The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Commerce Committee

BILL: SPB 7056

INTRODUCER: Commerce Committee

SUBJECT: The Innovation Incentive Program

DATE: February 18, 2009 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pugh	Cooper		**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

The Innovation Incentive Program, created in 2006, is designed to provide state financing for the recruitment or expansion of three types of businesses that represent "extraordinary economic opportunities" for Florida.[1] The types of businesses eligible for the funding are: innovation businesses, research and development (R&D) entities; and alternative and renewable energy projects. Since its creation, the program has awarded seven grants, all to R&D institutes or laboratories, totaling $450 million in state funds. The Governor's Office of Tourism, Trade and Economic Development (OTTED) oversees the program, enters into funding agreements with the grant awardees, and releases the previously allocated state funds to the awardees as they meet predetermined job-creation and other performance targets.

Interim Report 2009-107[2] reviewed the Innovation Incentive Program, and its key findings reflected the need for a more comprehensive evaluation of the program as it matures.

SPB 7056 amends s. 288.1089, F.S., to incorporate the interim report's findings and recommendations, including:

- A required annual report prepared by OTTED that summarizes the activities of program grant awardees and evaluates their progress as catalysts for economic development;
- A triennial analysis prepared jointly by the Office of Program Policy Analysis and Government Accountability (OPPAGA) and the Florida Auditor General's Office that

[1] Section 288.1089(1), F.S.

[2] Available at http://www.flsenate.gov/data/Publications/2009/Senate/reports/interim_reports/pdf/2009-107cm.pdf.

evaluates the program's overall progress in creating clusters of high-wage, high-skilled, complementary industries that serve as catalysts for economic development;
- Development of performance measures that can quantify the synergistic economic development impacts that were anticipated with creation of the Innovation Incentive Program;
- A requirement that all agreements entered into by OTTED and companies on or after July1, 2009, include a "reinvestment" by the companies into specified state economic development trust funds of up to 15 percent of net royalty revenues from spin-offs and stock sales of licensed technology or other inventions, and from naming rights;
- A requirement that all agreements entered into by OTTED and companies on or after July1, 2009, include average wages to be the greater of the annual average industry wage or 130 percent of the average private-sector wage;
- Requirements that all agreements entered into on or after July 1, 2009, include provisions for: creating internship programs or other educational opportunities; submitting quarterly and annual reports in a standardized format; submitting an annual accounting to OTTED of how the state funds were spent.
- Clarification of the grant approval process;
- Rewording and reorganizing the provisions for alternative and renewable energy grant applicants to make them consistent with the requirements for R&D and innovation business applicants; and
- Grammatical revisions.

SPB 7056 takes effect July 1, 2009.

II. Present Situation:

Background on the Innovation Incentive Grant Program

In 2006, the Legislature created the Innovation Incentive Program.[3] The purpose of the program is to provide financial resources so that the state can "respond expeditiously to extraordinary economic opportunities and to compete effectively for high-value research and development and business innovation projects."[4] A third category of eligible projects, for alternative and renewable energy, was added by the Legislature in 2008.[5]

While OTTED oversees the Innovation Incentive Program and enters into agreements with the grant recipients, Enterprise Florida, Inc. (EFI), the state's private economic development entity, is directed to evaluate the grant seekers' proposals and recommend to OTTED which entities should receive the grants and whether waiver of certain requirements is merited. The Florida Commission on Energy and Climate (commission) works with EFI in evaluating the alternative and renewable energy proposals.

The criteria used by EFI are detailed in s. 288.1089, F.S. Prospective businesses must submit an application that includes information about the type of business activity they are involved in, the number of employees they expect to hire, the amount of investment they intend to make in the

[3] Chapter 2006-55, L.O.F.
[4] Section 288.1089(1), F.S.
[5] Chapter 2008-227, L.O.F.

operation, and why the incentive grant is needed. The applicants also must meet the criteria of either a research and development project, an innovation business project, or an alternative or renewable energy project – all of which are defined in the statute. The projects must have a local financial commitment from the local communities in which they plan to locate, but under specified conditions, this match may be waived.

OTTED, in consultation with EFI, may negotiate the amount of the grant to be awarded to an eligible applicant.[6] OTTED also reviews the recommendations and evaluations of grant proposals from EFI, and where applicable, the commission, before making its recommendations to the Governor about which projects should be approved or denied funding. The Governor must consult with the President of the Senate and the Speaker of the House of Representatives before approving the grant award, and can release the funds with the approval of the Legislative Budget Commission.[7]

The oversight provisions in s. 288.1089, F.S., are limited to: the terms of the agreement signed between OTTED and the grant awardee;[8] later efforts by OTTED and EFI to validate the awardee's performance;[9] and EFI's report to the Governor, the President of the Senate, and the Speaker of the House of Representatives about the "award's results" at the conclusion of the agreement or its earlier termination,[10] which could mean 20 years after the agreement was signed.

In the wording of the statute, the Innovation Incentive funds are "released" to a grant recipient, meaning that they are eventually invested in the State Board of Administration or some other investment entity of the grant awardee's choosing and in the grant awardee's name. However, OTTED approves the periodic "release" of a portion of the funds in amounts tied to the awardee's attainment of job creation and other benchmarks in its contractual agreement with OTTED.

The agreement sets forth the conditions for payment of the incentive funds, and it must include:
- The total amount of funds awarded;
- Performance measures that the applicant must meet, including net new jobs, average wages, and total investment;
- A schedule of payments; and
- Sanctions for failing to meet the performance measures, including clawbacks.

All of the current contracts are for 20-year terms, although the payout of state money is for a shorter time period, either 7 or 10 years. One OTTED employee serves as the Innovation Program Manager, responsible for monitoring the seven Innovation Incentive grant recipients along with the Scripps Florida Research Institute, the recruitment of which in 2003 served as a catalyst for creation of the Innovation Incentive Program.

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[6] Section 288.1089(6), F.S.
[7] Section 288.1089(7), F.S.
[8] Section 288.1089(8), F.S.
[9] Section 288.1089(9), F.S.
[10] Ibid.

As mentioned above, the newest category of Innovation Incentive Program projects, alternative and renewable energy, was amended into s. 288.1089, F.S., as part of a comprehensive bill on state energy policy, HB 7135 (ch. 2008-277, L.O.F.) "Alternative and renewable energy" is defined in the context of the Innovation Incentive Program as "electrical, mechanical, or thermal energy produced from a method that uses one or more of the following fuels or energy sources: ethanol, cellulosic ethanol, biobutanol, biodiesel, biomass, hydrogen fuel cells, ocean energy, hydrogen, solar, hydro, wind, or geothermal."

Eligible projects must meet five standard criteria and a choice of eight others that are more evaluative and which appear to be modeled after the criteria in s. 377.804, F.S, which the Florida Commission on Energy and Climate uses to evaluate applications for Renewable Energy and Energy-Efficient Technologies Grants.[11] The 2008 Florida Legislature appropriated $15 million in grant funding for that program: $7 million to support projects that generate or utilize renewable energy resources, including hydrogen, biomass, solar energy, geothermal energy, wind energy, ocean energy, waste heat and hydroelectric power, and $8 million for bioenergy projects.[12] The deadline for grant applications was Nov. 20, 2008.

Program funding history

In FY 2006-2007, the Legislature appropriated $200 million in non-recurring general revenue to OTTED's Economic Development Trust Fund for this Innovation Incentive Program. The following fiscal year, the Legislature appropriated $250 million for this program; proviso language in the 2007-2008 General Appropriations Act set aside $80 million of that amount to the University of Miami's Institute of Human Genomics. The Legislature did not appropriate funds to the program for FY 2008-2009.

Innovation Incentive Program Recipients[13]

As of November 2008

Entity[14]	State Funding Committed	State Funding Released	Local/Other Match	Jobs Required by Agreement/ Jobs as of 3rd Q 2008
Burnham	$155.272 million	$56.842 million	$155.5 million	303/48
Torrey Pines	$24.728 million[15]	$12.630 million	$71.52 million	189/28
SRI	$20 million	$11.4 million	at least $30 million	160/71
UM-Human Genome Institute	$80 million	$20 million	at least $100 million in donations	296/136
Max Planck	$94.09 million	$30 million	$93.46 million	135/ not yet reported
OHSU-VGT	$60 million	$15 million	at least $60 million	200/ not yet reported
Draper Labs	$15 million	$7 million	$15.3 million	165/ not yet reported

Based on their quarterly reports, the four Innovation Incentive Program awardees that have been in existence for at least 1 year are meeting their job-creation and other benchmarks, and are on

[11] Until passage of HB 7135 in 2008, the Florida Department of Environmental Protection managed this energy grant program.
[12] See http://www.dep.state.fl.us/energy/energyact/grants.htm.
[13] Information provided by Jenni Garrison, Innovation Program Manager.
[14] Brief descriptions of the 7 awardees, their missions, and when they were recruited are available in Senate Interim Report 2009-107.
[15] Burnham also received $7.4 million in state Quick Action Closing funds.

track to complete their permanent laboratory and other facilities within the estimated time frames. Additionally, each has been awarded scientific grants, or in the case of SRI, public and private contracts, to conduct research. The three newest recipients – Max Planck, OHSU-VGT, and Draper Labs – won't have complete reports until later in 2009.

The deadlines for when the quarterly and annual reports are due are not consistent because they are based on when the individual agreements were signed, so it is difficult to compare the awardees' progress via a traditional end-of-quarter or end of calendar year report. Nor is there a consistent format to the reports.

III. Effect of Proposed Changes:

SPB 7056 makes a number of clarifying and technical changes to s. 288.1089, F.S., to improve its internal consistency and the timing of steps in the grant process. It also adds two significant reporting requirements, two significant requirements to future agreements, and makes some of the basic provisions of the alternative and renewable energy projects consistent with the rest of the program.

Section 1 amends s. 288.1089, F.S., to make a number of changes to the Innovation Incentive Program. A major addition to the existing law is the requirement that any new agreements entered into by OTTED and a grant awardee on or after July 1, 2009, include a reinvestment provision, whereby the grant awardee returns up to 15 percent of the awardee's naming rights and net royalties, including revenues from spin-off companies and revenues from the sale of stock received through its patentable inventions, methods, processes, or discoveries, either made or practiced using its Florida facilities or Florida-based employees, in whole or in part, and to which the awardee becomes entitled to during the 20 years following the effective date of its agreement with OTTED.[16]

The reinvestment payments to the state commence no later than 6 months after the grant awardee has received its final disbursement of grant funds from the state, under the terms of the agreement. The reinvestment funds shall be deposited in either the Biomedical Research Trust Fund (or its successor) if they are contributed by an awardee that specializes in biomedical or life sciences research, or in the Economic Development Trust Fund (or its successor) for contributions from all other awardees.

Only four of the seven awardees have reinvestment clauses in their state agreements: Torrey Pines, SRI, UM-Human Genome Institute, and Draper Labs.

This section also:

- Adds definitions for the Florida Energy and Climate Commission, "industry wage," "naming opportunities," and "net royalty revenues," and amends the definition for "project" to include alternative and renewable energy projects.

[16] This reinvestment provision is modeled after the statutory and contract reinvestment requirement for The Scripps Research Institute.

- Makes the local-match and average wage waiver provisions for the alternative and renewable energy projects identical to those available for the R&D and innovation business projects.
- Clarifies that EFI shall evaluate all three categories of projects based on their economic and business data and impact, rather than having the commission evaluate those factors for the energy projects. However, EFI is directed to solicit comments from the commission before it makes its recommendations to OTTED on the energy projects.
- Clarifies the application approval process by specifying that the Executive Office of the Governor can release Innovation Incentive grant funds upon review and approval by the Legislative Budget Commission.
- Specifies that the provisions currently in law pertaining to what must be included in the Innovation Incentive agreement are simply the minimum requirements.
- Directs OTTED to work with OPPAGA and other entities to develop performance measures that may quantify whether the grant awardees are creating a synergy within their communities that encourages economic development.
- Adds several requirements to the agreement, besides reinvestment, between the awardee and OTTED. Specifically, awardees must:
    - Establish internship programs or other educational opportunities for students and teachers;
    - Submit to OTTED and EFI quarterly and annual reports related to the awardees' activities and performance;
    - Submit to OTTED an annual accounting of the expenditure of grant funds; and
    - Agree to include in the agreement a process for amending it.

This section also deletes obsolete language, such as development of a set of business ethics standards by 2006, which already have been completed, and corrects grammatical errors.

Two reporting requirements are added to s. 288.1089, F.S. Briefly:

- OTTED is directed to prepare an annual report summarizing the activities and accomplishments of Innovation Incentive grant recipients, and to evaluate whether the recipients are in fact catalysts for additional direct and indirect economic development in Florida. The first report is due Jan. 5, 2010, and must be submitted to the Governor, the Senate President, and the Speaker of the House of Representatives.
- OPPAGA and the Auditor General's Office are directed to prepare a joint report evaluating the program's progress toward creating clusters of high-wage, high-skilled, complementary industries in Florida, thus gauging whether the grant recipients are acting as catalysts for broad economic development in Florida. This report is due every 3 years, beginning March 1, 2010, to the Governor, the Senate President, and the Speaker of the House of Representatives.

Section 2 specifies that this act takes effect July 1, 2009.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

SPB 7056 directs OPPAGA and the Florida Auditor General's Office to jointly prepare every 3 years a comprehensive report evaluating whether the Innovation Incentive Program is creating the type of high-wage, high-skilled economic development clusters envisioned by the Legislature. Their first report is due March 1, 2010. Because of the 7-month due-date for the initial report and the even-longer due dates for the updates, it is likely that the two legislative research entities will be able to schedule this work without disrupting other on-going projects.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.