

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 30-B
 SPONSOR: Commerce and Economic Opportunities Committee and Senator Diaz de la Portilla
 SUBJECT: Economic Stimulus
 DATE: October 26, 2001 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Birnholz/Gillespie</u>	<u>Maclure</u>	<u>CM</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>AP</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Committee Substitute for Senate Bill 30-B provides a series of measures designed to stimulate the state’s economy. These measures promote recruitment, retention, and expansion of job-generating businesses throughout the state and provide incentives for capital investment and spending during the current economic downturn. To accomplish these ends, the committee substitute offers tax credits and refunds for businesses, provides down payment assistance to homebuyers, encourages the growth of the information-technology industry in this state, and delays implementation of construction regulations. The committee substitute also provides for technical assistance and crisis management to aid small businesses during periods of economic crisis. The major provisions of the committee substitute are as follows:

- Capital Investment Tax Credit:** The committee substitute temporarily broadens the eligibility criteria and award structure of the Capital Investment Tax Credit Program. Under the expanded criteria, qualifying economic stimulus businesses are eligible if they apply by April 1, 2002, for projects that begin construction by December 31, 2002. (See page 9 of this analysis.)
- Economic Development Trust Fund:** The committee substitute improves the efficiency of the budgeting process for the Qualified Defense Contractors (QDC) and Qualified Target Industry (QTI) tax refund programs. (See page 11 of this analysis.)
- Tax Refund for Qualified Defense Contractors (QDC) and Aviation-Industry Businesses:** The committee substitute creates a tax refund program for qualified aviation-industry businesses similar to the current QDC program, expands the existing program’s refund-prorating provisions for participating firms, and temporarily allows firms that fail to meet agreed targets to request an exemption from losing tax refunds or certifications to remain in the program. (See page 12 of this analysis.)

- **Tax Refund Program for Qualified Target Industry (QTI) Businesses:** The committee substitute expands the QTI program's refund-prorating provisions for participating firms, temporarily allows firms that fail to meet agreed targets to request an exemption from losing tax refunds or certifications to remain in the program, and improves the efficiency of the budgeting process for the QTI program. (*See* page 14 of this analysis.)
- **Extended Homeownership Assistance Program:** The committee substitute expands eligibility of no-interest loans for home mortgage down payments and closing costs to include families earning at least 150 percent of the state or county median income and limits loan amounts to 10 percent of the home's value. (*See* page 17 of this analysis.)
- **Small Business Crisis Management Team:** The committee substitute directs Enterprise Florida, Inc., to create a Small Business Crisis Management Team that can be activated quickly, for temporary periods of time, to assist small businesses in the state during periods of economic crisis or sustained economic weakness. (*See* page 18 of this analysis.)
- **Florida Airport Authority Act:** The committee substitute requires each county with a population of more than 2.1 million people (Miami-Dade County) to conduct a countywide referendum, giving voters the opportunity to approve the creation of an airport authority. The committee substitute provides for the establishment and operation of the airport authority, if creation of an authority is approved by voters. (*See* page 19 of this analysis.)
- **Emerging and Strategic Technologies:** The committee substitute provides policies that promote a business climate in the state conducive to the growth of high-technology businesses by encouraging increased access to capital and skilled workers, by including economic development within the mission of the postsecondary education system, and by specifically including the information-technology industry within the scope of certain existing economic development incentive programs. Portions of the committee substitute emanate from recommendations of the Information Service Technology Development Task Force. (*See* page 20 of this analysis.)
- **Florida Building Code:** The committee substitute delays the effective date of the new Florida Building Code by three months, from January 1, 2002, to April 1, 2002, and makes related changes to the code. (*See* page 25 of this analysis.)
- **Tourism Promotion:** The committee substitute requires Visit Florida to make every effort to give priority to Florida-based and minority-owned vendors when expending public funds for tourism promotion. (*See* page 29 of this analysis.)

The committee substitute substantially amends the following sections of the Florida Statutes: 159.26, 159.27, 159.705, 220.191, 240.105, 240.710, 288.095, 288.1045, 288.106, 288.108, 445.045, 553.415, and 627.0629. The committee substitute creates the following sections of the Florida Statutes: 121.155, 332.201, 332.202, 332.203, 332.204, 332.205, 332.206, 332.207, 332.208, 332.209, 332.210, and 332.211. The committee substitute also creates unnumbered sections of the Florida Statutes.

II. Present Situation:

The National Economy

Following a decade of expansion, the United States economy began a slowdown in mid-2000. During 2001, the Gross Domestic Product (GDP) slowed to a practical standstill with real GDP growing by 0.3 percent in the second quarter of 2001. Economic forecasts from August 2001

found the economy was close to recession, but estimated a slightly greater than even chance the United States would have avoided a recession. If consumer spending persisted, the forecasts predicted the economy would have averted a recession. The terrorist attacks of September 11, 2001, on the World Trade Center and the Pentagon have focused attention on the weakened condition of the economy, a condition exacerbated by the impacts of the attacks. Economic forecasts from October 2001 reflect these impacts and anticipate a recession is now inevitable.

Increased uncertainty has led to sharp declines in consumer confidence and discretionary spending. In testimony before the Joint Economic Committee of the United States Congress on October 17, 2001, Alan Greenspan, chairman of the Federal Reserve Board, recognized these effects: "The pronounced rise in uncertainty also has damped consumer spending and capital investment; households and businesses, confronted by heightened uncertainty, have pulled back from the marketplace, though that withdrawal has been partial and presumably temporary."

Businesses have responded to declining economic conditions with plant closings and mass layoffs. The national unemployment rate, reported at 4.9 percent in September 2001, is now expected to peak around 6.0 percent in mid-2002.

The weakened economy and post-attack recession have been especially harsh to aviation and tourism, industries important to Florida's economy. In his testimony, Greenspan acknowledged the concentrated impacts on these industries: "Overall airline passenger traffic, while above its mid-September lows, was still off considerably in early October from pre-attack levels. Similarly, the hospitality and entertainment industries have overcome some of their earlier difficulties but continue to struggle." The difficulty facing the aviation and tourism industries are reflected in lowered prices for airfares, hotels, and rental cars.

The post-attack forecasts predict a short recession. Fiscal and monetary policies are expected to stimulate recovery by mid-2002. A modest upturn is anticipated in the first quarter of 2002, followed by a resumption of consumer spending. Real GDP is expected to rise to at least 4.0 percent in the third quarter of 2002. However, the forecasts assume both businesses and consumers will return to normal habits during this autumn and winter. The forecasts also assume that increased security will forestall further terrorist attacks in the United States for the near future and that the United States military counterattack will have no more than a brief impact on consumer confidence.

Federal Government's Response to Economic Downturn

In response to the weakened economy and post-attack recession, the federal government has begun stimulative monetary and fiscal policies. The Federal Reserve lowered short-term interest rates nine times in 2001, lowering the federal funds rate from 6.5 percent in early January to 2.5 percent in October. Economic analysts expect the Fed will cut interest rates another 0.5 percent to 2.0 percent before the end of 2001.

Less than one week after the terrorist attacks, the United States Congress provided \$40 billion in emergency funds to mitigate and respond to the attacks, combat domestic and international terrorism, increase transportation security, repair the public facilities and transportation systems damaged by the attacks, and support national security. Several days later, Congress enacted the

Air Transportation Safety and System Stabilization Act (act). The act provides \$5 billion in emergency assistance to compensate air carriers for losses resulting from the temporary shutdown of the nation's airspace and the severe drop in passenger traffic since the attacks. The act allocates \$4.5 billion to passenger carriers and \$0.5 billion to cargo carriers. Additionally, the federal act creates the Air Carrier Guarantee Loan Program, which provides \$10 billion in loan guarantees for air carriers who suffered losses due to the attacks, but for whom credit is not otherwise readily available.

In the aftermath of the terrorist attacks, the United States Small Business Administration (SBA) began to provide Economic Injury Disaster Loans to businesses located in communities declared disaster areas by the President of the United States. Effective October 22, 2001, the SBA expanded eligibility for the loans to small businesses located throughout the country. The loans are available to a small business that is unable to meet, but could have met, ordinary and necessary operating expenses as a result of the terrorist attacks or federal action taken as a consequence of the attacks. Each loan is limited to a maximum of \$1.5 million per business and must be repaid within a maximum of 30 years at a maximum interest rate of 4 percent.

In early October 2001, the President of the United States proposed \$75 billion in tax incentives for economic recovery. To provide these incentives, Rep. William M. Thomas (R-Calif. 21st) introduced the Economic Security and Recovery Act of 2001 (H.R. 3090) in the House of Representatives. As of the date of this analysis, Congress has not enacted the legislation.

Several bills have been introduced in Congress intended to assist the travel and tourism industry. One of these bills, the Tourism Revitalization and Valued Employee Labor Act of 2001 (H.R. 3140), would:

- Provide substantial federal funding, with private-sector support and input, for advertising campaigns to encourage travel to and within the United States;
- Provide a workforce tax credit for training, retention, and hiring of travel and tourism industry workers; financial assistance to help employees meet COBRA payments and maintain their health insurance; and payroll tax relief for employers and employees;
- Provide a \$500 tax credit (\$1,000 for taxpayers filing jointly) for enumerated personal travel expenses for travel originating and occurring within North America (airplane, cruise, train and bus tickets, hotel and motel accommodations, and rental cars, but not meals) through the end of 2002;
- Restore full deductibility for those business entertainment expenses, including meals, that are now subject to a 50-percent deduction through the end of 2002; and
- Expand the allowance for the carry back of net operating losses for taxpayers in the travel and tourism industry beyond the current two-year limit for losses attributable to the period from September 12, 2001, to December 31, 2002.¹

The President also proposed a Back-to-Work Relief Package. Among its features, the package:

¹ The Travel America Now Act of 2001 (H.R. 3041, S. 1500) includes a subset of the provisions in H.R. 3140.

- Extends unemployment benefits by 13 weeks (beyond the covered 26 weeks) using federal funds in those states where unemployment increases by more than 30 percent of the rate before the terrorist attacks.
- Provides \$3 billion in National Emergency Grants from the United States Department of Labor to assist dislocated workers in states experiencing plant closings or mass layoffs. A state would be eligible for a grant if the Governor certifies the events of September 11, 2001, contributed importantly to the closures, layoffs, or dislocations in the state. The grants would be used to:
 - Extend unemployment benefits (in states not otherwise eligible for extended benefits) for claimants enrolled in job training.
 - Provide income support for claimants who are ineligible for unemployment, but who demonstrate sufficient employment and who are enrolled in job training.
 - Provide funds for job search and training services, including customized training, placement assistance, and relocation assistance.

Congress has not enacted the President's proposal, but a version of the Back to Work Act of 2001 (H.R. 3112) was introduced in the House of Representatives by Rep. John A. Boehner (R-Ohio 8th).

Florida's Economy

Before September 11, 2001, the state's economy had begun to show signs of weakness. For example, declines in anticipated tax collections led the Revenue Estimating Conference to predict a \$673.2 million shortfall in the state budget. The state's unemployment rate averaged about 3.6 percent throughout 2000. From January to July 2001, unemployment rose from 3.8 to 4.2 percent. In August, the state's unemployment rate grew to 4.3 percent.

Parallel to the national economy, the terrorist attacks have exacerbated Florida's economic conditions. In October, the Revenue Estimating Conference downwardly revised estimated tax collections by \$644.3 million, bringing the state's cumulative budget shortfall to \$1.32 billion. Employers throughout the state have begun layoffs. As reported by the Agency for Workforce Innovation, initial unemployment claims started to climb in September, but spiked in October. Preliminary data from the United States Department of Labor show the state's unemployment rate in September remained at August's level of 4.3 percent. Estimated from October's first two weeks of claims, initial claims for the month are expected to reach 82,500. By comparison, initial claims averaged 46,306 per month for the first nine months of 2001 (including July's seasonal high of 60,097 claims).

The federal Worker Adjustment and Retraining Notification (WARN) notices are another indicator of the state's layoffs. Under federal law, larger employers must provide WARN notices to employees at least 60 days before plant closings and mass layoffs. In general, WARN notices are required for employers who have 100 or more employees. From January 1 to October 25, 2001, 200 WARN notices have been filed in Florida. More than 40 percent of these were filed

after September 11. Of the 81 notices filed after September 11, almost 60 percent are attributed to declines in aviation and tourism.²

Tourism

Tourism and recreation are a significant part of Florida's economy. Last year, the state attracted 71.5 million visitors, making it the second-most visited state in the nation behind California.³ The Tourism/Recreation sector of the state's economy generated \$50.7 billion of taxable sales, or approximately 10 percent of Florida's gross state product for 2000.⁴ These sales led to more than \$3 billion in state sales tax collections, more than \$335 million in local option tourist development tax collections, and more than \$146 million in rental car surcharge tax collections.⁵ Moreover, more than 840,000 of the state's 7.2 million jobs are directly related to tourism, including workers in the cruise, airline, restaurants, hotels, theme parks, and attractions industries. It is estimated that another 400,000 jobs are indirectly related to tourism.

The national economic slowdown was already significantly affecting the state tourism industry prior to the events of September 11. Because more than half of the state's visitors arrive by air, the terrorist attacks further disrupted tourism by shaking public confidence in flying. As airlines announced layoffs, state hotels, travel bureaus, rental car companies, cruise lines, and attractions reported significant declines in business.

Hard data regarding the impact of the recession and terrorist attacks on the tourism industry will not be available for some time. According to Visit Florida, the state's official tourism marketing agency (s. 288.1226, F.S.), "the impact of recent events on tourism is impossible to confidently quantify at this time. The consensus of industry experts is that American consumers were, in effect, paralyzed immediately and gradually began to resume activities. Compounded by the downturn trending in the American economy before September 11, the working hypothesis is that tourism will be set back by 10 percent to 20 percent and may take up to one year to regain

² From September 11 to October 25, 2001, 48 WARN notices were filed in Florida relating to aviation or tourism: 37 are classified as "Transportation and Warehousing"; 8 as "Accommodation and Food Services"; and 3 as "Arts, Entertainment, and Recreation."

³ Sources: Visit Florida, *2000 Florida Visitor Study*, 2001, p. 2; Travel Industry Association of America, *Travelscope*, 2000.

⁴ Tourism/Recreation taxable sales results include both resident and visitor spending in the following sales categories (by percentage of total taxable tourism/recreation sales in 2000, for the top four categories): restaurants/lunchrooms (37.00 percent); hotels, apartment houses (23.92 percent); admissions (11.66 percent); rental of tangible property (10.68 percent); jewelry, leather; taverns, nightclubs; gift, card, and novelty shops; photographers, photo supplies; parking lots, boat dockings; cigar stands, tobacco supplies; newsstands; and, holiday season vendors. Source: Visit Florida, *2000 Florida Visitor Study*, 2001, p. 45-46.

⁵ Counties may levy a tourist development tax or "bed tax" at the rate of 1 to 5 percent of the total charge for the lease or rental of living accommodations in any hotel, apartment hotel, motel, resort motel, apartment, apartment motel, roominghouse, mobile home park, recreational vehicle park, or condominium for a term of six months or less. (s. 125.0104, F.S.) In December 2000, 47 counties had instituted a bed tax. The rental car surcharge is a \$2 per day charge for the first thirty days of a rental or lease of a vehicle. (s. 212.0606, F.S.). Source: Visit Florida, *2000 Florida Visitor Study*, 2001, p. 48-49.

current levels.”⁶ However, AAA Auto Club South is attempting to gauge the condition of the tourism industry in the southeastern U.S. with its weekly “AAA Travel Barometer.” In its latest barometer, AAA reports:

- For the week ending October 19, 2001, ticket sales for theme parks and other attractions increased 15 percentage points to 80 percent of year 2000 sales;
- Airline ticket sales were stable at 66 percent of year 2000 levels, a decline of 4 percentage points from the previous week;
- Overall travel agency sales, composed of cruises, tours and airline tickets, declined 7 percentage points to 56 percent of year 2000 sales after a gain of 4 percentage points the previous week. However, when this measurement is price-adjusted to remove the impact of current deep discounts on tours and cruises, these sales represent 68 percent of last year’s volume; and
- Hotel reservations dropped 18 percentage points last week to 79 percent of year 2000 levels but are still 17 percentage points higher than they were the week ending September 14, 2001.

In order to stimulate state tourism, Visit Florida is proposing a \$30 million marketing campaign.⁷ The campaign would emphasize product and value-oriented messages, address general and multi-cultural markets, maintain flexibility to respond to changing market conditions and campaign performance, and leverage investment with co-op partners.

Aviation

Enterprise Florida, Inc., the state’s principal economic organization (s. 288.901, F.S.), estimates that Florida has 1,485 aviation companies, employing approximately 91,000 direct employees. These companies generate an estimated \$16.7 billion in sales annually.⁸

The drastic drop in passenger flying following the events of September 11 greatly affected the state’s aviation industry. Commercial and general aviation companies alike reportedly suffered large losses from the decrease in air traffic. Additionally, many small aviation companies were not able to resume flight activity because of Federal Aviation Administration (FAA) regulations on flight path designations, thus impacting businesses that rely on small aviation flights. From September 19 to 24, 2001, Enterprise Florida, Inc., and the Governor’s Office of Tourism, Trade, and Economic Development (OTTED) conducted an industry-wide survey to estimate the economic impact of the terrorist attacks on the state’s airports, airlines, and tourism-related businesses.⁹ The survey indicates that much of Florida’s aviation and aviation support companies have suffered significant economic impact due to the terrorist attacks. Specifically, the survey’s findings include:

⁶ Visit Florida, *Tourism Presentation to Senate Commerce & Economic Opportunities Committee*, October 10, 2001.

⁷ Visit Florida proposes a funding plan with approximately \$8 million from its current budget, \$2 million from its emergency economic risk fund, and \$20 million from other state sources.

⁸ Enterprise Florida, Inc., and various Florida Aviation Trade Associations, *Impacts on Florida’s Aviation Industry as a Result of September 11 Terrorists’ Attacks*, September 25, 2001, p. 4.

⁹ *Ibid.*

- Eighty-nine percent of Florida aviation companies are estimated to have suffered a “significant” to “devastating” impact;
- Eighty percent of Florida aviation companies will layoff a portion of their workforce;
- Approximately 49 percent of Florida’s aviation industry may reduce employee pay as much as 26 percent; and
- Lost revenue is anticipated to be, on the average, as high as 53 percent in the first 30 days since September 11 and as high 33.9 percent over the next year.

Between October 22 and 24, 2001, the FAA opened the skies over 12 more cities, including Miami and Orlando, to all private planes, leaving only Washington, New York, and Boston with limits on small aircraft. The action allows pilots in the 12 cities to resume flying under what are known as visual flight rules, in which the pilot is low enough in the sky in good weather to navigate by landmarks on the ground and is not required to file a flight plan.

Florida’s Initial Response to Economic Downturn

In response to the state’s weakened economy, the State of Florida has implemented several immediate measures to mitigate the effects of the economic downturn. For example, on September 25, 2001, the Governor and Cabinet directed state agencies with employees called to active military duty to receive full civilian pay, in addition to their military pay, for the first 30 days of active duty. Thereafter, state employees will receive compensation necessary to raise their military pay to their civilian pay level and continue their existing benefits.

On October 4, 2001, the Governor established “Operation Paycheck.” The program emphasizes short-term job training for dislocated workers and job placement services in high-demand employment sectors currently experiencing worker shortages, such as information technology, health care, and construction. Community colleges, technical centers, and universities will provide accelerated training options for Operation Paycheck participants. Federal Workforce Investment Act (WIA) funds pay for tuition, fees, books, childcare, and transportation for program participants. Workforce Development Education Funding is used for vocational certificate training. Additionally, on October 17, 2001, Workforce Florida, Inc. (WFI), redirected \$10 million in workforce funds to Operation Paycheck for fiscal year 2001-2002.

Finally, the Agency for Workforce Innovation, in conjunction with WFI, has begun implementation of a plan to assist those areas hit hardest by the economic downturn. The plan includes:

- Redirecting as much as \$30 million to workforce projects in communities most impacted by unemployment.
- Deploying additional staff to handle the increased need for job placement, training, and unemployment claims processing in the affected areas.
- Enhancing marketing activities in the affected areas to increase awareness of available workforce services and promoting the ability to file for unemployment over the Internet.

- Promoting the Short-Time Compensation Program, which permits employers to avert layoffs by reducing work hours for groups of employees, allowing them to become eligible for partial unemployment benefits.
- Identifying claimants for unemployment who are former welfare recipients and who may be eligible for welfare transition services, including job placement and job training.

III. Effect of Proposed Changes:

The committee substitute provides a series of measures designed to stimulate the state's economy. These measures promote recruitment, retention, and expansion of job-generating businesses throughout the state and provide incentives for capital investment and spending during the current economic downturn. To accomplish these ends, the committee substitute offers tax credits and refunds for businesses, provides down payment assistance to homebuyers, encourages the growth of the information-technology industry in this state, and delays implementation of construction regulations. The committee substitute also provides for technical assistance and crisis management to aid small businesses during periods of economic crisis.

Capital Investment Tax Credit (Section 1)

Present Situation: Section 220.191, F.S., provides for the Capital Investment Tax Credit (CITC) Program to allow a "qualifying business" which establishes a "qualifying project" in this state to receive an annual credit against the corporate income tax liability or the premium tax liability generated by the project. The term "qualifying project" is defined as a new or expanding facility in this state which creates at least 100 new jobs in this state and is in one of the high-impact sectors identified by Enterprise Florida, Inc., and certified by the office pursuant to s. 288.108(6), F.S., including, but not limited to, aviation, aerospace, automotive, and silicon technology industries.¹⁰ As of October 22, 2001, there were six active CITC Program projects. According to the Governor's Office of Tourism, Trade, and Economic Development (OTTED), no CITC projects have reached the stage where they are actually taking the CITC credit.

An annual credit is granted to any qualifying business in an amount equal to 5 percent of the eligible capital costs generated by a qualifying project, for a period not to exceed 20 years beginning with the commencement of operations of the project. The term "eligible capital costs" is defined as all expenses incurred by a qualifying business in connection with the acquisition, construction, installation, and equipping of a qualifying project during the period from the beginning of construction of the project to the commencement of operations. Eligible capital costs do not include the cost of any property previously owned or leased by a qualifying business. The sum of all tax credits provided for a qualifying project cannot exceed 100 percent of the eligible capital costs of the project. Tax credits cannot be carried forward or backward by any qualifying business with respect to a subsequent or prior year.

¹⁰ The High-Impact Business Performance Incentive Grants (HIPI) Program, s. 288.108, F.S., is another one of the state's economic development incentives used to attract and grow major high impact facilities in Florida. Under the program, eligible businesses in designated high-impact sectors (e.g., silicon technology, transportation equipment manufacturing) may receive a business performance grant based on investment and employment goals. As of October 22, 2001, there were five active HIPI Program projects. These projects have been awarded approximately \$29.8 million and are scheduled to provide 2,000 new jobs. As of October 22, 2001, there have been \$9.5 million in actual disbursements to HIPI Program businesses, which have created 284 new jobs.

The annual tax credit granted under the CITC Program shall not exceed the following percentages of the annual corporate income tax liability or the premium tax liability generated by or arising out of a qualifying project:

- One hundred percent for a qualifying project which results in a cumulative capital investment of at least \$100 million.¹¹
- Seventy-five percent for a qualifying project which results in a cumulative capital investment of at least \$50 million but less than \$100 million.
- Fifty percent for a qualifying project which results in a cumulative capital investment of at least \$25 million but less than \$50 million.

A qualifying project which results in a cumulative capital investment of less than \$25 million is not eligible for the capital investment tax credit.

Effect of Proposed Changes: The committee substitute amends s. 220.191, F.S., to temporarily broaden the eligibility criteria and award structure for the Capital Investment Tax Credit (CITC) Program. The committee substitute creates a new category for eligibility under the program. This new category, “qualifying economic stimulus business,” is defined as a business that establishes a “qualifying economic stimulus project” and that is certified by the Governor’s Office of Tourism, Trade, and Economic Development (OTTED) on or before April 1, 2002, to receive tax credits under s. 220.191, F.S. The term “qualifying economic stimulus project” is defined as a new or expanding facility in this state which creates at least 50 new jobs in this state and is in one of the target industries identified under s. 288.106(1)(o), F.S. (a much broader category than the High-Impact Business Performance Incentive Grants Program, under which projects are qualified in current law).¹² Construction on a qualifying economic stimulus project, or on a qualifying project with a cumulative capital investment of at least \$15 million but less than \$25 million, must begin on or before December 31, 2002.

The committee substitute creates a new award structure for qualifying economic stimulus projects. The annual tax credit granted under s. 220.191, F.S., shall not exceed the following percentages of the annual corporate income tax liability or the premium tax liability generated by or arising out of a qualifying economic stimulus project:

- Ninety percent if the qualifying economic stimulus project results in a cumulative capital investment of at least \$100 million.
- Sixty-five percent if the qualifying economic stimulus project results in a cumulative capital investment of at least \$50 million but less than \$100 million.

¹¹ The term “cumulative capital investment” is defined as the total capital investment in land, buildings, and equipment made in connection with a qualifying project during the period from the beginning of construction of the project to the commencement of operations.

¹² Section 288.106, F.S., describes the Qualified Target Industry (QTI) Tax Refund Program. At least 26 industries are eligible for the QTI Program, including apparel and other textiles, business services, chemicals and allied products, communications, corporate headquarters, electronic and other equipment, fabricated metal products, food and kindred products, furniture and fixtures, research and development, and wholesale distribution.

- Forty percent if the qualifying economic stimulus project results in a cumulative capital investment of at least \$25 million but less than \$50 million.
- Thirty percent if the qualifying economic stimulus project results in a cumulative capital investment of at least \$15 million but less than \$25 million.

The committee substitute also creates a new, lower award tier for “qualifying projects” (40 percent of the annual corporate income tax liability or the premium tax liability generated by or arising out of a qualifying project which results in a cumulative capital investment of at least \$15 million but less than \$25 million), reduces the minimum cumulative capital investment for qualifying projects from \$25 million to \$15 million, and applies the new \$15 million minimum investment to qualifying economic stimulus projects.

Economic Development Trust Fund (Section 2)

Present Situation: Created in 1992, Enterprise Florida, Inc.,¹³ is a partnership between Florida’s government and business leaders and is the principal economic development organization for the state.¹⁴ Enterprise Florida’s mission is to increase economic opportunities for all Floridians by supporting the creation of quality jobs and globally competitive businesses. It pursues this mission in cooperation with its statewide network of economic development partners. Enterprise Florida operates under a contract with the Office of Tourism, Trade, and Economic Development (OTTED) and is responsible for developing specific programs and strategies that address creation, expansion, and retention of Florida businesses; the development of import and export trade; and the recruitment of worldwide business. In addition, Enterprise Florida is responsible for:

- Aggressively marketing Florida’s rural and distressed urban communities as a location for potential new investment;
- Assessing Florida’s competitiveness against other business locations; and
- Incorporating the needs of small and minority businesses into economic development, international trade, and workforce development.

Section 288.095, F.S., creates the Economic Development Trust Fund within OTTED and establishes the Economic Development Incentives Account within the trust fund. The Economic Development Incentives Account consists of moneys appropriated to the account for purposes of the Qualified Defense Contractor (QDC) Tax Refund Program (s. 288.1045, F.S.) and the Qualified Target Industry (QTI) Tax Refund Program (s. 288.106, F.S.), as well as local financial support provided under those sections.

Section 288.095(3), F.S., imposes a cap on the total state share of QDC and QTI tax refund payments scheduled in all active certifications for a fiscal year. For fiscal year 2001-2002, the cap is \$30 million. During the 2001 Regular Session, the Legislature raised the cap for subsequent fiscal years to \$35 million. This subsection also provides that the total amount of tax

¹³ See “Profile No. 6097,” *Florida Government Accountability Report*, Florida Legislature’s Office of Program Policy Analysis and Government Accountability, <http://www.oppaga.state.fl.us/profiles/6097/>, July 10, 2001.

¹⁴ See s. 288.901, F.S.

refund claims approved for payment by OTTED based on actual project performance may not exceed the amount appropriated to the Economic Development Incentives Account for such purposes for the fiscal year. In the event the Legislature does not appropriate an amount sufficient to satisfy “projections” by OTTED for tax refunds under the QDC and QTI tax refund programs in a fiscal year, OTTED must prorate the refunds. Section 288.095(3), F.S., also requires OTTED to submit to the board of directors of Enterprise Florida by September 30 of each year, a complete and detailed report of all programs funded out of the Economic Development Incentives Account.

Effect of Proposed Changes: The committee substitute amends s. 288.095, F.S., by conforming certain terminology to changes made in the timeline for approval of QDC and QTI tax refunds in sections 3 and 4 of the committee substitute. The committee substitute also amends s. 288.095, F.S., to revise the content and re-assign the responsibility from OTTED to Enterprise Florida for completing and submitting the annual incentives report and changes the due date of the report from September 30 to December 31 of each year. Enterprise Florida, Inc., is required to include a separate analysis of the impact of tax refunds on rural communities, brownfield areas, and distressed urban communities. OTTED must assist Enterprise Florida, Inc., in the collection of data related to business performance and incentive payments.

Tax Refund for Qualified Defense Contractors and Aviation-Industry Businesses (Section 3)

Present Situation: Finding that high technology jobs in the state were threatened by downsizing in the national defense budget, the Legislature during a special session in 1993 created a tax refund program designed to facilitate the employment of Florida citizens by defense contractors. The Qualified Defense Contractor (QDC) Tax Refund Program authorized tax refunds to a certified contractor that: 1) secured a new Department of Defense (DOD) contract, 2) consolidated an existing DOD contract in Florida, 3) converted defense production jobs to non-defense production jobs, or 4) contracted for the reuse of a defense-related facility (s. 288.104, F.S., 1994 Supp.). The program was repealed effective December 1, 1994.¹⁵

In 1996, the QDC program was re-created and codified in s. 288.1045, F.S. (*See* s. 1, ch. 96-348, L.O.F.) In order to participate in the program and be eligible to receive tax refunds, a business must apply to the Governor’s Office of Tourism, Trade, and Economic Development (OTTED) for certification. The statute prescribes information that must be submitted by a defense contractor in order to be certified (s. 288.1045(3), F.S.). The QDC program features a local financial support component, under which an eligible business must secure a resolution adopted by county government which recommends the project and which indicates that the necessary commitments of local financial support for the business exist. Local financial support means funding from local sources, public or private, which is equal to 20 percent of the annual tax refund for a qualified business (s. 288.1045(1)(o) and (3), F.S.).

¹⁵ The Legislature had specified that the program would be repealed effective December 1, 1994, if no qualified applicant had entered into a valid new DOD contract or begun consolidation of an existing DOD contract, which was expected to result in the employment of at least 1,000 full-time employees. Because this condition was not satisfied by a single qualified applicant, the statute stood repealed.

Approved applicants enter into an agreement with OTTED and 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, and ad valorem taxes. Tax refunds generally are paid to a participating business over a period of several years. A qualified applicant may not be qualified for any project to receive more than \$5,000 times the number of jobs provided for in the tax refund agreement.

As of October 17, 2001, there were two active QDC program projects. These projects are scheduled to generate 350 new jobs and provide more than \$1.6 million in future refunds to their sponsoring businesses. As of October 17, 2001, there have been approximately \$2.4 million in actual disbursements to QDC program businesses, which have created or retained more than 1,100 jobs.

Effect of Proposed Changes: The committee substitute amends the Qualified Defense Contractor (QDC) Tax Refund Program to create a comparable tax refund program for qualified aviation-industry businesses. The committee substitute defines an aviation-industry business as one engaged in activities that support general or commercial aviation, including the construction, repair, or maintenance of aircraft, aircraft power plants, aircraft parts, or aircraft accessories. To be eligible for tax refunds under the program, an aviation-industry business must create or retain at least five jobs in this state – paying wages that are 100 percent of the statewide or area average private-sector wage – through:

- Securing a new multi-state, competitive aviation-industry contract;
- Consolidating multi-state operations in Florida;
- Converting jobs in aviation-industry operations to nonaviation-industry operations; or
- Expanding aviation-industry operations.

The business would be eligible for refunds – equaling \$5,000 per job retained or created – of taxes previously paid. The eligible taxes include those under the QDC program, plus aviation fuel taxes paid. For both qualified defense contractors and qualified aviation-industry businesses, the committee substitute provides for the payment of prorated refunds if the business meets 80 percent of its agreed job targets and 90 percent of its agreed wage levels. Alternatively, a business that is in breach of the terms and conditions of its tax refund agreement may request of the Office of Tourism, Trade, and Economic Development (OTTED) an exemption from the statutory requirement that such businesses lose their certifications. To receive the exemption, however, the business must establish that negative economic conditions in the business's industry prevented the business from complying with the terms and conditions of its contract. The tax refund program for aviation-industry businesses is limited, in that an application for certification must be submitted no later than June 30, 2003.

The committee substitute also makes revisions to s. 288.1045, F.S., to specify that claims for tax refunds must be submitted by January 31 for payment from the legislative appropriation for the following fiscal year. The changes are designed to enable OTTED to provide the Legislature with a more accurate estimate of the annual appropriation needed to satisfy tax refund claims.

Tax Refund Program for Qualified Target Industry Businesses (Section 4)

Present Situation: The Qualified Target Industry Tax Refund Program (QTI Program), s. 288.106, F.S., is one of the state's economic development incentives. Under the program, eligible businesses may receive refunds of previously paid taxes, based upon the creation of jobs at a certain salary level. As of October 17, 2001, there were 241 active QTI Program projects. These projects are scheduled to provide 56,706 new jobs and generate more than \$213 million in future refunds for their sponsoring businesses. As of October 17, 2001, there have been approximately \$23.5 million in actual disbursements to QTI Program businesses, which have created more than 17,500 jobs.

Section 288.106(4), F.S., requires each QTI Program business to enter into a written agreement with the Governor's Office of Tourism, Trade, and Economic Development (OTTED) concerning the business's participation in the program. Compliance with the terms and conditions of a tax refund agreement is a condition precedent for the receipt of a tax refund each year. The failure to comply with the terms and conditions of the tax refund agreement results in the loss of eligibility for receipt of all tax refunds previously authorized and the revocation by the director of OTTED of the certification of the business entity as a qualified target industry business. However, s. 288.106(5)(d), F.S., provides for a prorated tax refund, less a 5-percent penalty, for a QTI Program business that proves it has achieved at least 80 percent of its job creation goal. OTTED is concerned that recent economic conditions might cause many QTI Program businesses to miss their contractual performance targets, thus eliminating the businesses from the program. Section 288.106(4), F.S., also provides that a tax refund agreement must be signed by OTTED and the agreeing QTI Program business within 120 days after the issuance of a letter of certification but not before passage and receipt of a resolution of local financial support.

Additionally, as currently written, s. 288.106, F.S., creates a situation in which it is necessary to appropriate a larger amount for the QTI Program than will actually be paid to QTI Program businesses in a given year, with the majority of those payments being made from funds certified forward at the end of the fiscal year. Each August, when the Legislative Budget Request is prepared, OTTED requests sufficient appropriations to cover all tax refunds scheduled in active tax refund agreements and allows a small amount for new projects that may be approved and have tax refunds due in the following year. However, most of the funds will not actually be disbursed until after the end of the year for which the funds are budgeted – a potential spread of more than two years. When combined with the fact that the appropriations process begins nine months before the fiscal year begins and appropriation decisions are finalized in April of the previous fiscal year, the problems in estimating the required appropriation for the QTI Program are magnified. The following factors further complicate the appropriations process for the program:

- The QTI Program is an incentive program. Businesses must be approved before they have made a decision to expand or locate in Florida.
- There is a time lag between a QTI Program business' decision to expand or locate in Florida and the creation of the jobs and payment of taxes.

- The QTI Program is performance-based, and, therefore, actual tax refund payments are not made until a QTI Program business has created the jobs and is paying the wages upon which the incentive approval was based.
- Not all of the businesses approved for the QTI Program fully achieve the agreed-upon job creation and wage level, but this is not known until a business has submitted its tax refund claim and the information has been verified.
- As allowed by statute, most QTI Program businesses wait until the end of the fiscal year to submit claims. Because the claims must be reviewed and verified before payment is made, refund payments are pushed past the end of the fiscal year.

Knowing that not all the funds appropriated will actually be paid out in refunds (since some businesses will drop out of the QTI Program during that two-year window and some claims will be disapproved), it might appear reasonable to appropriate a smaller amount based on an estimate of actual payments. However, current law requires that, if the Legislature does not appropriate an amount sufficient to pay all of the refunds scheduled in active agreements, OTTED must calculate what portion of each business's refund could be paid from the appropriation, and the businesses must be informed of the situation and told that they may only receive a pro rata share of the tax refund the state has agreed to pay if they meet the performance requirements (s. 288.095(3)(b), F.S.). Having to inform businesses that the state may not meet its QTI Program obligations would have negative consequences for the state's reputation in the national and international business community. A more detrimental situation could occur if the estimate of actual payments to be made under this scenario was not accurate and eligible businesses did not receive the contracted amount of tax refunds.

Section 288.106(5)(e), F.S., also provides that OTTED, with assistance from the Department of Revenue or the Department of Labor and Employment Security, must specify by written final order the amount of the tax refund that is authorized for a QTI Program business for the fiscal year within 30 days after the date that the claim for the annual tax refund is received by OTTED. Section 288.106(6)(b), F.S., provides that OTTED may request the assistance of those entities or any local government or authority with respect to monitoring the payment of QTI Program-related taxes.

Section 288.106(7), F.S., provides for a repeal of s. 288.106, F.S., on June 30, 2004.

Effect of Proposed Changes: The committee substitute amends s. 288.106, F.S., by altering the timeline for approval of Qualified Target Industry Tax Refund Program (QTI Program) refunds in order to improve the budgetary process for this appropriation. For all new QTI Program projects, or existing projects that request any modification to their agreement, QTI Program tax refund claims will be due by January 31 of each fiscal year for the jobs created by December 31 of that same fiscal year. The refunds associated with those claims will be paid out of the appropriation for the following fiscal year.

Under the new timeline, OTTED will know which businesses have submitted claims by the time the legislative session begins. By the time the legislative budget is complete, some of the claims that had been scheduled for the coming fiscal year can be eliminated, thus reducing the amount of the appropriations request. OTTED will also have had an opportunity to evaluate the claims

before the fiscal year has begun and, with the exception of possible appeals, will be able to pay claims at the beginning of the fiscal year rather than after the end of the year.

The full advantages of these changes will not be realized immediately because they can only be applied to new QTI Program agreements, or to amended agreements, because the time frames and prerogatives specified in existing agreements must be honored. However, over a period of several years, these changes will significantly reduce the amount of QTI Program funds appropriated over actual refund payments and eliminate the problem of excessive forward certification of QTI Program funds for payment after the end of the fiscal year.

Conversion of existing agreements to the new QTI Program timeline might be accelerated if QTI Program businesses that are unable to meet the terms and conditions of their agreements qualify for and opt to exercise one of two new provisions in this section. First, the committee substitute amends s. 288.106(4)(b), F.S., to provide that a QTI Program business that does not fulfill its agreement may request an “economic stimulus exemption” from OTTED in lieu of any tax refund claim scheduled to be submitted after June 30, 2001, but before July 1, 2003. In determining whether to grant such an exemption, OTTED must consider the extent to which negative economic conditions in the requesting business’s industry prevented the business from complying with the terms and conditions of its tax refund agreement. If granted an economic stimulus exemption, a QTI Program business must agree to renegotiate its tax refund agreement with OTTED to, at a minimum, ensure that the terms of the agreement comply with current law (including the new timeline) and relevant OTTED procedures. When amending the agreement of a business receiving an economic stimulus exemption, OTTED may extend the duration of the agreement for no more than one year. A QTI Program business that receives an economic stimulus exemption may not receive a tax refund for the period covered by the exemption.

The second new provision amends s. 288.106(5)(d), F.S., to expand conditions for approving a prorated tax refund by allowing businesses to receive a prorated refund for achieving at least 90 percent of the average wage specified in the tax refund agreement (but not less than statutory minimum average wage requirements) if it has achieved at least 80 percent of its projected employment and satisfied all other contractual requirements. Under s. 288.106(4)(b), F.S., as amended, a QTI Program business qualifying and opting for a prorated refund would also have to agree to renegotiate its tax refund agreement with OTTED to, at a minimum, ensure that the terms of the agreement comply with current law (including the new timeline) and relevant OTTED procedures.

The committee substitute also includes the following substantive provisions:

- Amends s. 288.106(4)(c), F.S., to allow OTTED, upon request of a QTI Program business, to grant an extension of the 120-day time period during which a tax refund agreement must be signed by OTTED and the agreeing QTI Program business;
- Amends s. 288.106(5)(e), F.S., to allow OTTED to grant an extension, for the purpose of allowing a QTI Program business to file additional information in support of its claim, of the time period during which OTTED must approve or disapprove a QTI Program business’s tax refund claim and, if approved, the amount of the tax refund that is authorized to be paid;
- Creates s. 288.106(5)(g), F.S., which expressly states that s. 288.106, F.S., does not create a presumption that a tax refund claim will be approved and paid;

- Amends s. 288.106(6)(b), F.S., to add “jobs and wages” to the list of topics about which OTTED may ask the Department of Revenue, the Agency for Workforce Innovation, or any local government or authority with respect to monitoring the payment of QTI Program-related taxes;
- Creates s. 288.106(6)(c), F.S., which expressly states that funds specifically appropriated for the QTI tax refund program may not be used for any purpose other than the payment of tax refunds authorized by s. 288.106; and
- Reenacts s. 288.106(7), F.S., which provides for a repeal of s. 288.106, F.S., on June 30, 2004.

Extended Homeownership Assistance Program (Section 5)

Present Situation: Under current law, the Florida Housing Finance Corporation (corporation) provides loans under the Florida Homeownership Assistance Program (HAP) to low-income persons and families for down payments and closing costs related to the purchase of the borrower’s primary residence (ss. 420.503(23)(a)1. and 420.5088(1), F.S.). To be eligible for a HAP loan, a person or family must have an income that does not exceed 80 percent of the state or local median income, whichever is greater, adjusted for family size. Using readily available data from the United States Census Bureau, the median income for the State of Florida in 1997 was \$32,877. County median incomes ranged from a high of \$43,061 in Seminole County to a low of \$21,982 in Dixie County. Thus, 80 percent of the statewide value would be \$26,302, while county values would range from \$34,449 to \$17,586. The corporation currently charges each loan applicant a \$50 application fee (rule 67-45.007, F.A.C.).

Loan amounts are limited to the lesser of 25 percent of the purchase price of the home or the amount necessary to enable the purchaser to meet credit requirements. Under s. 420.5088, F.S., the interest rate for HAP loans may not exceed 3 percent; however, the corporation’s rules provide for “no interest” loans (rule 67-45.001(5), F.A.C.). Repayment of each HAP loan is deferred until expiration of the term of the borrower’s first mortgage. A HAP loan establishes a lien against the borrower’s residence, but is “subordinated,” which means the lien is secondary to the mortgage lender’s lien. In addition, the balance of any HAP loan is due at closing if the borrower’s residence is sold or transferred.

Funding for HAP is provided by a portion of the documentary stamp tax receipts deposited in the State Housing Trust Fund. Under current law, loan repayments are deposited in the Florida Homeownership Assistance Fund maintained by the corporation and do not revert to the General Revenue Fund (s. 420.5088(5), F.S.). Further, current law exempts these funds from appropriation by the Legislature and from being included in the corporation’s budget request.

Effect of Proposed Changes: The committee substitute creates a temporary Extended Homeownership Assistance Program, which is automatically repealed on June 30, 2003. This extended program provides loans for down payments and closing costs related to the purchase of the borrower’s primary residence and is similar to HAP. However, the extended program targets both moderate and middle-income persons and families, in addition to the low-income borrowers currently eligible under HAP. The committee substitute provides that loans under the extended program are non-interest bearing. Funding for the loans is subject to legislative appropriation, and the corporation is authorized to adopt rules implementing the extended program.

Loans under the extended program differ from HAP loans primarily in two ways. First, the extended program expands eligibility beyond the current level of 80 percent of median income. To be eligible for a loan under the extended program, a person or family must have an income that does not exceed 150 percent of the state or county median income, whichever is greater, adjusted for family size. For comparison to the 1997 values discussed in the present situation, 150 percent of the statewide value would be \$49,316, while county values would range from a high of \$64,592 to a low of \$32,973. Second, the extended program limits loan amounts to \$15,000. Loan amounts are further limited to the lesser of 10 percent of the total purchase price or 10 percent of the appraised value of the borrower's residence.

Small Business Crisis Management Team (Section 6)

Present Situation: Created in 1992, Enterprise Florida, Inc.,¹⁶ is a partnership between Florida's government and business leaders and is the principal economic development organization for the state.¹⁷ In 1999, pursuant to s. 288.904(2)(1), F.S., Enterprise Florida created the Florida Small Business Council, which advises the Enterprise Florida Board of Directors on issues and recommendations related to the formation, retention, and expansion of small business in Florida. The council's mission is to advocate for a sound business climate for small businesses in the state by identifying key issues of concern to small businesses and offering recommendations to help overcome those barriers to growth. The council's membership consists of 20 state leaders representing a broad range of small businesses, including rural, minority, urban core, technology, professional services, government advocacy, and research organizations. The council holds four regular meetings per year.

Effect of Proposed Changes: The committee substitute directs Enterprise Florida, Inc., to create a Small Business Crisis Management Team that can be activated quickly, for temporary periods of time, to assist small businesses in the state during periods of economic crisis or sustained economic weakness. The team will include senior Enterprise Florida staff members and representatives of other organizations who are recruited to serve on the team by the president of Enterprise Florida. The purposes of the team will include:

- Serving as an initial, single point of contact for small businesses that are attempting to gather information on the variety of state and federal programs and services available to them;
- Publicizing to small businesses information on federal assistance programs or initiatives, such as the economic injury loan programs of the U.S. Small Business Administration;
- Referring small businesses to organizations, such as small business development centers, that can provide one-on-one counseling in business operations or best practices;
- Coordinating with the state and regional partners in the workforce development system to ensure that businesses undergoing layoffs or contemplating layoffs are aware of economic development incentives or other programs and services that may help reduce or avoid the need for such layoffs; and

¹⁶ See "Profile No. 6097," *Florida Government Accountability Report*, Florida Legislature's Office of Program Policy Analysis and Government Accountability, <http://www.oppaga.state.fl.us/profiles/6097/>, July 10, 2001.

¹⁷ See s. 288.901, F.S.

- Utilizing the eflorida.com website as a bulletin board for small businesses to gather current information on available assistance.

The committee substitute also directs the Office of Tourism, Trade, and Economic Development; Workforce Florida, Inc.; the Agency for Workforce Innovation; and the Department of Community Affairs to assist Enterprise Florida with the operation of the team and, for purposes of this section, defines the term “small business” to generally mean a business with 25 or fewer employees. However, the committee substitute permits Enterprise Florida to provide team-related services to businesses with more employees if, in its judgment, the economic conditions or circumstances of the particular business warrant.

Florida Airport Authority Act (Sections 7 thru 9)

Present Situation: Individual airport authorities have been created by enactment of local bills in a number of counties. At last count, there are 29 airport authorities in Florida, but not all of them are active. Authority to create the individual airport authorities is derived from numerous local bills, the language of which can be found in various chapters of the Laws of Florida, but not the Florida Statutes. In addition, local governments operate many airports as a department or office within the local government structure. Miami International Airport has been the subject of controversy for many years. Local elected officials and the community are divided over how to address some of the issues of concern at their airport. Miami-Dade County is constitutionally exempt from the local bill process.

Effect of Proposed Changes: The committee substitute creates ss. 332.201-332.211, F.S., the Florida Airport Authority Act. The provisions are modeled on the Florida Expressway Authority Act. The major provisions include:

- Any county which has a population of more than 2.1 million people is required to schedule a countywide referendum giving voters the opportunity to approve the creation of an airport authority. Based on 2000 figures from the United States Census Bureau, Miami-Dade County meets the population requirements.
- Such an authority would have seven members, who must be permanent residents of the county they are representing. Two members would be appointed by the Governor (subject to confirmation by the state Senate); two would be appointed by the County Ethics Commission; one by the County Mayor; and two by the County Commission. The authority members would elect from among their number the chairperson, and select a secretary and a treasurer who do not need to be authority members.
- The Governor’s appointees would have four-year terms; no terms of office were specified for the other appointees. The Governor’s appointments may not hold any elective office during their terms on the authority.
- Members of the authority and their spouses would be prohibited from owning certain stocks and bonds. As a condition of appointment, each appointee must affirm to the “Speaker” and the “President” his or her qualification by a specified certification.
- The authority members must file full and public financial disclosure, under s. 112.3144, F.S. Also, a member of the authority would be prohibited from contributing to the campaign account of any elected official and from soliciting any campaign contributions for any elected official.

- The authority would have the discretion to employ staff members and set the salaries for the following positions: executive director; executive secretary; counsel and legal staff; technical experts, consultants, and advisors; engineers and employees as it may require. It also may employ a fiscal agent, from among at least three persons or companies that submit sealed proposals.
- The authority must submit facility reports, audits, and other reports required of special districts under ch. 189, F.S., and it must notice its meetings and keep records, available to the public, of what transpired.
- An authority would exercise have discretion to acquire, hold, construct, improve, maintain, operate, own, and lease an airport system. Additional airports may be constructed only if the additional airport is financially feasible and compatible with the authority's existing plans. Each new airport must have the written consent of the board of county commissioners.
- The authority would be empowered to sue and be sued, adopt a corporate seal, acquire and use any real or personal property in carrying out its purposes, make leases or lease-purchase agreements, establish and collect fees, rentals and charges for its services and facilities, borrow money, and issue bonds under the State Bond Act, ch. 215, F.S. It also could accept grants from and enter into contracts with a federal, state, or county agency, and would have the power of eminent domain.
- Any bonds pledging the full faith and credit of the State of Florida would have to be issued by the Board of Administration's Division of Bond Finance on behalf of the authority, upon express written consent of the board of county commissioners.
- The authority also would have been able to consider unsolicited proposals from private entities for planning, constructing, maintaining, or operating its airport system. An airport constructed under this provision must have state and federal approval and the prior express written consent of the board of county commissioners.
- The authority would be prohibited from undertaking any construction that is not consistent with federal aviation requirements, the statewide aviation system plan, and the county's comprehensive plan.
- The authority would be able to appoint the county as its agent for construction projects and may enter into contracts, leases, or other agreements with other governmental entities or individuals.
- The authority would be exempt from all state and local taxes except for the corporate tax pursuant to ch. 220, F.S.

The provisions of the Florida Airport Authority Act would not be applicable to a county in which an airport authority has been created by a general or special act of the Legislature, nor would its provisions apply to any county that has created its own airport authority.

Emerging and Strategic Technologies (Sections 10 thru 19)

Present Situation:

Information Service Technology Development Task Force: The Legislature in 1999 created the Information Service Technology Development Task Force (task force) within the Department of Management Services (ch. 99-354, L.O.F.). The task force, which operated under the name "itflorida.com" and which dissolved effective July 1, 2001, was composed of 34 members from

the public and private sectors. The charge of the task force included developing overarching principles to guide state policy decisions with respect to the free-market development and beneficial use of advanced communications networks and information technologies; identifying factors that affect the ability of such technologies to flourish in the state; and developing policy recommendations for each factor.

To achieve its purposes, the task force divided its stated directives among nine subcommittees. Each subcommittee developed policy recommendations according to its stated directive.¹⁸ Policy recommendations from the eBusiness subcommittee included:

- Formation of a private entity, itflorida.com, Inc., to continue the work of the task force following the task force's dissolution;
- Development of the information technology marketing and image campaign by Enterprise Florida, Inc., required under legislation adopted during the 2000 session (s. 34, ch. 2000-164, L.O.F.; s. 288.911, F.S.¹⁹);
- Expansion of the Certified Capital Company (CAPCO) Act under s. 288.99, F.S.;
- Revision of the \$30 million cap – to \$35 million – on the total state share of tax refund payments that may be scheduled for future fiscal years under the Qualified Target Industry (QTI) and Qualified Defense Contractor (QDC) tax refund programs;²⁰
- Creation of a broad-based sales tax credit for machinery and equipment purchased for use in research and development activities;
- Repeal of the tax on intangible personal property;
- Inclusion of “information technology” as a project activity eligible for industrial revenue bond financing;
- Designation of “information technology” as a sector eligible for participation in the state's grant program for high-impact businesses under s. 288.108, F.S.; and
- Authorization by the Legislature of a study on whether to adopt the Uniform Computer Information Transactions Act (UCITA) (*2001 Annual Report of the Information Service Technology Development Task Force*, February 14, 2001, pp. 9-10).

Recommendations of the eEntertainment subcommittee included:

- Development of joint-use advanced digital media research and production facilities at strategic locations in the state, with the facilities serving as focal points for collaboration between the digital media industry and educational institutions; and

¹⁸ The nine subcommittees included: eBusiness Development, Retention & Recruitment; eEducation K-12; eWorkforce; eAccess & Awareness; eGovernment; eLaws – Administrative & Regulatory; eLaws – Civil & Criminal; eInfrastructure & Technology Development; and eEntertainment (*2001 Annual Report of the Information Service Technology Development Task Force*, February 14, 2001, pp. 1-3).

¹⁹ This statute requires EFI to “create a marketing campaign to help attract, develop, and retain information technology businesses in the state.” Further, the statute specifies that the “message of the campaign shall be to increase national and international awareness of this state as a state ideally suited for the successful advancement of the information technology business sector” (s. 288.911(1) and (2), F.S.).

²⁰ During the 2001 Regular Session, the Legislature raised the statutory cap to \$35 million effective with the 2002-2003 fiscal year. *See* s. 41, ch. 2001-201, L.O.F.

- Designation of the digital media industry as a high-impact sector for the purposes of some of the state's incentive programs, such as the grant program for high-impact businesses under s. 288.108, F.S., and the QTI tax refund program under s. 288.106, F.S. (*id.* at p. 14).

Digital Media: During the 2000 Regular Session, the Legislature required the Board of Regents to create a Digital Media Education Coordination Group to develop a plan to enhance Florida's ability to meet the current and future workforce needs of the digital media industry (s. 153, ch. 2000-165, L.O.F., as codified in s. 240.710, F.S.). The group issued its report to the Legislature in January 2001. One of the recommendations of the group was that a Florida Digital Media Coordinating Council be created to serve as a coordinating council for digital media education, research, and workforce development. The group provided that one of the council's functions would be to plan for and seek public and private funding for a series of regional joint-use advanced digital media production facilities. The facilities would be designed to encourage collocation and collaboration between industry and educational entities. Among other purposes, the facilities would provide affordable access to state-of-the-art facilities for both academic and industry partner activities and would provide professional development of students through involvement with actual industry projects (State University System of Florida, *Digital Media Education Coordination Group Report to the Florida Legislature*, January 1, 2001, p. 10).

Economic Development/Workforce Development Tools:

Bond Financing: Part II of ch. 159, F.S., is the "Florida Industrial Development Financing Act." The federal government provides an annual allocation to the state for the issuance of tax exempt industrial revenue bonds. The estimated amount available in 1999 was \$765 million. Section 159.26, F.S., governs the legislative findings and purpose of the act and cites specific activities as being vital to the state in relation to the use of financing under the act, including, but not limited to, agriculture, tourism, urban development, historic preservation, education, and health care industries. The Information Service Technology Development Task Force recommended that information technology be added to the act as an eligible category of activities (*2001 Annual Report of the Information Service Technology Development Task Force*, February 14, 2001, p. 22).

High Impact Performance Incentives: Section 288.108, F.S., provides for the payment of grants to a business in a high-impact sector that makes a cumulative investment in the state of \$100 million and creates at least 100 full-time jobs. In the case of a research-and-development facility, the investment must be \$75 million, with 75 full-time jobs. The statute prescribes a process under which Enterprise Florida, Inc., and the Office of Tourism, Trade, and Economic Development select and designate the high-impact sectors eligible for the program. The statute currently specifies that the silicon-technology sector is a high-impact sector (s. 288.108(6)(i), F.S.). Although the information technology sector has been designated through the prescribed process, the task force recommended that the information technology be specifically cited in statute (*2001 Annual Report of the Information Service Technology Development Task Force* at p. 22).

Internet-Based System for Information Technology Promotion and Workforce: Section 445.045, F.S., requires the Department of Labor and Employment Security to facilitate efforts to ensure

the development and maintenance of a website that promotes the information technology industry in Florida. In addition to containing information on the scope of the information technology industry in the state, the website is to contain information concerning employment opportunities at information technology businesses in the state.

Postsecondary Education: The statutory mission of the state system of postsecondary education is: 1) to develop human resources, 2) to discover and disseminate knowledge, 3) to extend knowledge and its application beyond the boundaries of its campuses, and 4) to serve and stimulate society by developing in students heightened intellectual, cultural, and humane sensitivities; scientific, professional, and technological expertise; and a sense of purpose (s. 240.105, F.S.). This statutory statement currently does not specifically cite “economic development” as being within the mission of the state system of postsecondary education.

Investments of Florida Retirement System Funds: Chapter 121, F.S., governs the Florida Retirement System. The System Trust Fund is the trust fund established in the State Treasury for the purpose of holding and investing the contributions by members and employers of the Florida Retirement System and paying system benefits (s. 121.021(36), F.S.). The Board of Administration has responsibility for investing and reinvesting available funds of the System Trust Fund consistent with provisions contained in ch. 215, F.S. (s. 121.151, F.S.). The Investment Advisory Council is a six-member council that reviews the investments made by staff of the Board of Administration and that makes recommendations regarding investment policies, strategies, and procedures (s. 215.444, F.S.).

In 1995, the Board of Administration (board) contributed \$15 million toward the capitalization of the Cypress Equity Fund, which is a venture capital “fund of funds” concept developed by Enterprise Florida, Inc. (*See Office of Program Policy Analysis and Government Accountability, Review of the Enterprise Florida, Inc., Capital Development Board’s Cypress Equity Fund, Report No. 98-33, December 1998, p. 2.*) The board and five financial institutions contributed a total of \$35.5 million, which has been invested in a portfolio of venture capital funds formed by professional venture capitalists, who, in turn, invest in individual businesses according to their individual investment criteria. This approach differs from a concept in which direct investments are made in individual companies.

Effect of Proposed Changes: The committee substitute provides policies that promote a business climate in the state conducive to the growth of high-technology businesses by encouraging increased access to capital and skilled workers, by including economic development within the mission of the postsecondary education system, and by specifically including the information-technology industry within the scope of certain existing economic development incentive programs. Portions of the committee substitute emanate from recommendations of the Information Service Technology Development Task Force.

Section 10 creates s. 121.155, F.S., relating to investments of the Florida Retirement System in support of the state’s economic development goals. This new section of the Florida Statutes contains legislative findings that access to capital affects the growth of high technology businesses in the state and that the State Board of Administration (SBA), by virtue of its authority to invest state retirement system dollars, can influence the availability of capital for such businesses. The committee substitute expresses the intent of the Legislature that the SBA

maximize opportunities to invest state retirement system dollars in a manner that complements economic development goals, such as investing funds in support of emerging and strategic technology businesses in the state and forming partnerships with venture capital firms to encourage investment of venture capital funds in these businesses. The committee substitute requires the SBA to solicit information from Enterprise Florida, Inc. (EFI), on state economic development goals; to share such information with the SBA's Investment Advisory Council; and to report to the Legislature on the SBA's activities that further the legislative findings and intent.

Sections 11 and 12 amends ss. 159.26 and 159.27, F.S., the "Florida Industrial Development Financing Act," to specify that activities promoting the advancement of information technology and projects comprising information technology facilities are eligible for bond financing under the act. Further, the committee substitute provides a definition of the term "information technology facility," which specifies – by North American Industry Classification System (NAICS) codes – the types of businesses included within the term.

Section 13 amends s. 159.705, F.S., relating to the powers of a research and development authority. The committee substitute specifies that a project that is located in a research and development park and that is financed through the Industrial Development Financing Act may be operated by a research and development authority, a state university, a state community college, or a governmental agency if the purpose and operation of the project are consistent with the policies governing research and development authorities.

Section 14 amends s. 240.105, F.S., to provide that the mission of the state system of postsecondary education includes promoting "the economic development of the state."

Section 15 amends s. 240.710, F.S., to provide for continued functioning of the Digital Media Education Coordination Group that was created in 2000 to develop a plan for enhancing the state's ability to meet the workforce needs of the digital media industry. The committee substitute provides for the coordination group to be formed within the purview of the Division of Colleges and Universities at the Department of Education, rather than by the Board of Regents. Obsolete provisions related to the development of the plan are deleted, as the plan was submitted to the Legislature in January 2001. The committee substitute provides, however, for the coordination group to continue to work on the issue of enhancing the state's ability to meet the industry's workforce needs. This section specifies that the coordination group shall work with the Division of Community Colleges; the Office of Tourism, Trade, and Economic Development; and the Articulation Coordinating Committee. The coordination group is required to report annually to the Florida Board of Education.

Section 16 amends s. 288.108, F.S., relating to a grant program for high-impact businesses, to expressly provide that the "information technology sector" is comprised of the types of businesses that produce the high impact the incentive is designed to encourage.²¹ This revision also provides that for the purposes of this economic development incentive, as well as the capital investment tax credit under s. 220.191, F.S., the information technology sector encompasses the digital media sector as defined by Enterprise Florida, Inc., and the Office of Tourism, Trade, and

²¹ According to the Governor's Office of Tourism, Trade, and Economic Development, eligibility for the information-technology sector has already been established for this grant program through an administrative process outlined in statute.

Economic Development. This section also replaces the term “silicon technology” with the term “semiconductor technology” for purposes of this industry’s existing designation as a high-impact business.

Section 17 amends s. 445.045, F.S., relating to development of an Internet-based system for information technology industry promotion and workforce recruitment. The committee substitute reassigns responsibility for the development and maintenance of this website to Workforce Florida, Inc. (WFI), from the Department of Labor and Employment Security. The committee substitute also charges WFI with ensuring coordination and compatibility between the website operated under this section and the larger workforce information system required under s. 445.011, F.S. WFI also must coordinate its efforts with the efforts of Enterprise Florida, Inc., to develop a high-technology marketing campaign as required by s. 288.911, F.S. In addition, WFI is to work with the State Technology Office to ensure consistency with the state’s information system strategy and enterprise architecture. The committee substitute authorizes WFI to contract with public agencies for assistance in developing and maintaining the website, and it also authorizes WFI to procure services necessary to fulfill its responsibilities under this section, provided it utilizes competitive procurement practices.

Section 18 expresses the Legislature’s intent to support the creation of joint-use advanced digital-media research and production facilities in Florida, to provide opportunities for collaboration between research and education programs and the digital-media industry. To that end, the committee substitute authorizes the Office of Tourism, Trade, and Economic Development (OTTED), subject to legislative appropriation, to create a program to facilitate establishment and maintenance of such facilities. OTTED is required to develop a strategic plan addressing the governance and funding of such facilities and may contract for the establishment of the facilities – maximizing the use and integration of existing facilities in the state that would be suitable as advanced digital-media facilities. The committee substitute authorizes funding provided under this section to be used to lease or refurbish existing facilities. Any entity receiving state funds under this program is required to match such funding with non-state sources. In addition, any facility receiving funds must submit an operating plan to OTTED for approval, which plan must provide for the creation of a tenant association and for the collection of dues from tenants to support operation and maintenance of the facility. The committee substitute authorizes OTTED to identify the specific types of businesses to be included within the meaning of “digital media” for the purposes of this section.

Section 19 requires the Office of Tourism, Trade, and Economic Development, the Office of the Film Commissioner, and the Digital Media Education Coordination Group to report to the Legislature by February 1, 2002, on a recommended funding level for the program to facilitate establishment of joint-use advanced digital-media research and production facilities. (*See* section 18, above.)

Florida Building Code (Sections 20 thru 31)

Present Situation: Building codes establish minimum safety standards for the design and construction of buildings by addressing such issues as structural integrity; mechanical, plumbing, electrical, lighting, heating, air conditioning, ventilation, fireproofing, and exit systems; safe materials; energy efficiency; and accessibility by persons with physical disabilities. In doing so,

these regulations protect lives and property, promotes innovation and new technology, and helps ensure economic viability through the availability of safe and affordable buildings and structures.

The reform of Florida's building codes system has been an issue within the construction industry for many years. It was not until Florida endured back-to-back natural disasters – Hurricane Andrew in August 1992, the “Storm of the Century” in March 1993, Tropical Storms Alberto and Beryl in the Summer of 1994, and Hurricanes Erin and Opal during the 1995 Hurricane Season – that the building code system's effectiveness took on statewide significance for the construction industry and all of the stakeholders in the building codes system, including local governments, the banking and real estate industries, the insurance industry, labor unions, state agencies, manufacturers, and Florida's citizens. While it was fortunate that these storms set no records with respect to loss of life, they (particularly Andrew) did break all records for insured losses. This was a direct cause of Florida's insurance crisis in the 1990's, which essentially affected every homeowner in the state.

In 1996, Governor Lawton Chiles established a Building Codes Study Commission to evaluate Florida's building codes system and develop recommendations to reform and improve it. The Governor appointed 28 members to the study commission, representing diverse stakeholders in the system, including building officials, local government officials, banking and real estate interests, the disabled, the design and construction industries, building owners, state agencies, and the general public.

In 1998, the study commission issued its findings and proposed a building codes system with the following characteristics:

- A single, statewide building code that would govern all technical requirements for Florida's public and private buildings and take into account appropriate local variations such as the following: climatic conditions, soil types, termites, weather-related events, and risks associated with coastal development;
- Local enforcement of the statewide building code, with updates and amendments accomplished by a newly constituted state-level entity;
- State review of decisions of local officials or boards of appeal, and state authority to issue binding interpretations to ensure statewide consistency;
- Strengthened enforcement and compliance to ensure accountability through expanded education and training of all participants involved in building construction, clear and precise definition of roles and responsibilities, and discipline; and
- A strong product evaluation and approval process which is responsible, streamlined, and fordable, and which promotes innovation and new technology.

The 1998 Legislature considered the findings and recommendations of the study commission and enacted major legislation reflecting a majority of its proposals. Chapter 98-287, L.O.F., implemented many of the study commission's recommendations, to include the development of a statewide unified building code.

On February 14, 2000, the commission adopted the Florida Building Code as an administrative rule and submitted it, together with proposed conforming amendments to the Florida Statutes, to

the 2000 Legislature for consideration. The commission also adopted the South Florida Building Code for application in Miami-Dade and Broward Counties.

In response, the Legislature adopted many of the recommended statutory changes submitted by the commission, directed the commission to incorporate specific changes to the adopted Florida Building Code, and directed the commission to study the applicability of the Florida Building Code to utility buildings and to recommend a statewide product approval system to the Legislature by February 2001 (ch. 2000-141, L.O.F.).

In the 2001 Regular Session, the Legislature delayed implementation of the Florida Building Code from July 1, 2001, to January 1, 2002. In addition, it adopted recommendations of the commission providing for a state product approval system, the applicability of the Florida Building Code to storage sheds, plan review of prototype buildings, license fees to fund research and education relating to the construction industry, construction permits, Code Commentary on the Florida Building Code, exemptions from fire safety provisions, and other issues relating to the Florida Building Code (ch. 2001-186, L.O.F.).

The law also contained provisions relating to water well contractors, inspection of factory-built school buildings, construction of swimming pools, the Building Code Training Program, development of a rehabilitation code, a study of the necessity for universal elevator keys for emergency personnel, and appointments to the Education Technical Advisory Committee of the Florida Building Commission.

The Florida Building Code is scheduled to be effective on January 1, 2002.

Effect of Proposed Changes: The committee substitute delays the effective date of the new Florida Building Code three months, from January 1, 2002, to April 1, 2002, and makes additional statutory changes or requirements related to the delay of this effective date.

Section 20 amends s. 553.415, F.S., s. 22 of ch. 2001-186, L.O.F., which provided for the incorporation of the Uniform Code for Public Educational Facilities into the new Florida Building Code. This provision changes the incorporation date from January 1, 2002, to April 1, 2002.

Section 21 delays the effective date, from January 1, 2002, to April 1, 2002, of changes to statutory provisions that implement portions of the new Florida Building Code made in the 2001 Regular Session.

Section 22 delays the effective date, from January 1, 2002, to April 1, 2002, of changes to statutory provisions that implement portions of the new Florida Building Code made in the 2000 and 2001 Regular Sessions.

Section 23 delays the effective date, from January 1, 2002, to April 1, 2002, of changes to statutory provisions that implement portions of the new Florida Building Code made in the 1998, 2000, and 2001 Regular Sessions.

Section 24 delays the effective date, from January 1, 2002, to April 1, 2002, of changes to s. 61, ch. 98-419, L.O.F., that implements a portion of the new Florida Building Code.

Section 25 delays the effective date, from January 1, 2002, to April 1, 2002, of changes to s. 135, ch. 2000-141, L.O.F., that implements a portion of the new Florida Building Code.

Section 26 delays the effective date, from January 1, 2002, to April 1, 2002, of changes to s. 62, ch. 98-287, L.O.F., that implements a portion of the new Florida Building Code.

Section 27 delays the effective date, from January 1, 2002, to April 1, 2002, of changes to s. 68, ch. 98-287, L.O.F., that implements a portion of the new Florida Building Code.

Section 28 amends s. 627.0629(1), F.S., to delay by three months the application of credits, discounts or other rate differentials insurance companies must make for properties built under the new Florida Building Code. This delay is consistent with the three-month delay of implementation of the new Florida Building Code.

The current statute requires, by December 31, 2002, insurance companies make a rate filing for residential property insurance that includes actuarially reasonable discounts, credits, or other rate differentials, or appropriate reductions in deductibles, for properties on which fixtures or construction techniques demonstrated to reduce the amount of loss in a windstorm have been installed or implemented. The fixtures or construction techniques include, but are not limited to, fixtures or techniques that enhance roof strength, roof covering performance, roof-to-wall strength, wall-to-floor-to-foundation strength, opening protection, and window, door, and skylight strength. Credits, discounts, or other rate differentials for fixtures and construction techniques that meet the minimum requirements of the Florida Building Code must be included in the rate filing.

Section 29 creates a new unspecified section of Florida law to address a glitch in the state minimum building code currently in effect. This provision clarifies that the updated codes approved since 1988 by the commission and adopted by local governments are in force until the new Florida Building Code becomes effective.

Section 30 creates a new unspecified section of Florida law to clarify that building permits applied for prior to the effective date of the new code are governed by the state minimum code in effect on the date of permit application. This same provision is specified in s. 25, ch. 2001-186, L.O.F. However, delaying the effective date of the new code will also delay the effective date of this provision.

Section 31 creates a new unspecified section of Florida law to require “local jurisdictions bisected or otherwise divided by a line separating wind speed zones” to enact ordinances establishing wind speed zone boundaries by January 1, 2002, three months before the effective date of the new Florida Building Code. This requirement is necessary to allow building professionals to design buildings that meet the requirements of the code.

Tourism Promotion (Section 32)

Present Situation: Created within the Office of Tourism, Trade, and Economic Development, the Florida Commission on Tourism oversees state efforts to increase the positive impact of tourism to all sectors of the economy through effective marketing activities (s. 288.1223, F.S.). The commission, which was created in 1991, contracts with the Florida Tourism Industry Marketing Corporation to carry out the programs and activities identified in the commission's four-year marketing plan. The Florida Tourism Industry Marketing Corporation conducts its business as Visit Florida.

Visit Florida is a public-private partnership that serves as an umbrella organization under which Florida's tourism promotional campaigns are coordinated (s. 288.1226, F.S.). Visit Florida's mission is to market and facilitate travel to and within Florida for the benefit of its residents, economy, and travel and tourism industry. Visit Florida's primary responsibilities include administering domestic and international advertising campaigns designed to promote the entire state as a tourism destination, conducting domestic and international promotional activities, managing the state's welcome centers, and conducting research on tourism and travel trends.

According to Visit Florida's staff, Visit Florida attempts to use Florida-based and minority-owned vendors whenever economically justifiable. However, in July and August 2001, in response to allegations from film industry professionals that certain state agencies consistently hire out-of-state production companies and/or production crews to staff and produce major commercial productions, the Governor's Office of Film and Entertainment (OFE) researched and compiled information regarding motion picture and/or video productions that were produced by or for a state agency and funded with state moneys during the past two years. The OFE found that three of the four projects produced by Visit Florida were produced in Florida by Florida-based production companies. Although the fourth project was produced in Florida by a California-based production company, 80 percent of the production crew were from Florida. Based on the data it collected, the OFE recommended that it:

- Conduct an annual awareness campaign, targeting state agency communications directors, regarding production resources available in the state;
- Disseminate an informational package, including a production guide, a guide to the filmmaking process, and a letter urging state agencies to utilize the OFE as their source for production resources in the state; and
- Publish on its website available bids for state-agency production work.

Additionally, on October 11, 2001, the Governor wrote a letter to tourism professionals throughout the state encouraging them to use Florida-based production resources when launching their new advertising campaigns, offering to post the tourism professionals' production-related bids on the OFE website, and recommending that the professionals contact the OFE or a local film office if they need production equipment, soundstage rentals, or unique filming locations.

Effect of Proposed Changes: The committee substitute requires Visit Florida and its contractors to "make every effort to give priority" to "Florida-based" and "minority-owned" vendors, subcontractors, and production companies when expending public funds for their "tourism promotion activities." Because the committee substitute uses imprecise terms to regulate Visit

Florida's expenditure of public funds for its tourism promotion activities, the Legislature may wish to amend the committee substitute utilizing terms that make the phrase "make every effort to give priority" more specific, provide criteria for defining "Florida-based" and "minority-owned" firms, and clarify which "tourism promotion activities" are governed by the legislation.

Effective Date (Section 33)

The committee substitute provides that it takes effect upon becoming a law, except as otherwise provided in the committee substitute.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The committee substitute has not been heard by the Revenue Estimating Conference.

Section 1: According to the *2001 Florida Tax Handbook*, the Capital Investment Tax Credit (CITC) is estimated to cost the state approximately \$500,000 annually.²² This estimate, however, is based on the CITC Program's strict eligibility requirements. Under current law, a qualifying project must create at least 100 jobs, result in at least \$25 million in cumulative capital investment, and be in a high-impact sector, including aviation, aerospace, automotive, and silicon technology.

The committee substitute relaxes, albeit temporarily, the CITC Program's eligibility requirements and award structure. A newly defined qualifying economic stimulus project must create at least 50 jobs, result in at least \$15 million in cumulative capital investment, and be in one of the numerous and varied industries eligible under the Qualified Target Industry Tax Refund Program. Depending on the number of businesses that are accepted into the program under these new criteria, the cost of the program could increase. Moreover, unlike the Qualified Defense Contractor and the Qualified Target Industry tax refund programs, the CITC Program is an uncapped tax credit program; tax

²² However, according to the Governor's Office of Tourism, Trade, and Economic Development (OTTED), no CITC projects have reached the stage where they are actually taking the CITC credit.

credits, unlike refunds, are managed by the Department of Revenue through the tax process and are not subject to legislative appropriation.

Sections 2-4: Section 288.095(3), F.S., imposes a cap on the total state share of Qualified Defense Contractor (QDC) Tax Refund Program and Qualified Target Industry (QTI) Tax Refund Program tax refund payments scheduled in all active certifications for a fiscal year. For fiscal year 2001-2002, the cap is \$30 million. During the 2001 Regular Session, the Legislature raised the cap in subsequent fiscal years to \$35 million. Regardless of the cap established in law, the total amount of tax refund claims approved for payment by the Governor's Office of Tourism, Trade, and Economic Development (OTTED) may not exceed the amount appropriated to the Economic Development Incentives Account for such purposes for the fiscal year.

By broadening QDC Program eligibility requirements and allowing QDC and QTI businesses that do not comply with their tax refund agreements to potentially remain in the programs for up to two years, room under the cap could more quickly disappear. The committee substitute also expands the conditions under which a prorated tax refund shall be approved, thus potentially keeping businesses in the programs that might normally have dropped out due to non-compliance with their tax refund agreements. Although OTTED's staff is not currently concerned about having enough room under the cap, they indicated that, should these provisions become law, they would have to more closely monitor the cap's status.

Furthermore, as a result of the amended QTI and QDC Program reporting/claims timelines, OTTED will be better able to gauge which businesses have submitted claims by the time the legislative session begins. Over a period of several years, this change will significantly reduce the amount of QTI and QDC Program funds appropriated over actual refund payments and eliminate the problem of excessive forward certification of QTI Program funds for payment after the end of the fiscal year. Conversion of existing agreements to the new timelines might be accelerated if businesses that are unable to meet the terms and conditions of their agreements qualify for and opt to exercise either an economic stimulus exemption or a prorated refund under the amended guidelines.

B. Private Sector Impact:

Section 1: The committee substitute temporarily broadens the eligibility criteria and award structure for the Capital Investment Tax Credit Program.

Sections 2-4: For the Qualified Defense Contractor (QDC) Tax Refund Program and Qualified Target Industry (QTI) Tax Refund Program, expanding the conditions for approving prorated tax refunds and allowing non-compliant businesses to remain temporarily in the program could allow businesses to remain in the program until the economy rebounds. The committee substitute might also help the state aviation industry, which has been hurt by the economic downturn, by amending the QDC Program to create a comparable tax refund program for qualified aviation-industry businesses. Qualified aviation-industry businesses would be eligible for refunds – equaling \$5,000 per job – of taxes previously paid.

Section 5: The Extended Homeownership Assistance Program will assist families to qualify for mortgage loans by providing funds for down payments and closing costs through no-interest loans. Presumably, the improved ability of these families to purchase homes will increase demand for mortgages, subject to the level of funding appropriated for the program. Thus, the committee substitute may, on the margin, also benefit financial institutions and the construction industry through the increased sale of homes.

Section 6: The committee substitute directs Enterprise Florida, Inc., to create a Small Business Crisis Management Team that can be activated quickly, for temporary periods of time, to assist small businesses in the state during periods of economic crisis or sustained economic weakness.

Sections 10-19: The provisions of the committee substitute relating to emerging and strategic technologies are designed to create a business climate in the state conducive to the retention, growth, and recruitment of high-technology businesses. Additionally, the committee substitute amends the “Florida Industrial Development Financing Act” to specify that activities promoting the advancement of information technology and projects comprising information technology facilities are eligible for bond financing under the act.

Sections 20-30: The committee substitute delays the effective date of the new Florida Building Code three months, from January 1, 2002, to April 1, 2002.

Section 32: The committee substitute requires Visit Florida and its contractors to “make every effort to give priority” to Florida-based and minority-owned vendors, subcontractors, and production companies when expending public funds for their tourism promotion activities.

C. Government Sector Impact:

Section 1: Because the committee substitute temporarily broadens the eligibility criteria and award structure for the Capital Investment Tax Credit Program, the Governor’s Office of Tourism, Trade, and Economic Development might have to certify more businesses under the program, and the Department of Revenue might have to develop more Capital Investment Tax Credit agreements.

Sections 2-4: Although expanding the conditions for approving prorated tax refunds and allowing non-compliant businesses to remain temporarily in the Qualified Defense Contractor (QDC) Tax Refund Program and the Qualified Target Industry (QTI) Tax Refund Program could cause the Governor’s Office of Tourism, Trade, and Economic Development to have to renegotiate several tax refund agreements, doing so will make the programs more efficient to administer. Moreover, changes to the reporting/claims timelines of these programs will improve the accuracy of the appropriations processes for these programs.

Section 5: The Extended Homeownership Assistance Program is subject to legislative appropriations. Thus, this provision will have no government sector impact beyond the

level of funding provided by the Legislature. Further, the committee substitute authorizes the Florida Housing Finance Corporation to collect a \$50 application fee for each loan, which is retained by the corporation to defray its costs of administering the program.

Section 6: The committee substitute directs Enterprise Florida, Inc., to create a Small Business Crisis Management Team that can be activated quickly, for temporary periods of time, to assist small businesses in the state during periods of economic crisis or sustained economic weakness. The committee substitute also directs the Office of Tourism, Trade, and Economic Development; Workforce Florida, Inc.; the Agency for Workforce Innovation; and the Department of Community Affairs to assist Enterprise Florida with the operation of the team.

Sections 7-9: The committee substitute provides that any county which has a population of more than 2.1 million people is required to schedule a countywide referendum giving voters the opportunity to approve the creation of an airport authority.

Sections 10-19: The precise impact of the provisions of the committee substitute relating to emerging and strategic technologies on the government sector is not known. The measure does require a number of actions by governmental or public-private entities, some of which include requiring:

- Staff of the Board of Administration to regularly solicit information from Enterprise Florida, Inc. (EFI), on economic development strategies.
- Workforce Florida, Inc. (WFI), to maintain a website promoting the information technology industry and providing for workforce recruitment.
- The Office of Tourism, Trade, and Economic Development, the Office of the Film Commissioner, and the Digital Media Education Coordination Group to report to the Legislature on a recommended funding level for the program to facilitate establishment of joint-use advanced digital-media research and production facilities.

Additionally, the committee substitute amends the “Florida Industrial Development Financing Act” to specify that activities promoting the advancement of information technology and projects comprising information technology facilities are eligible for bond financing under the act.

Section 31: The committee substitute requires “local jurisdictions bisected or otherwise divided by a line separating wind speed zones” to enact ordinances establishing wind speed zone boundaries by January 1, 2002, three months before the effective date of the new Florida Building Code. This requirement is necessary to allow building professionals to design buildings that meet the requirements of the code.

Section 32: The committee substitute requires Visit Florida and its contractors to “make every effort to give priority” to Florida-based and minority-owned vendors, subcontractors, and production companies when expending public funds for their tourism promotion activities.

VI. Technical Deficiencies:

In sections 18 and 19, the committee substitute includes references to the “Office of the Film Commissioner.” During the 2001 legislative session, the statutory name for the office was changed to “Office of Film and Entertainment.” *See* s. 5, ch. 2001-106, L.O.F.

In section 32, the committee substitute restricts the expenditure of public funds for tourism promotion activities by the “Florida Tourism Marketing Corporation.” The Florida Tourism Industry Marketing Corporation was established under s. 288.1226(2), F.S. The official name of the corporation filed with the Department of State is “Florida Tourism Industry Marketing Corporation”; however, the committee substitute’s reference to the corporation’s name does not include the word “Industry.” The Legislature may wish to amend the committee substitute to conform to the corporation’s official name.

VII. Related Issues:

None.

VIII. Amendments:

None.