

**STORAGE NAME:** h1281s1.frc.doc  
**DATE:** March 11, 2002

**HOUSE OF REPRESENTATIVES**  
**FISCAL RESPONSIBILITY COUNCIL**  
**ANALYSIS**

**BILL #:** CS/HB 1281  
**RELATING TO:** Brownfield Redevelopment  
**SPONSOR(S):** Fiscal Responsibility Council and Representative(s) Allen and others  
**TIED BILL(S):**

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

- (1) NATURAL RESOURCES & ENVIRONMENTAL PROTECTION YEAS 12 NAYS 0
  - (2) COMMITTEE ON FISCAL POLICY AND RESOURCES YEAS 14 NAYS 0
  - (3) FISCAL RESPONSIBILITY COUNCIL YEAS 17 NAYS 0
  - (4)
  - (5)
- 

I. SUMMARY:

The bill eliminates a local participation requirement for qualified targeted business participation in brownfields redevelopment bonus refunds and replaces an average annual pay requirement for participation in brownfields redevelopment bonus refunds with a benefits requirement.

The bill shall take effect upon becoming a law.

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**SUBSTANTIVE ANALYSIS:**

**A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:**

- |                                   |                                         |                             |                                         |
|-----------------------------------|-----------------------------------------|-----------------------------|-----------------------------------------|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u>             | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

**B. PRESENT SITUATION:**

The Legislature created the Brownfields Redevelopment Program in 1997. Brownfield sites are abandoned, idled, or underused industrial and commercial properties where expansion or development is complicated by actual or perceived environmental contamination. The Brownfields Redevelopment Program was intended to achieve the following goals:

- o reduce public health and environmental hazards on existing commercial and industrial sites;
- o help prevent the premature development of farmland, open space areas, and natural areas;
- o reduce public costs for installing new water, sewer, and highway infrastructure;
- o encourage responsible persons to implement cleanup plans without the use of taxpayer funds;
- o rehabilitate sites through clear, predictable remediation standards based on the actual risk that contaminated sites pose to the environment and public health;
- o address environmental and health consequences of hazardous sites on minority and poverty populations;
- o provide for public participation in program development; and
- o create jobs, reduce blight through economic revitalization in local communities, and increase capital investment and the local tax base.

According to Office of Program Policy Analysis and Government Accountability (OPPAGA) the program is a voluntary cleanup program in that cleanup actions are initiated by landowners and developers rather than by government regulatory actions. While the program provides various financial and regulatory incentives and assistance, landowners and developers are responsible for ensuring that the contamination at the site has been properly remediated. Under the program, local governments designate parcels to be included in a brownfield area. Local governments must also form advisory committees as a means to obtain public participation in designating brownfield areas. Currently, local governments have designated 45 brownfield areas in Florida encompassing 66,959 acres.

At the state level, three entities are involved in carrying out activities related to redeveloping brownfields: the Department of Environmental Protection, the Governor’s Office of Tourism, Trade, and Economic Development (OTTED), and Enterprise Florida, Inc. (EFI). OTTED is responsible for administering many of the brownfield incentives. One of these incentives is Brownfield Redevelopment Bonus Refunds.

### **Brownfield Redevelopment Bonus Refunds**

An eligible business redeveloping a site in a brownfield area may receive refunds of \$2,500 per job created at the designated site on various state and local taxes. No more than 25% of the total refund approved may be taken in any single fiscal year. In order to be eligible for this refund, a business must be a firm that has already been approved by OTTED to be eligible to receive tax refunds under s. 288.106, F.S., or meet other criteria, such as demonstrating a fixed capital investment of at least \$2 million in mixed-use business activities, and which pays wages that are at least 80% of the average of private sector wages in the county in which the business is located; and creates at least 10 new Florida full-time jobs, excluding construction and site remediation jobs. In order to receive the bonus incentive, a company must first apply to EFI. EFI staff assists companies in completing the applications and reports their recommendations regarding the application to OTTED. OTTED then makes the final decision on awarding the incentive. Local participation from counties, cities, and other private sector sources are required to provide 20% of the approved bonus refunds for qualified businesses. As of November 2001, brownfields redevelopment bonus refunds have been distributed to four firms that reported creating a total of 1,298 jobs. As of November 2001, OTTED had approved bonus refunds totaling \$2,588,750 of which \$60,942 had been paid to the brownfield redevelopers. According to OTTED staff, the bonus refund is usually paid to a business over a five to six-year period. However, a business does not receive the bonus refund in a given year if its wages or number of jobs fall below the 80% and 10 thresholds.

#### **C. EFFECT OF PROPOSED CHANGES:**

The bill does the following:

- eliminates a local participation requirement for qualified targeted business participation in brownfields redevelopment bonus refunds;
- eliminates the 80 percent average annual pay requirement for participation in brownfields redevelopment bonus refunds and replaces it with a benefits requirement; and
- provides clarifying language on the limits for bonus refunds.

This bill is expected to encourage small businesses and developers to participate in redevelopment activities on designated brownfield sites.

#### **D. SECTION-BY-SECTION ANALYSIS:**

See "Effect of Proposed Changes" section of this analysis.

### **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

##### **1. Revenues:**

None

##### **2. Expenditures:**

The impact on appropriations is indeterminate. The bill as amended would relax the requirements needed by developers to receive the approved refunds. As is noted in section I. B, currently there are \$2.6 million of approved refunds for all current and future years; however, only \$60,942 has been disbursed. Projected annual appropriations for the approved refunds

would be approximately \$500,000 per year for future fiscal years. This bill would increase the number of projects eligible for refunds. An estimate provided by OTTED suggested that annual appropriations would need to increase by at least \$100,000, but could increase by as much as \$500,000 in future fiscal years.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None

2. Expenditures:

There is an indeterminate savings to local governments by eliminating the local government participation requirement which is 20% of the bonus refunds.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The proposed bill may provide greater economic incentive for the private sector to redevelop brownfield contamination sites.

**D. FISCAL COMMENTS:**

None.

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

**A. APPLICABILITY OF THE MANDATES PROVISION:**

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

**B. REDUCTION OF REVENUE RAISING AUTHORITY:**

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

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

The bill does not reduce the percentage of state tax shared with counties and municipalities.

**IV. COMMENTS:**

**A. CONSTITUTIONAL ISSUES:**

None

**B. RULE-MAKING AUTHORITY:**

None

C. OTHER COMMENTS:

According to OPPAGA, OTTED staff and developers believe the program's incentives are insufficient to encourage developers to clean up and redevelop brownfield sites. They noted that in order to qualify for the bonus refund, a business must create at least 10 full-time, permanent jobs that pay at least 80% of the average wage in the county where the business is located. This requirement precludes the bonus refunds' use by smaller businesses that create many jobs in distressed areas. Changing this requirement to allow firms that employ fewer than 10 persons to receive incentives could make the program attractive to more developers.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 13, 2002, the Committee on Natural Resources and Environmental Protection adopted a strike-everything amendment. Detailed below are the changes:

Section 288.106, F.S., was amended to:

- o eliminate the requirement for a local municipality to adopt a resolution for approving a qualified target business for brownfield redevelopment;
- o eliminate the requirement for a local municipality to adopt a resolution for approving a local financial resolution for bonus refunds; and
- o raise the employee wages percentage from 50% to 60% for brownfield redevelopment sites.

OTTED has several problems with the bill as amended by Natural Resources and Environmental Protection. First, the amendment removes the local government's ability to approve or reject projects. According to OTTED, this contradicts a fundamental premise upon which the program was founded. Second, by changing the definition of "eligible business" to include wages that are at least 60 percent (instead of 80 percent) of the average of all private sector wages in the county in which the business is located, theoretically, a developer could receive the \$2,500 refund for an employee who is only earning \$9,500 per year (depending on the county).

On February 27, 2002, the Committee on Fiscal Policy and Resources adopted a strike-everything amendment that is traveling with the bill. This amendment changes the definition of a "local financial support exemption option" to include applicants whose projects are located in a brownfield area. This amendment changes the definition of an "eligible business" to exclude a wage threshold and include a benefits criteria. This amendment changes how bonus refunds are granted. This amendment directs how appropriations are to be used in s. 376.80, F.S. The amendment requires any undisbursed or unencumbered funds at the end of the fiscal year from the Quick-Response Training Program, brownfield redevelopment bonus refunds, and the state-owned lands clean-up program to be used for grants for assessment and remediation of brownfield sites in certain brownfield pilot projects.

On March 8, 2002, the Fiscal Responsibility Council adopted two amendments. The first amendment removed the language allowing the use of undisbursed or unencumbered appropriations in s. 376.80, F.S. The second amendment was a technical amendment to remove the Natural Resources and Environmental Protection traveling amendment. The Fiscal Responsibility Council incorporated these amendments into a Council Substitute.

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VI. SIGNATURES:

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