

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 2414

SPONSOR: Commerce and Economic Opportunities Committee and Senator Diaz de la Portilla

SUBJECT: Economic Stimulus

DATE: March 7, 2002 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bimholz / Gillespie / Cibula	Maclure	CM	Favorable/CS
2.	_____	_____	GO	_____
3.	_____	_____	FT	_____
4.	_____	_____	AGG	_____
5.	_____	_____	AP	_____
6.	_____	_____	_____	_____

I. Summary:

This committee substitute makes several changes to state economic development programs and incentives, as well as to other programs. These changes include:

- temporarily broadening the eligibility criteria and award structure of the Capital Investment Tax Credit Program;
- improving the efficiency of the budgeting process for the Qualified Defense Contractor (QDC) and Qualified Target Industry (QTI) tax refund programs;
- creating a tax refund program for qualified aviation-industry businesses similar to the current QDC Program;
- expanding the QDC and QTI programs' refund-prorating provisions for participating firms, and temporarily allowing firms that fail to meet agreed targets to request an exemption from losing tax refunds or certifications to remain in the program;
- expanding information sharing between the Department of Revenue and the Office of Tourism, Trade, and Economic Development with regard to certain economic development programs;
- directing 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;
- creating a self-employment-assistance program and the associated Self-Employment-Assistance Loan Program;

- reducing the amount of retaliatory insurance taxes levied by the state;
- amending legislative intent regarding the State Comprehensive Plan; and
- altering the policies and procedures of Enterprise Florida, Inc., with regard to assisting economically distressed communities.

The committee substitute substantially amends the following sections of the Florida Statutes: 14.2015, 187.101, 213.053, 220.191, 288.095, 288.1045, 288.106, 288.901, 288.9015, 443.111, and 624.5091. The committee substitute creates section 445.053, Florida Statutes. The committee substitute also creates unnumbered sections of the Florida Statutes.

II. Present Situation:

Florida's Economy

Parallel to the national economy, the September 11 terrorist attacks affected 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 began layoffs. The state's unemployment rate rose from 4.9 percent in August to 6.0 percent in December.¹ According to Enterprise Florida, Inc., approximately 22 companies currently approved under the Qualified Defense Contractor and Qualified Target Industry tax refund programs (*see* program descriptions, below) will not be able to meet job-creation targets as a result of the economic downturn and certain specific acts of terrorism and, thus, will be eliminated from the programs.^{2, 3}

Aviation was one of the sectors of the state economy hardest hit by the events of September 11.⁴ 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.⁵ 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.

¹ The state's unemployment rate dropped to 5.2 percent in January 2002. See Florida Agency for Workforce Innovation, *Florida Employment and Unemployment, January 2002*, March 1, 2002.

² Enterprise Florida, Inc., *EFI 2002 Legislative Priorities*, as adopted by the Enterprise Florida, Inc., Board of Directors on December 6, 2001, and Enterprise Florida, Inc., *2002 Legislative Recommendations*, as presented to the Senate Committee on Commerce and Economic Opportunities on February 7, 2002.

³ Created in 1992, Enterprise Florida, Inc., is a partnership between Florida's government and business leaders and is the principal economic development organization for the state (s. 288.901, F.S.).

⁴ Enterprise Florida, Inc., 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. *See* 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.

⁵ Enterprise Florida, Inc., *supra* note 3, at 4.

Capital Investment Tax Credit

Section 220.191, F.S., provides for the Capital Investment Tax Credit (CITC) Program to allow a “qualifying business” that 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 of Tourism, Trade, and Economic Development pursuant to s. 288.108(6), F.S., including, but not limited to, aviation, aerospace, automotive, and silicon technology industries.⁶

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.

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.⁷
- 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.

⁶ 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.

⁷ 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.

Economic Development Trust Fund

Section 288.095, F.S., creates the Economic Development Trust Fund within the Governor's Office of Tourism, Trade, and Economic Development (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 Tax Refund Program (QDC Program) (s. 288.1045, F.S.) and the Qualified Target Industry Tax Refund Program (QTI 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 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.

Tax Refund Program for Qualified Defense Contractors

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 Tax Refund Program (QDC 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, 1994.⁸

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 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

⁸ 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.

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.).

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.⁹ 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.

The following are the results of the QDC Program for all active and completed projects through June 30, 2001:¹⁰

	Number of Projects	Direct Jobs Created / Retained	Average Wage Per Direct Job Created / Retained	Indirect Jobs Created	Capital Investment	Certified Incentive
Active	2	350	\$53,472	331	\$8.1 million	\$1.6 million
Complete	2	390	\$28,518	387	\$6.1 million	\$1.9 million

Tax Refund Program for Qualified Target Industry Businesses

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. The following are the results of the QTI Program for all active projects through June 30, 2001:¹¹

Number of Projects	Direct Jobs Created	Average Annual Wage Per Direct Job	Indirect Jobs	Capital Investment	Certified Incentive
229	54,332	\$36,914	61,163	\$5.2 billion	\$209.2 million

Section 288.106(4), F.S., requires each QTI Program business to enter into a written agreement with 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

⁹ Although the Governor’s Office is subject to the provisions of ch. 120, F.S., the use of the term “final order” with regard to the application and refund processes in ss. 288.1045 and 288.106, F.S., appears to be inconsistent with the term’s definition under the chapter. (See s. 120.52(1) and (7).) According to staff of the Governor’s Office of Tourism, Trade, and Economic Development (OTTED), the actions referred to in s. 288.1045, F.S., are actually preliminary rather than final. As such, the actions are subject to appeal prior to the issuance of a final order. (See s. 120.569, F.S., and rule 28-106.111, F.A.C.) Final orders are then also subject to appeal (s. 120.68, F.S.).

¹⁰ See Office of Tourism, Trade, and Economic Development, *2001 Programs Funded From the Economic Development Trust Incentives Account*, p. 29.

¹¹ See *Id.* at p. 24.

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.¹² 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's 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

¹² Due to its similar structure, the Qualified Defense Contractor Tax Refund Program is subject to the same situation, although to a lesser extent due to its smaller size.

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 (s. 288.095(3)(b), F.S.). The businesses would 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. 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.

Department of Revenue Confidentiality and Record Sharing Requirements

Section 213.053, F.S., sets forth confidentiality and information sharing requirements for the Department of Revenue with regard to tax administration matters, including payment information related to OTTED. Specifically, s. 213.053(7)(k), F.S., states that the department may provide payment information relating to chs. 199, 201, 212, 220, and 221, F.S., (relating to intangible personal property taxes, excise tax on documents, tax on sales, use, and other transactions, corporate income tax, and tax on particular corporate income taxpayers, respectively) to OTTED in its administration of the tax refund program for qualified defense contractors (s. 288.1045, F.S.) and the tax refund program for qualified target industry businesses (s. 288.106, F.S.).

Florida Small Business Council

Created in 1992, Enterprise Florida, Inc., is a partnership between Florida's government and business leaders and is the principal economic development organization for the state (s. 288.901, F.S.). In 1999, pursuant to s. 288.904(1)(l), 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.

Federal Self-Employment Assistance Program

In 1993, as part of the federal law to ratify the North American Free Trade Agreement (NAFTA), the United States Congress amended the Federal Unemployment Tax Act (26 U.S.C. ss. 3301-3311) to allow each state to establish a self-employment assistance program as part of the state's unemployment compensation system.¹³ Originally authorized as a temporary program for five years after the ratification of NAFTA, the self-employment assistance program was designed to benefit workers who were dislocated because of NAFTA. The traditional unemployment compensation system is primarily designed to provide income support for workers who are temporarily laid off or who expect to be unemployed for a short time. Because NAFTA had the potential to cause some workers to lose their jobs permanently, the self-employment assistance program was designed to assist workers in starting new careers in self-employment. In 1998, Congress repealed the sunset of the self-employment assistance program, thereby establishing it as a permanent program.¹⁴ Seven states currently operate the program: Delaware, Maine, Maryland, New Jersey, New York, Oregon, and Pennsylvania.¹⁵

The self-employment assistance program is designed to encourage and enable unemployed workers to create their own jobs by starting a business. Under the program, the state pays a self-employment assistance allowance, in lieu of regular unemployment compensation, to help unemployed workers while they establish businesses and become self-employed. Instead of searching for a salary or wage job, participants must engage full-time in activities relating to the establishment of their businesses and becoming self-employed. Participants must also attend state-approved programs, including entrepreneurial training, business counseling, and technical assistance.

To be eligible, an individual must first be eligible to receive regular unemployment compensation. Individuals who are permanently laid off from their previous jobs and who are identified as likely to exhaust regular unemployment compensation are eligible to participate in the program. To identify those individuals likely to exhaust regular benefits, most states use a profiling system comprised of an exhaustion prediction algorithm, which is a formula-driven statistical analysis. The Agency for Workforce Innovation currently uses a similar profiling system for determining eligibility for reemployment services.¹⁶

Participants receive self-employment assistance allowances in the same amounts, at the same intervals, on the same terms, and subject to the same conditions as regular unemployment compensation, but earned income from self-employment does not disqualify an individual from continued participation in the program. Federal law limits the number of participants in the self-employment assistance program to no more than 5 percent of those receiving regular

¹³ North American Free Trade Agreement Implementation Act, s. 507, Pub. L. No. 103-182 (codified at 26 U.S.C. s. 3306(t)).

¹⁴ Noncitizen Benefit Clarification and Other Technical Amendments Act of 1998, s. 3, Public L. No. 105-306.

¹⁵ William T. Kosanovich et al., DTI Associates, Inc., *Final Report: Comprehensive Assessment of Self-Employment Assistance Programs* (Office of Workforce Security, U.S. Department of Labor, June 2001), available at <http://wdr.doleta.gov/owsdrr/papers/sea.pdf>.

¹⁶ Section 443.091(1)(d), F.S.; rule 60BB-3.028, F.A.C.

unemployment compensation, and the self-employment assistance program is prohibited from imposing costs on the state's Unemployment Compensation Trust Fund exceeding the costs the trust fund would have incurred if the state had not participated in the program.

Insurance Premium Tax

Taxes are imposed on insurance premiums and paid by insurance companies at the following rates: 1.75 percent on gross premiums minus reinsurance and return premiums; 1 percent on annuity premiums; 1.6 percent on self-insurers; and 5 percent on surplus lines premiums.¹⁷ A credit is allowed against the premium tax equal to 15 percent of the amount paid by an insurer in salaries to employees located or based in Florida who are covered by unemployment compensation (s. 624.509(5), F.S.).¹⁸ This credit, in combination with corporate taxes under chs. 220 and 221, F.S., may not exceed 65 percent of the tax due for the calendar year (s. 624.509(6), F.S.).¹⁹

Section 624.5091, F.S., provides for the state to charge a retaliatory tax.²⁰ Retaliatory taxes are assessed on licensed foreign or alien insurers when their states of incorporation assess higher aggregate taxes, fees, and assessments on the writing of insurance by Florida domiciled insurers than Florida assesses on foreign insurers writing insurance in this state.²¹ The purpose of retaliatory taxes is to equalize taxation of insurers in Florida and other states when other states place an overall higher tax burden on Florida insurers than this state places on insurers from such other states. Moreover, such taxes are intended to encourage more equal treatment of insurers by other states, thereby allowing Florida domiciled insurers equal access to markets in other states. Section 624.5091(1), F.S., provides that, in determining the retaliatory taxes to be imposed under this section, 80 percent of the credit provided under s. 624.509(5), F.S., (as limited by other subsections of s. 624.509, F.S.) must not be considered.

State Comprehensive Plan

Section 187.101, F.S., describes and provides legislative intent for the State Comprehensive Plan (plan). The plan must provide long-range policy guidance for the orderly social, economic, and physical growth of the state. It is intended to be a direction-setting document, and its policies may be implemented only to the extent that financial resources are provided pursuant to

¹⁷ See Senate Finance and Taxation Committee, et. al., *2001 Florida Tax Handbook*, p. 68. See also ss. 624.509, 624.4621, 624.475, and 626.932, F.S.

¹⁸ Senate Finance and Taxation Committee, et. al., *supra* note 17, at 68.

¹⁹ *Id.*, p. 69.

²⁰ Nearly every state levies retaliatory taxes under some circumstances. See *id.*, p. 70.

²¹ The following description of the concept of "retaliatory taxes" is drawn from and based on s. 624.5091, F.S., and the following sources: Texas Office of the Comptroller, *Insurance Tax Procedures Manual, Chapter 10 – Retaliatory Tax*, at <http://www.window.state.tx.us/taxinfo/audit/insuranc/10retali.htm>, March 1999 (last visited March 6, 2002), and Martin F. Grace, *Insurance Taxation in Georgia: Analysis and Options*, FRP Report No. 17, July 1998, p. iii (may be accessed at <http://rmictr.gsu.edu/Premtax98/FRPR17.pdf>).

legislative appropriation or grants or appropriations of any other public or private entities. The plan does not create regulatory authority or authorize the adoption of agency rules, criteria, or standards not otherwise authorized by law. This section further provides that the goals and policies contained in the plan must be reasonably applied where they are economically and environmentally feasible, not contrary to the public interest, and consistent with the protection of private property rights.

Enterprise Florida, Inc.

Enterprise Florida, Inc., (EFI) is a public-private partnership and is the principal economic development organization for the state. EFI is responsible to provide leadership for business development in Florida by aggressively establishing a unified approach to Florida's efforts of international trade and reverse investment; by aggressively marketing the state as a pro-business location for potential new investment; and by aggressively assisting in the retention and expansion of existing businesses and the creation of new businesses (s. 288.9015(1), F.S.). It is also EFI's responsibility to aggressively market Florida's rural communities and distressed urban communities as locations for potential new investment, to aggressively assist in the retention and expansion of existing businesses in these communities, and to aggressively assist these communities in the identification and development of new economic development opportunities for job creation. EFI is funded under a performance-based contract with the Office of Tourism, Trade, and Economic Development (s. 288.90151(6), F.S.).

EFI Board of Directors

The EFI board of directors (board) is composed of the following members:²²

- the Governor or the Governor's designee;
- the Commissioner of Education or the commissioner's designee;
- the Secretary of Labor and Employment or the secretary's designee;
- a member of the Senate;
- a member of the House of Representatives;
- the chairperson of the board of Workforce Florida, Inc.;
- six private sector members appointed by the Governor;
- three private sector members appointed by the President of the Senate;
- three private sector members appointed by the Speaker of the House of Representatives;
- the Secretary of State or the secretary's designee; and
- an unspecified number of at-large members appointed by the members of the EFI board.

The private sector members must include seven individuals experienced in international business with expertise in finance, law, and manufacturing.²³ Under the current structure of the board of

²² Section 288.901(3) and (11), F.S.

²³ *Id.*

directors, the board may also include representatives from urban or rural economic or community development organizations; however, there are no dedicated positions. EFI has 36 members on its board of directors.²⁴

The EFI board is responsible for annually developing a strategic plan containing measurable performance standards for the economic development of the state (s. 288.905, F.S.). The board is also required to coordinate with local and regional economic development organizations (s. 288.905(5), F.S.).

OPPAGA Report

The Office of Program Policy Analysis and Government Accountability (OPPAGA) recently issued a report of its review and evaluation of Enterprise Florida, Inc.²⁵ The report concludes that EFI has met its standards for helping to create and retain jobs in urban distressed areas, but the link between its strategies and job creation in these areas is questionable.²⁶ The report also concludes that EFI has met its standards for helping to create and retain jobs in rural distressed areas, but some rural economic development organizations want certain types of assistance not provided by EFI.²⁷

Customer Satisfaction Survey

EFI is required to annually report on the results of a customer-satisfaction survey of businesses served and local economic development organizations (s. 288.90151(7), F.S.). The most recent survey results from local economic development organizations found that 81.6 percent were aware of EFI's services for urban core areas and 83.8 percent were aware of EFI's services for rural areas. Of the local economic development organizations that used EFI's services for urban core areas, 54.5 percent felt that the service was useful or very useful. One hundred percent of the local economic development organizations using EFI's services for rural areas felt that the service was useful or very useful. Survey results from businesses served by EFI found that 21.3 percent were aware of EFI's services for urban core areas and 24.4 percent were aware of EFI's services for rural areas. Of the businesses using EFI's services for urban core areas, 33.3 percent felt that the service was useful or very useful. One hundred percent of the businesses using EFI's services for rural areas felt that the services were useful or very useful.²⁸

²⁴ Enterprise Florida, Inc., *About Us*, at http://www.eflorida.com/all_about.html (last visited March 7, 2002).

²⁵ Office of Program Policy Analysis and Government Accountability, *Concerns Over Enterprise Florida's Performance, Services to Distressed Areas Point to a Need to Consider Several Alternatives for its Future Role*, Report No. 01-62, December 2001.

²⁶ *Id.*, p. 6.

²⁷ *Id.*, p. 8.

²⁸ Ernst & Young, LLP, *2001 Customer Satisfaction Survey Results for Enterprise Florida, Inc.*, pp. 6-7, August 10, 2001.

III. Effect of Proposed Changes:

This committee substitute makes several changes to state economic development programs and incentives, as well as to other programs. These changes include:

- temporarily broadening the eligibility criteria and award structure of the Capital Investment Tax Credit Program;
- improving the efficiency of the budgeting process for the Qualified Defense Contractor (QDC) and Qualified Target Industry (QTI) tax refund programs;
- creating a tax refund program for qualified aviation-industry businesses similar to the current QDC Program;
- expanding the QDC and QTI programs' refund-prorating provisions for participating firms, and temporarily allowing firms that fail to meet agreed targets to request an exemption from losing tax refunds or certifications to remain in the program;
- expanding information sharing between the Department of Revenue and the Office of Tourism, Trade, and Economic Development with regard to certain economic development programs;
- directing 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;
- creating a self-employment-assistance program and the associated Self-Employment-Assistance Loan Program;
- reducing the amount of retaliatory insurance taxes levied by the state;
- amending legislative intent regarding the State Comprehensive Plan; and
- altering the policies and procedures of Enterprise Florida, Inc., with regard to assisting economically distressed communities.

The following is a section-by-section analysis of the committee substitute.

Section 1 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" in this state and that is certified by the Governor's Office of Tourism, Trade, and Economic Development (OTTED) on or before December 31, 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 would be eligible for consideration as a qualified target industry business under s. 288.106, F.S. (a much broader category than the High-Impact Business Performance Incentive Grants Program, under

which projects are qualified in current law).²⁹ 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 after January 1, 2002, but on or before July 31, 2003.

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.
- 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” on which construction has begun after January 1, 2002, but on or before July 31, 2003, (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.

Section 2 amends s. 288.095, F.S., by conforming certain terminology to changes made in the timeline for approval of Qualified Defense Contractor Tax Refund Program (QDC Program) and Qualified Target Industry Tax Refund Program (QTI Program) 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 in the collection of data related to business performance and incentive payments.

Section 3 amends the Qualified Defense Contractor Tax Refund Program (QDC 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

²⁹ Section 288.106, F.S., describes the Qualified Target Industry Tax Refund Program (QTI 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.

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 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 or specific acts of terrorism 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. Additionally, this committee substitute changes certain references relating to OTTED's administration of the QDC Program in order to make those references more accurately reflect OTTED's compliance with the provisions of the Administrative Procedure Act.

Section 4 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 or specific acts of terrorism 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 a business 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, specify 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 Program may not be used for any purpose other than the payment of tax refunds authorized by s. 288.106;
- Changes certain references relating to OTTED’s administration of the QTI Program in order to make those references more accurately reflect OTTED’s compliance with the provisions of the Administrative Procedure Act; and
- Reenacts s. 288.106(7), F.S., which provides for a repeal of s. 288.106, F.S., on June 30, 2004.

Section 5 amends s. 14.2015(2)(f)1., F.S., (relating to the creation, powers, and duties of OTTED) to clarify that a reference to s. 288.1045, F.S., applies to both qualified defense contractors and, as provided in section 3 of this committee substitute, qualified aviation-industry businesses.

Section 6 amends s. 213.053(7)(k), F.S., to expand information-sharing between the Department of Revenue (DOR) and OTTED in the following ways:

- In addition to current information-sharing, DOR would be able to provide to OTTED:
 - payment information relating to s. 206.9825, F.S., (aviation fuel tax) and ch. 624, F.S., (insurance premium tax) in the administration of the tax refund program for qualified defense contractors and aviation-industry businesses authorized by s. 288.1045, F.S., and the tax refund program for qualified target industry businesses authorized by s. 288.106, F.S.; and
 - information relating to tax credits taken by businesses under s. 220.191, F.S, and exemptions or refunds received by businesses under s. 212.08(5)(j), F.S., in the administration and evaluation of the capital investment tax credit program authorized in s. 220.191, F.S, and the semiconductor, defense, and space tax exemption program authorized in s. 212.08(5)(j), F.S.
- DOR would be able to provide to OTTED employees or agents of OTTED (as identified in writing by OTTED to DOR):
 - payment information relating to s. 206.9825, F.S., and chs. 199, 201, 212, 220, 221, and 624, F.S., in the administration of the tax refund program for qualified defense contractors and aviation-industry businesses authorized by s. 288.1045, F.S., and the tax refund program for qualified target industry businesses authorized by s. 288.106, F.S.; and
 - information relating to tax credits taken by businesses under s. 220.191, F.S, and exemptions or refunds received by businesses under s. 212.08(5)(j), F.S., in the administration and evaluation of the capital investment tax credit program

authorized in s. 220.191, F.S, and the semiconductor, defense, and space tax exemption program authorized in s. 212.08(5)(j), F.S.

Section 7 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
- Utilizing the eflorida.com website as a bulletin board for small businesses to gather current information on available assistance.

The committee substitute also directs OTTED; 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.

Section 8 provides a short title, specifying that the self-employment assistance program (*see* Section 9 of the committee substitute) and the Self-Employment-Assistance Loan Program (*see* Section 10 of the committee substitute) together may be cited at the “Florida Self-Employment and Enterprise Development Act.”

Section 9 amends s. 443.111, F.S., effective October 1, 2002, which governs the payment of unemployment compensation benefits. The committee substitute creates a self-employment-assistance program, implementing authority in the Federal Unemployment Tax Act. Under the program, the committee substitute provides for the payment to eligible individuals of self-employment-assistance allowances, in lieu of regular unemployment compensation benefits. Instead of searching for a salary or wage job, the committee substitute requires participants to engage full-time in activities related to establishing businesses and becoming self-employed. The following summarizes the major program components:

- *Eligibility:* To be eligible, an individual must first be eligible to receive regular unemployment compensation. Individuals who are permanently laid off from their previous jobs and who are identified by an eligibility-assessment system as likely to exhaust regular unemployment compensation are eligible to participate in the program. An eligible individual must apply for the program within 60 days after filing for unemployment, must have at least 18 weeks of unemployment benefits remaining, and must not have previously participated in the program.
- *Eligibility-Assessment System:* For determining eligibility, the Agency for Workforce Innovation is required to establish a system to identify unemployed individuals who are likely to exhaust regular unemployment compensation benefits. The system may be the same as the existing profiling system used to determine eligibility for reemployment services.
- *Training and Counseling Programs:* Each participant in the self-employment-assistance program must attend entrepreneurial training, business counseling, and technical assistance programs. These programs must be approved by the Agency for Workforce Innovation. Workforce Florida, Inc., is directed to adopt the minimum standards for these training and counseling programs and to contract with existing providers (e.g., Small Business Development Centers) using funds provided to the workforce system (i.e., funds from the federal Workforce Investment Act and Temporary Assistance for Needy Families block grants).
- *Disqualification:* Each participant in the program is required to document attendance of the training and counseling programs and participation in the full-time activities related to establishing a businesses and becoming self-employed. If an individual fails to engage in the required activities and programs in any week, the individual is disqualified from receiving an allowance for that week. If the individual is disqualified in two consecutive weeks or for any three weeks, the individual is removed from the program.
- *Allowances:* Participants in the program receive self-employment-assistance allowances in the same amounts, at the same intervals, on the same terms, and subject to the same conditions as regular unemployment compensation, but earned income from self-employment does not disqualify an individual from continued participation in the program. In addition, requirements for registering for work, ability to work, availability for work, and failing to apply for or accept suitable work, do not apply to participants. Allowances are paid from the Unemployment Compensation Trust Fund but are not charged to the accounts of contributory employers. Reimbursable employers are, however, required to make reimbursements for the allowances.
- *Participation Limit:* The number of participants in the program is limited to 1 percent of those receiving regular unemployment compensation. The Agency for Workforce Innovation can further restrict participation based upon the availability of training and counseling programs or funding.
- *Rules:* The Agency for Workforce Innovation is directed to adopt rules for administration of the program.

- *Evaluations and Recommendations:* The Agency for Workforce Innovation, Workforce Florida, Inc., and the regional workforce boards are required to report to the Governor and the Legislature on the effectiveness of the program by January 1, 2007.
- *Conflicts:* The committee substitute provides that, if it conflicts with federal requirements, the federal requirements control.
- *Expiration:* The self-employment-assistance program expires July 1, 2007.

Section 10 creates s. 445.053, F.S., effective October 1, 2002, establishing a Self-Employment-Assistance Loan Program to provide micro-loans to participants of the self-employment-assistance program in order to assist participants in establishing businesses through supplying start-up capital. To be eligible for a loan, participants must apply within one year after completing the training and counseling programs approved by the Agency for Workforce Innovation. Participants may receive follow-up loans within three years after completing the required programs, but the total of all loans received may not exceed \$10,000. Funding for the loans is subject to specific legislative appropriation (*see* section 16). The committee substitute requires the Agency for Workforce Innovation to contract with qualified entities to make and service the loans. These qualified entities may include financial institutions, nonprofit organizations that have demonstrated fiduciary integrity, or government agencies acting in cooperation with nonprofit organizations. Workforce Florida, Inc., is directed to select the qualified entities and negotiate the terms and conditions of the contracts. The contracts must require that loan repayments be used only for the loan program (*e.g.*, making loans to other program participants). The committee substitute also directs that business counseling and technical assistance programs should be extended during the first year after an individual receives a loan. The loan program expires three years after the self-employment-assistance program expires or is repealed.

Section 11 amends s. 624.5091(1), F.S., to increase the percentage of the salary credit provided under s. 624.509(5), F.S., which is exempt from consideration when the state calculates the amount of retaliatory taxes to levy against a foreign insurer. Specifically, this section increases the percentage from 80 percent to 90 percent effective January 1, 2003, and from 90 percent to 100 percent effective January 1, 2004. These amendments have the effect of lowering the amount of retaliatory taxes imposed by the state on foreign insurers.

Section 12 amends s. 187.101, F.S., to provide additional legislative intent regarding the State Comprehensive Plan. More specifically, this section provides that “[t]he highest priorities of the state are to achieve a diverse, healthy, vibrant, and sustainable economy while enhancing natural resources and protecting private property rights.” Further, this section states that, by making strategic growth-management decisions that increase workforce income, there will be more revenue for state and local government. This revenue can then be used to pay the “five major expenses of state and local governments”: education, infrastructure, environment, public safety, and social services.

Section 13 amends, effective July 1, 2002, s. 288.901, F.S., to increase the number of members on the Enterprise Florida, Inc., board of directors by requiring the addition of a representative of a local or regional economic-development or community-development organization serving urban economically distressed communities and a representative of a local or regional economic-

development or community-development organization serving rural economically distressed areas. The Governor shall appoint the additional representatives.

Section 14 amends s. 288.9015, F.S., to specify that Enterprise Florida, Inc., (EFI) must aggressively market the state's "economically" distressed urban communities (as opposed to marketing "distressed urban communities" under current law). EFI is also directed not only to market, but also to "facilitate the use of," state economic development incentives in economically distressed areas. This section adds the high-impact performance grants under s. 288.108, F.S., and contracts for transportation projects under s. 288.063, F.S., to the list of examples of state incentive programs to be marketed to and used in the state's economically distressed areas.

Section 15 creates an unnumbered section of Florida Statutes to direct EFI to implement a comprehensive program of activities designed specifically to facilitate economic development in economically distressed areas. In accordance with that instruction, criteria for designating economically distressed communities are provided, and EFI is required to create a programmatic unit for facilitating business formation and expansion in, and relocation to, economically distressed communities. EFI is also required to establish at least seven regions around the state to facilitate service-provision to economically distressed communities.

Economically Distressed Communities Programmatic Unit. The section requires EFI to establish a programmatic unit, dedicated to facilitating business formation and business expansion in, as well as business relocation to, economically distressed communities.

Economically Distressed Community Regions. The section requires EFI to establish at least seven regions around the state assigned to a regional representative who is a member of EFI's staff to serve as liaison between EFI and a region. The duties of regional representatives include: coordinating with economic development and community development organizations serving economically distressed communities; providing information about potential locations for business development within economically distressed communities; and assisting existing businesses in economically distressed communities to sustain or expand their operations.

Indicia of Economically Distressed Communities. The section provides that the indicia of an economically distressed community include: few state economic development projects; relatively slow job growth; many abandoned business properties; relatively high rate of unemployment or underemployment; and not being targeted for revitalization under a state or federal program or not having experienced marked revitalization under such a program.

EFI Responsibilities. To improve economically distressed communities, this section requires EFI to:

- promote the services offered by regional representatives;
- identify and market properties suitable for economic development;
- work with Workforce Florida, Inc., and the Agency for Workforce Innovation to enhance labor skills;
- market and use all economic development incentives available; and

- coordinate with other agencies to maximize the availability of economic opportunities.

Performance Measures. EFI is required to consult with OPPAGA to develop performance measures to assess the changes in economic activity in economically distressed areas as the result of EFI's activities required by this section.

Reporting and Feedback to Legislature. EFI is required to include in its annual report feedback on the success or failure of its use of regional representatives and recommendations regarding whether the use of regional representatives should be expanded. EFI must include in its annual report a discussion of whether it achieved the performance measures directed to be created in this section. EFI is further required to recommend revisions to existing incentive programs, but these recommendations are not required to be in EFI's annual report.

Section 16 appropriates \$1 million to fund the Self-Employment-Assistant Loan Program during fiscal year 2002-03, which is provided from the General Revenue Fund. (*See* Section 10 of the committee substitute.)

Section 17 provides that, except as otherwise specifically provided in this act, this act shall take effect upon becoming a law.

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:

Section 1. The Revenue Estimating Conference estimates the fiscal impact of section 1 of this committee substitute (amending s. 220.191, F.S., relating to the Capital Investment Tax Credit Program) to be a FY 2002-03 General Revenue loss of \$3.0 million with an annualized first-year loss of \$11.5 million.

Issue/Fund	Fiscal Year 2002-2003							
	General Revenue		Trust		Local		Total	
	1st Year	Recurring	1st Year	Recurring	1st Year	Recurring	1st Year	Recurring
Amendment to CITC Program	\$ (3.0)	\$ (11.5)	\$ 0.0	\$ 0.0	\$ 0.0	\$ 0.0	\$ (3.0)	\$ (11.5)

Sections 2-4. Section 288.095(3), F.S., imposes a cap on the total state share of Qualified Defense Contractor Tax Refund Program (QDC Program) and Qualified Target Industry Tax Refund Program (QTI 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 because such businesses are required, under the provisions created by this committee substitute, to renegotiate their tax refund agreements to ensure that the terms of the agreements comply with current law and OTTED procedures governing application for and award of tax refunds, including the amended reporting/claims timelines.

Section 9. The Agency for Workforce Innovation estimates that \$6.2 million in additional unemployment benefits would be paid each year from the Unemployment Compensation Trust Fund. The committee substitute’s payments of self-employment-assistance allowances are not charged to the accounts of contributory employers but, instead, are charged to reimbursable employers. For contributory employers, the noncharging of these

benefits may cause a marginal increase in the noncharge adjustment factor, thereby socializing the cost of the program among all contributory employers in the state in order to replenish the trust fund. Reimbursable employers will reimburse the trust fund for the self-employment-assistance allowances charged to their accounts in the same manner that they would have reimbursed amounts paid for regular unemployment compensation benefits.

Section 11. The committee substitute amends s. 624.5091(1), F.S., to increase the percentage of the credit provided under s. 624.509(5), F.S., which is exempt from consideration when the state calculates the amount of retaliatory taxes to levy against a foreign insurer. Specifically, this section increases the percentage from 80 percent to 90 percent effective January 1, 2003, and from 90 percent to 100 percent effective January 1, 2004. These amendments have the effect of lowering the amount of retaliatory taxes imposed by the state on foreign insurers.

The Revenue Estimating Conference (REC) has not reviewed this provision. However, on March 16, 2001, the REC estimated the fiscal impact of a similar proposal to be a first-year General Revenue loss of \$6.1 million with a recurring loss of \$4 million. It should be noted, though, that the proposal reviewed by the REC increased the relevant percentage from 80 percent directly to 100 percent instead of phasing in the increase as does this committee substitute.

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 3 and 4. For the Qualified Defense Contractor Tax Refund Program (QDC Program) and Qualified Target Industry Tax Refund Program, expanding the conditions for approving prorated tax refunds and allowing non-compliant businesses to remain temporarily in the programs could allow businesses to remain in the programs 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 7. 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 8-10 and 16. Unemployed individuals participating in the self-employment-assistance program are eligible to receive self-employment-assistance allowances in lieu of regular unemployment compensation, entrepreneurial training, business counseling, and technical assistance. Completers of the training and counseling programs may also be eligible for micro-loans to supply business start-up capital. The increased costs to the

Unemployment Compensation Trust from the noncharging of self-employment-assistance allowances would likely cause a marginal increase in the noncharge adjustment factor, thereby resulting in marginal increases in the unemployment compensation taxes paid by contributory employers.

Section 11. The committee substitute has the effect of lowering the amount of retaliatory taxes imposed by the state on foreign insurers. This tax reduction could result in an increase in foreign insurers doing business in the state and hiring Florida employees.

Sections 13-15. The committee substitute provides for Enterprise Florida, Inc., to establish regional representatives to be single points of contact for businesses in economically distressed communities. Additionally, more information regarding topics such as economic development incentives and properties suitable for economic development might be made available to businesses considering relocating to, or expanding in, economically distressed communities.

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 3 and 4. Although expanding the conditions for approving prorated tax refunds and allowing non-compliant businesses to remain temporarily in the Qualified Defense Contractor Tax Refund Program and the Qualified Target Industry Tax Refund Program could cause OTTED 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 6. The committee substitute also expands information sharing between the Department of Revenue and OTTED with regard to certain economic development programs.

Section 7. 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 OTTED; 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 8-10 and 16. According to the Agency for Workforce Innovation, implementation of the self-employment-assistance program (section 9) would yield recurring costs in benefits from the Unemployment Compensation Trust Fund of approximately \$6,263,400. This estimate is based upon calculations that predict the

annual enrollment in the program to be approximately 1,100 unemployed individuals. Because the committee substitute limits program eligibility to those individuals who are eligible to receive at least 18 weeks of unemployment benefits, these calculations estimate that program participants will be eligible for 26 weeks of benefits at an average weekly benefit amount of \$218.67 per claim. In addition, the agency estimates it will incur approximately \$46,200 in nonrecurring expenditures for information technology costs associated with reprogramming of the agency's mainframe computer to modify the unemployment compensation benefit payment system.

As part of the self-employment-assistance program, Workforce Florida, Inc., is directed to contract with existing providers in order to provide program participants with entrepreneurial training, business counseling, and technical assistance. Workforce Florida is directed to use funds provided to the workforce system, including funds from the federal Workforce Investment Act and Temporary Assistance for Needy Families block grants. The Agency for Workforce Innovation is authorized to limit program participation based upon the availability of funds. The committee substitute also creates the Self-Employment-Assistance Loan Program, which provides micro-loans for participants in order to assist them in establishing businesses through supplying start-up capital (section 10). To be eligible for a micro-loan, participants of the self-employment-assistance program must complete the required training and counseling programs. Based on the experience of other states implementing similar programs, approximately 70 percent of program participants are estimated to complete the training. Thus, approximately 770 individuals are estimated to be eligible for micro-loans. Funding for the loans is subject to specific legislative appropriation, and the committee substitute provides a \$1 million appropriation for this purpose for fiscal year 2002-03 (section 16).

Sections 13-15. Enterprise Florida, Inc., (EFI) might incur certain restructuring expenses when complying with provisions of this committee substitute relating to assisting economically distressed communities. Additionally, because this committee substitute requires EFI to devote more of its efforts toward economically distressed communities, without additional resources EFI might have to focus less on economic development in other areas of the state.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.