Board. Amends s. 288.9618, F.S.

Section 18. States that the Workforce Development Board is the principal workforce development organization in the state. Makes revisions in the Workforce Development Board provisions to reflect the changes in the nominating process. Amends s. 288.9620, F.S.

Section 19. Provides that any contract or agreement entered into by the ITED board, the Technology Development Board, or the Capital Development Board are binding as contracts or agreements with EFI. States that EFI is responsible for the program, activity, or functions related to the contracts. Transfers any property of the ITED board, the Technology Development Board, and the Capital Development Board to EFI.

Section 20. Removes from an annual reporting requirement an evaluation required by a section repealed by this bill. Amends s. 288.9610, F.S.

Section 21. Repeals subsection (3) of section 288.9511, F.S., and ss. 288.90152, 288.9412, 288.9413, 288.9414, 288.942, 288.9510, 288.9512, 288.9513, 288.9514, 288.9516, 288.9517, 288.9519, 288.9611, 288.9612, 288.9613, 288.9615, and 288.9616, F.S.

Repeals the pilot matching grant program provisions which have expired; provisions related to the ITED board, the Technology Development Board, and the Capital Development Board; and other obsolete provisions.

Section 22. Effective date - October 1, 1999.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

Indeterminate.

2. Recurring Effects:

Indeterminate.

3. Long Run Effects Other Than Normal Growth:

Indeterminate.

4. Total Revenues and Expenditures:

Indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

Florida's business climate may benefit from streamlining the state's primary economic development organization. The bill refines EFI's mission and strategic plan requirements to provide for aggressive marketing and assistance in the creation of, retention, and expansion of business and job growth in rural communities and urban core areas. The bill requires the involvement of EFI's advisory committee and its local and regional partners, including local governments, in the development of policies, strategies, and programs.

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

N/A

D. FISCAL COMMENTS:

N/A

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

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

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

N/A

V. COMMENTS:

The newly-created Florida Trade Council is given the additional responsibility of managing the Florida Economic Infrastructure Program created by HB 2193 (PCB BDIT 99-05). This program is to establish a statewide multi agency planning and prioritization process with a dedicated funding stream for economic-development-related infrastructure.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 29, 1999, the Committee on Business Development and International Trade approved HB 2195 (PCB BDIT 99-02) with two amendments. The first amendment specified that the president of EFI is appointed by and serves at the pleasure of the Governor. The second amendment incorporated the provisions of HB 2195 (PCB BDIT 99-05) relating to the creation of the Florida Trade Council into PCB BDIT 99-02.

See Effect of Proposed Changes (section II.B.) and Section by Section Analysis (section II.E.) for more detail.

VII. SIGNATURES:

COMMITTEE ON BUSINESS DEVELOPMENT & INTERNATIONAL TRADE:

Prepared by:

Staff Director:

J. Paul Whitfield, Jr.

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