

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 886

SPONSOR: Senator Klein

SUBJECT: Economic Development

DATE: April 15, 1999

REVISED: 4/20/99 \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Olafson</u>	<u>Maclure</u>	<u>CM</u>	<u>Fav/5 amendments</u>
2.	<u>Rhea</u>	<u>Wilson</u>	<u>GO</u>	<u>Fav/3 amendments</u>
3.	_____	_____	<u>FP</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

The bill contains the following provisions:

- Requires that the Secretary of State coordinate with Enterprise Florida, Inc., when carrying out international activities;
- Requires that foreign judgments be filed with the Secretary of State's office in addition to other entities;
- Requires the Secretary of State to establish and maintain a list of counties that do not recognize Florida money judgments;
- Creates the Florida International Archive and Repository within the Department of State;
- Reenacts the current international office statute to prevent its repeal, amends the foreign office statute to provide for an annual reporting of activities and accomplishments by Florida's foreign trade offices, and mandates a legislative review of the foreign offices;
- Requires Enterprise Florida, Inc., to develop a master plan for coordinating international trade resources;
- Requires Enterprise Florida, Inc., and the Office of Tourism, Trade, and Economic Development (OTTED) to collaborate to prepare a plan for promoting direct investment in Florida by foreign businesses;
- Requires Enterprise Florida, Inc., to prepare a strategic plan designed to allow Florida to capitalize on economic opportunities that will be associated with a free Cuba;
- Authorizes OTTED to coordinate implementation of a one-stop permit registry, and to notify the Legislature when disbursements are not timely made;
- Provides for certain retail establishments and call centers to be eligible for the urban high-crime area and rural job tax credit programs;
- Specifies that a prohibition against contracting with businesses that have requested confidentiality of economic development information does not apply to a public officer, public employee, or economic development agency employee acting in an official capacity;
- Establishes a cap of the lesser of \$30 million or the amount appropriated by the Legislature on the total amount of the state share of tax refunds that may be approved for a fiscal year

under the programs relating to qualified target industry (QTI) businesses, qualified defense contractors (QDC), and brownfield redevelopment;

- Makes conforming amendments to the QDC program to limit the amount of tax refunds that may be approved for a single fiscal year to the amount appropriated by the Legislature for such refunds;
- Authorizes OTTED to allow an expanding business in a rural city, a rural county, or an enterprise zone to participate in the QTI tax refund program even if the expansion project does not result in a net increase in employment of 10 percent at the business;
- Revises certain provisions governing the Florida Commission on Tourism, for example, by providing for the election of a vice chairman on an annual rather than biennial basis; and
- Limits the portion of state appropriations for the microenterprise program that may be used for administrative expenses.

The bill amends the following sections of the Florida Statutes: 14.2015, 15.18, 55.604, 55.605, 212.097, 212.098, 288.012, 288.075, 288.095, 288.1045, 288.106, 288.1221, 288.1222, and 288.9618. This bill also creates section 257.34, Florida Statutes.

## II. Present Situation:

### **International Activities - Department of State**

Section 15.18, F.S., provides that the Divisions of Cultural Affairs, Historical Resources, and Library and Information Services of the Department of State promote programs having substantial cultural, artistic, and indirect economic significance that emphasize American creativity. The Secretary of State, as the head administrator of these divisions, is known as “Florida’s Chief Cultural Officer.” The Secretary of State is encouraged to initiate and develop relationships between the state and foreign governmental officials in order to promote Florida as the center of American creativity. The Secretary of State shall coordinate international activities as they relate to international and cultural relations with the Florida International Affairs Commission. To accomplish these purposes, the secretary has the power and authority to do the following:

- Disseminate any information pertaining to the State of Florida which promotes the state’s cultural assets;
- Plan and carry out activities designed to cause improved cultural and governmental programs and exchanges with foreign countries;
- Plan and implement cultural and social activities for visiting foreign heads of state, diplomats, dignitaries, and exchange groups;
- Encourage and cooperate with other public and private organizations or groups in their efforts to promote the cultural advantages of Florida;
- Serve as the liaison with all foreign consular and ambassadorial corps, as well as international organizations, that are consistent with the purposes of expanding international and cultural relations;
- Provide, arrange, and make expenditures for the achievement of any or all of the purposes specified in this section; and
- Promulgate rules for entering into contracts which are primarily for promotional services and events, which may include commodities involving a service.

### **Foreign Money Judgments**

Section 55.604, F.S., provides for the recognition and enforcement of foreign judgments in that they are conclusive between parties to the extent that the judgments grant or deny recovery of a sum of money. The foreign judgment shall be filed with the clerk of the court and recorded in the public records in the county or counties where enforcement is sought. When recording the foreign judgment and the affidavit, the clerk shall mail notice of the recording to the judgment debtor. The judgment debtor has 30 days after service of the notice to file a notice of objection with the clerk of the court specifying the grounds for nonrecognition or non-enforceability. When entering the order recognizing the foreign judgment, or when recording the clerk's certificate, the foreign judgment shall be enforced in the same manner as the judgment of a court of this state. Once the order recognizing the foreign judgment has been entered by a court of this state, the order and a copy of the judgment may be recorded in any other county of this state without further notice or proceedings, and shall be enforceable in the same manner as the judgment of a court of this state.

Section 55.605, F.S., provides for grounds for nonrecognition of foreign judgments in that a judgment is not conclusive if:

- The judgment was rendered under a system which does not provide impartial tribunals or procedures compatible with the requirements of due process of law;
- The foreign court did not have personal jurisdiction over the defendant; and
- The foreign court did not have jurisdiction over the subject matter.

In addition, a foreign judgment need not be recognized if:

- The defendant in the proceedings in the foreign court did not receive notice of the proceedings in sufficient time to enable him or her to defend;
- The judgment was obtained by fraud;
- The cause of action or claim for relief on which the judgment is based is repugnant to the public policy of this state;
- The judgment conflicts with another final and conclusive order;
- The proceeding in the foreign court was contrary to an agreement between the parties under which the dispute in question was to be settled otherwise than by proceedings in that court;
- In the case of jurisdiction based only on personal service, the foreign court was a seriously inconvenient forum for the trial of the action; and
- The foreign jurisdiction where judgment was rendered would not give recognition to a similar judgment rendered in this state.

### **Florida State Archive and Repository**

Section 257.35, F.S., provides for the creation, within the Division of Library and Information Services of the Department of State, of the Florida State Archive and Repository for the preservation of those public records as defined in s. 119.011(1), F.S., including manuscripts, and other archival material that have historical or other value that warrants their continued preservation and have been accepted by the division for deposit in its custody.

Any agency is authorized and empowered to turn over to the division any record no longer in current official use. The division is empowered to direct and effect the transfer to the archives of any records that are determined by the division to have historical or other value to warrant their continued preservation or protection.

The division is required to make certified copies upon the application of any person and may charge a fee for this service based upon the cost of the service. The division may also establish and maintain a schedule of fees for services which shall include, but not be limited to, restoration of archival materials, special research services, and publications.

### **Foreign Offices**

Florida currently maintains 24 foreign offices, 22 of which are on foreign soil. Enterprise Florida, Inc. (EFI), operates 12 of the offices located abroad and one in Coral Gables. The Florida Department of Citrus has five offices, and the Florida Tourism Industry Marketing Corporation (FTIMC) maintains five offices abroad and an office in Coral Gables. That Florida has 24 foreign offices does not mean that there are 24 different locations. The FTIMC offices in London, Toronto, Frankfurt, and Tokyo are co-located with EFI foreign offices. The Coral Gables offices of EFI and FTIMC, which are not co-located, are classified as “foreign offices” because they perform international trade and tourism functions. The following is a synopsis of the foreign offices operated by EFI:

### **Enterprise Florida’s Foreign Offices**

<u>Country</u>	<u>City</u>
Japan	Tokyo
United Kingdom	London
Brazil	Sao Paulo
Canada	Toronto
Korea	Seoul
Germany	Frankfurt
Taiwan	Taipei
Mexico	Mexico City
Spain	Madrid
Colombia	Bogota
Israel	Ramat Gan
Venezuela	Caracas

The Office, of Tourism, Trade, and Economic Development (OTTED) was commissioned to evaluate the location of Florida’s foreign offices and make recommendations for future offices. According to OTTED’s research, a comparison of Florida’s current foreign office placement with existing volumes of trade, tourism and investment suggests that the state’s present array of locations is reasonable. The analysis also suggests, however, that some of these offices need to be strengthened, and that the state should give serious consideration to establishing a presence in a number of additional markets.

The OTTED report also noted that “the absence of reliable, output-oriented information” relative to the operations of Florida’s foreign offices made it impossible for OTTED to judge the efficacy of any single office or of foreign offices in general. Therefore, OTTED’s recommendations did not include a recommendation of office placement based on past office performance.

### **Trade Linkages and Cross-Border Transactions**

Information is one of the key components for successful international business transactions. Companies depend on the availability of timely and reliable information about conditions and trends in foreign markets, overseas opportunities and competitors, and a variety of other factors ranging from foreign product standards and labeling requirements to information about exchange rates and payment options. In international business, where geographical and cultural barriers increase the level of uncertainty that companies normally face, reliable information becomes even more important as a way to reduce uncertainty and support effective decision-making.

A number of organizations are involved with providing information and assistance to current or potential exporters in Florida. These organizations include Enterprise Florida, Inc., the U.S. Department of Commerce, U.S. overseas embassies and consulates, foreign-based American chambers of commerce, Florida’s foreign offices, the Florida Trade Data Center, the World Trade Centers, regional and local economic development organizations, and specialized consulting firms.

Section 288.773, F.S., creates the Florida Export Finance Corporation as a nonprofit corporation to expand employment and income opportunities for residents of this state through increased exports of goods and services. The corporation provides businesses domiciled in this state information and technical assistance on export opportunities, exporting techniques, and financial assistance through guarantees and direct loan originations for sale in support of export transactions. The corporation has the authority to carry out the following:

- Coordinate the efforts of the corporation with programs and goals of the United States Export-Import Bank, the International Trade Administration of the United States Department of Commerce, the Foreign Credit Insurance Association, Enterprise Florida, Inc., and its boards, and other private and public programs and organizations, domestic and foreign, designed to provide export assistance and export-related financing;
- To establish a network of contacts among those domestic and foreign public and private organizations which provide information, technical assistance, and financial support of exporting;
- To assemble, publish, and disseminate information on export opportunities, techniques of exporting, sources of public and private export assistance, and sources of export-related financing;
- To organize, host, and participate in seminars and other forums designed to disseminate information and technical assistance on exporting and export-related financing; and
- To insure, coinsure, lend, and guarantee loans, and to originate for sale direct export-related loans, extended to small and medium-sized businesses in this state pursuant to criteria, bylaws, rules, and policies adopted by the board.

### **Foreign Direct Investment**

Attraction of foreign direct investment is one of the key areas of competition in the international economy. Foreign direct investment is defined as a long-term investment in the state by an overseas company, with that company holding a significant degree of management influence. The ability to attract foreign direct investment is an important determinant and measure of Florida's international competitiveness because foreign direct investment brings new capital, new technology, new jobs, and new wealth to the state. It also increases the flow of goods and services while strengthening Florida's position as a crossroads economy in terms of trade.

## **Cuba**

The fall of communism in the Soviet Union and eastern Europe, and recent establishment of democracies in Latin America have led to considerable public speculation about the possibility of political change in Cuba. Political change in Cuba and the opening of the Cuban market would have a direct impact on Florida's international trade. The change in Cuba would offer both opportunities and challenges in the short, medium, and long term. Florida could enter into an era of unprecedented prosperity as a center for Latin American trade. A peaceful, political change in Cuba would bring an immediate surge in the purchase of consumer goods and services by Florida's Cuban Americans wishing to aid their friends and relatives in Cuba and would signal the opening of the Cuban market to Florida firms.

Due in part to geographic proximity (only 90 miles of ocean separate Havana from Key West), Florida has an extensive history of cultural and economic ties to the island of Cuba. These historic links ensure that Florida will assist in the redevelopment of a free Cuba. There are also competitive forces outside Florida who will aggressively pursue new economic and business developments in a democratic Cuba. For planning purposes, the Florida Trade Data Center recently published a comprehensive analysis of the economic impact and opportunities for the state of Florida upon resumption of trade between the United States and Cuba.

## **Permit Information**

In 1996, the OTTED assumed responsibilities similar to those held by the former 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.<sup>1</sup>

### **Urban High-Crime Area and Rural Job Tax Credit Program**

Sections 212.097 and 212.098, F.S., relate to the Urban High-Crime Area Job Tax Credit Program and the Rural Job Tax Credit Program, which offer tax credits to provide meaningful employment opportunities and encourage economic expansion of new and existing businesses in urban high crime and rural areas of the state. A new business located in an eligible urban high crime area or rural area may apply for credits anytime within its first year of operation, and may wait several months into its operation before applying for the credits. Currently, grocery stores, clothing stores, home furniture stores, call centers (and similar customer service operations), are not eligible for either the urban high-crime area or the rural job tax credit program.

### **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.<sup>2</sup>

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

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<sup>1</sup>See *Improving Florida Business Permitting*, OTTED, December 1997.

<sup>2</sup>Section 288.075(4), F.S. (1993), *emphasis added*.

interests of that community.<sup>3</sup> 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.

During the 1997 interim, the Senate Committee on Commerce and Economic Opportunities prepared a report entitled: *JOBS II: Job Opportunities and Business Stimulus*. That report states on page 23 that

[i]t 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. For example, prior to the formal announcement of that company's decision to locate in Florida, the business may need to enter into an agreement with the governor regarding the terms and conditions of the relocation and the announcement. The 1995 revision may have had the inadvertent effect of tying the state's hands during sensitive economic development negotiations, and the Legislature may wish to consider statutory language that would give governments flexibility to work with businesses while also ensuring that public officers do not benefit personally from such information.

### **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.<sup>4</sup>

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<sup>3</sup>Section 1, ch. 95-378, L.O.F.

<sup>4</sup>Section 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.<sup>5</sup> Meanwhile, the QDC statute<sup>6</sup> 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. For the fiscal year of 1998-1999, the Legislature appropriated \$10.9 million in general revenue towards QTI/QDC refunds. Future liabilities are expected to increase significantly. 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.<sup>7</sup>

### **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,<sup>8</sup> tourism-promotion functions comparable to those performed 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.

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<sup>5</sup>Section 288.095, F.S.

<sup>6</sup>Section 288.1045(2)(d), F.S.

<sup>7</sup>Section 288.095(3)(b), F.S.

<sup>8</sup>Chapter 96-320, L.O.F.

## **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.

### **III. Effect of Proposed Changes:**

#### **International and Cultural Relations**

The bill amends s. 15.18, F.S., by deleting an obsolete reference to the Florida International Affairs Commission while providing coordination of international and cultural activities with the Department of State, Enterprise Florida, Inc., and any other organization the secretary deems appropriate. The section is further amended to require the Secretary of State to establish and maintain the list prescribed in s. 55.605(2)(g), F.S., relating to recognition of foreign money judgments.

#### **Foreign Money Judgments**

The bill amends s. 55.604, F.S., to include the Department of State with those entities where foreign judgments are required to be filed.

The bill amends s. 55.605(2)(g), F.S., requiring the Secretary of State to establish and maintain a list of foreign jurisdictions where judgments rendered in Florida would not be given similar recognition with judgments rendered in the jurisdiction.

#### **Florida State International Archive and Repository**

The bill creates s. 257.34, F.S., creating 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 those public records, manuscripts, international judgments involving disputes between domestic and foreign businesses, and all other public matters the department or the Florida Council of International Relations deems relevant to international issues. The division shall:

- Organize and administer the archive.
- Preserve and administer such records as shall be transferred to its custody; accept, arrange and preserve them, according to approved archival and repository practices; and permit them, at reasonable times and under the supervision of the division, to be inspected, examined, and copied. All records are subject to the public records provisions of s. 119.079(1), F.S.
- Assist the records and information management program in the determination of retention values for records.
- Provide a public research room.
- Conduct, promote, and encourage research in international trade, government, and culture and maintain a program of information, assistance, coordination, and guidance for public officials, educational institutions, libraries, the scholarly community, and the general public engaged in such research.
- Cooperate with and, insofar as practicable, assist agencies, libraries, institutions, and individuals in projects designed to promote international related issues and preserve original materials relating to international issues.
- Assist and cooperate with the records and information management program in the training and information program in s. 257.36(1)(g), F.S.

Any agency is authorized to turn over to the division any record no longer in current official use. The division is empowered to direct the transfer to the archives of any records that are determined by the division to have historical or other value to warrant their continued preservation. Title to any record that is transferred to the archive shall be vested in the division. The division shall make copies upon request to the public and may charge a fee for this service. The division may establish a schedule of fees for services which shall include, but not be limited to, restoration of materials, storage of materials, special research services, and publications. The division shall establish and maintain a mechanism by which the information contained within the archive may be accessed by computer via the World Wide Web. In doing so, the division shall take whatever measures it deems appropriate to ensure the validity, quality, and safety of the information being accessed. The Florida Council of International Development may select materials for inclusion in the archive and shall be consulted by the division in all matters relating to its establishment and maintenance. The division shall promulgate rules as are necessary to implement the provisions of the section.

### **Foreign Offices**

The bill amends s. 288.012, F.S., to require each foreign office to submit to the Office of Tourism, Trade, and Economic Development, by October 1 of each year, a complete and detailed report on its activities and accomplishments during the preceding fiscal year. The report must contain information on:

- The number of Florida companies assisted;
- The number of inquiries received about investment opportunities in Florida;
- The number of trade leads generated;

- The number of investment projects announced;
- The estimated U.S. dollar value of sales confirmations;
- The number of representation agreements;
- The number of company consultations;
- Barriers or other issues affecting the effective operation of the office;
- Changes planned in the current fiscal year to office operations;
- Marketing activities conducted;
- Strategic alliances formed with organizations in the country in which the office is located;
- Activities conducted with other Florida foreign offices; and
- Any other information the office believes would contribute to an understanding of its activities.

The bill also specifies that this section shall not be repealed and will be reenacted. The bill mandates a legislative review of the foreign offices by December 31, 2001, to determine the effectiveness of Florida's foreign offices.

### **Foreign Direct Investment**

The bill requires Enterprise Florida, Inc., in conjunction with the Office of Tourism, Trade, and Economic Development, to prepare a plan for promoting direct investment in Florida by foreign businesses. The plan must assess and inventory Florida's strengths as a location for foreign direct investment and must include a detailed strategy for capitalizing upon those strengths. In developing the plan, Enterprise Florida, Inc., must focus on businesses with site-selection criteria that are consistent with Florida's business climate, businesses likely to facilitate the transshipment of goods through Florida or to export Florida-produced goods from the state, and businesses that complement or correspond to those industries identified as part of the sector-strategy approach to economic development required under s. 288.905, F.S. Additionally, the plan must identify weaknesses in Florida's ability to attract foreign direct investment and must include a detailed strategy for addressing those weaknesses. The plan may include recommendations for legislative action designed to enhance Florida's ability to attract foreign direct investment. Enterprise Florida, Inc., must solicit the participation and input of entities with expertise and experience in foreign direct investment in the development of the plan. The plan, which Enterprise Florida, Inc., may include 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, 2000.

### **International Trade and Reverse Investment Resources**

The bill provides that Enterprise Florida, Inc., shall develop a master plan for integrating public-sector and private-sector international trade and reverse investment resources to provide businesses with comprehensive assistance and the most current information. The plan must include resources such as trade leads, reverse investment opportunities, trade counseling, and trade financing services. Enterprise Florida, Inc., is directed to consult with the appropriate experts and consumers while researching for this project. The master plan must be submitted to the Legislature and the Governor before January 1, 2000.

### **Cuba**

The bill requires Enterprise Florida, Inc., to prepare a strategic plan designed to allow Florida to capitalize on the economic opportunities associated with a free Cuba. The plan should recognize the historical and cultural ties between this state and Cuba and should focus on building a long-term economic relationship between these communities. The plan may include recommendations for legislative action necessary to implement the strategic plan. The strategic plan must be submitted to the Legislature and the Governor before January 1, 2000.

### **Permitting**

The bill 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.

### **Prompt Disbursement of Funds**

The bill amends s. 14.2015, F.S., to provide that OTTED shall ensure the prompt disbursement of funds when responsible for the disbursement of such funds. When such funds have not been disbursed on or before legislatively or contractually prescribed disbursement dates, or within 30 days of the beginning of the fiscal year, OTTED shall notify the Legislature of the fact along with a brief description of the reasons for the delay in disbursement. At the end of each succeeding 30-day period that funds remain undisbursed, OTTED shall provide a supplemental report with a brief description of the reason for the continued delay.

### **Urban High-Crime Area Job Tax Credit Program**

The bill revises provisions under s. 212.097, F.S., the Urban High-Crime Area Job Tax Credit programs and also expands the list of eligible businesses under this program to include certain call centers or customer service operations and certain retail facilities (SIC codes 52 through 57 and SIC 59). The aforementioned codes relate to the following retail trades: 52 - building materials, hardware, garden supply, and mobile home dealers; 53 - general merchandise stores; 54 - food stores; 55 -automotive dealers and gasoline service stations; 56 - apparel and accessory stores; 57 - home furniture, furnishings, and equipment stores; and 59 - miscellaneous retail.

The bill does not alter the existing statutory caps of \$5 million in credits available annually under each of these programs.

### **Rural Job Tax Credit Program**

The bill revises provisions under s. 212.098, F.S., the Rural Job Tax Credit Program and also expands the list of eligible businesses under these programs to include certain call centers or customer service operations

### **Confidentiality of Trade Leads**

The bill amends s. 288.075, F.S., relating to confidentiality provided for 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.

### **QTI and QDC Programs**

The bill establishes a cap of the lesser of \$30 million or the amount appropriated by the Legislature on the total amount of the state share of tax refunds that may be approved for a fiscal year under the programs relating to qualified target industry (QTI) businesses, qualified defense contractors (QDC), and brownfields redevelopment bonus refunds; makes conforming amendments to the QDC program to limit the amount of tax refunds that may be approved for a single fiscal year to the amount appropriated by the Legislature for such refunds; authorizes OTTED to allow an expanding business in a rural city, a rural county, or an enterprise zone to participate in the QTI tax refund program even if the expansion project does not result in a net increase in employment of 10 percent at the business; and changes references to the administration of the QDC program from the Department of Commerce to OTTED.

### **Florida Commission on Tourism**

The bill 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.

The bill 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.)

### **Microenterprises**

The bill 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.

### **Effective Date**

The bill provides that the act takes effect on July 1, 1999.

#### IV. Constitutional Issues:

##### A. Municipality/County Mandates Restrictions:

None.

##### B. Public Records/Open Meetings Issues:

Section 288.075(2), F.S., creates a public records exemption for certain records related to economic development in Florida. Specifically,

Upon request from a private corporation, partnership, or person, records of an economic development agency which contain or would provide information concerning plans, intentions, or interests of such private corporation, partnership, or person to locate, relocate, or expand any of its business activities in this state are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution for 24 months after the date an economic development agency receives a request for confidentiality or until disclosed by an economic development agency pursuant to subsection (4) or by the party requesting confidentiality. Confidentiality must be maintained until the expiration of the 24-month period or until documents or information are otherwise disclosed, whichever occurs first.

Section 288.075(4), F.S., provides:

A public officer or employee may not enter into a binding agreement with any corporation, partnership, or person who has requested confidentiality of information pursuant to this section, *until 90 days after such information is made public.*

As a result, under current law, information related to an entity's interest to locate or relocate in Florida is exempt and confidential for a period of 24 months from the request *or until the information is released under subsection (4)*. That subsection requires the release of the information at least 90 days *prior to* execution of a contract between the public agency and the private entity. Thus, information that would otherwise continue to be exempt and confidential becomes available to the public, i.e., a public record.

The bill, however, appears to limit access to information that otherwise would be public by providing that no officer or employee may enter into an agreement with a person who has requested confidentiality until 90 days after such information is made public *unless such public officer or employee or economic development agency employee is acting in an official capacity*. In other words, when an officer or employee enters into a contract on behalf of OTTED or other governmental economic development agency with an entity that has requested confidentiality, documents that must be available to the public under current law must remain confidential. The effect of the provision is to close the 90 day period in which this information would be public record and to restrict access to information that is or would be public record under current law. As a result, it appears to create an exemption to the public records requirements.

Article I, s. 24 of the State Constitution, requires that exemptions to public records requirements must be contained in a separate bill that also contains a statement of public necessity. As this bill contains many issues unrelated to the creation of a public records exemption and as no statement of public necessity for the exemption is included in the bill, it appears that it does not meet constitutional requirements for creating an exemption.

**C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:**

**A. Tax/Fee Issues:**

The bill expands the list of eligible businesses under the urban high-crime area and rural job tax credit programs to include certain call centers, customer service operations, or certain retail businesses. However, the bill does not alter the existing statutory caps of \$5 million in credits available annually under each of these programs.

Further, the bill'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.

**B. Private Sector Impact:**

The bill 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, and the tax refund program for qualified target industry businesses.

**C. Government Sector Impact:**

This bill addresses administration of certain economic development programs and authorizes the creation of certain new programs. However, the changes do not appear to result in significant administrative costs for state or local government.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.



**VIII. Amendments:**

#1 by Commerce and Economic Opportunities:

Removes from the bill provisions that authorize the Office of Tourism, Trade, and Economic Development (OTTED) to coordinate implementation of a one-stop permit registry. (WITH TITLE AMENDMENT)

#2 by Commerce and Economic Opportunities:

Removes from the bill a provision establishing a \$30 million cap on the state share of tax refunds under the Qualified Target Industry (QTI), Qualified Defense Contractor (QDC), and brownfield redevelopment programs. (WITH TITLE AMENDMENT)

#3 by Commerce and Economic Opportunities:

Removes from the bill provisions which authorize an expanding business in a rural city, a rural county, or an enterprise zone to participate in the QTI tax refund program even if the expansion project does not result in a net increase in employment of 10 percent at the business. (WITH TITLE AMENDMENT)

#4 by Commerce and Economic Opportunities:

Creates the Florida Trade Council within the Executive Office of the Governor responsible for developing a statewide strategic plan relating to international trade and infrastructure programs and provides for membership and authority of the council. The council also must create a transportation improvement plan for economic development projects. (WITH TITLE AMENDMENT)

#5 by Commerce and Economic Opportunities:

Revises the process for certification of a notary public's commission. This amendment also clarifies the responsibilities and authority of civil law notaries and the Department of State's regulatory powers with regard to civil law notaries, including the processes for issuance of apostilles and notarial certificates. (WITH TITLE AMENDMENT)

#1 by Governmental Oversight and Productivity:

Provides that the Secretary of State is to coordinate with post-secondary linkages institutes, such as The Summit of the America's Center, The Florida Association of Voluntary Agencies for Caribbean Action, The Sister Cities Program, and State University System education abroad programs in fostering international and cultural relations. (WITH TITLE AMENDMENT)

#2 by Governmental Oversight and Productivity:

Authorizes the OTTED to consult with experts within the State University System who can provide information about socio-political-historical context that frames the development of trade policies. (WITH TITLE AMENDMENT)

#3 by Governmental Oversight and Productivity:

Removes a portion of the bill that creates a public records exemption.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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