

By Senator Siplin

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1 A bill to be entitled
2 An act relating to economic development; amending ss.
3 288.1081 and 288.1082, F.S.; establishing the Economic
4 Gardening Business Loan Program and the Economic
5 Gardening Technical Assistance Program as permanent
6 programs; revising conditions under which loan
7 agreements may provide borrowers with flexibility in
8 meeting the projected number of jobs; revising the
9 method for calculating the servicing fee payable to a
10 loan administrator; deleting a requirement that
11 certain funds be deposited in the General Revenue
12 Fund; providing for use of the funds; deleting an
13 obsolete provision authorizing the adoption of initial
14 emergency rules; deleting provision prohibiting the
15 award of new loans after a specified date; deleting
16 provision for the reversion of certain unexpended
17 appropriations; deleting provisions for future repeal
18 of the loan program; revising the date upon which the
19 Office of Tourism, Trade, and Economic Development
20 must begin to submit annual reports to the Governor
21 and Legislature on the loan program and technical
22 assistance program; providing for retroactive
23 application of provisions revising the loan program;
24 providing an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Section 288.1081, Florida Statutes, is amended
29 to read:

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30 288.1081 Economic Gardening Business Loan ~~Pilot~~ Program.—

31 (1) There is created within the Office of Tourism, Trade,
32 and Economic Development the Economic Gardening Business Loan
33 ~~Pilot~~ Program. The purpose of the ~~pilot~~ program is to stimulate
34 investment in Florida's economy by providing loans to expanding
35 businesses in the state. As used in this section, the term
36 "office" means the Office of Tourism, Trade, and Economic
37 Development.

38 (2) The Legislature finds that it is vital to the overall
39 health and growth of the state's economy to promote favorable
40 conditions for expanding Florida businesses that demonstrate the
41 ability to grow. The Legislature further finds that, due to the
42 current extraordinary economic challenges confronting the state,
43 there exists a public purpose in expending state resources to
44 stimulate investment in Florida's economy. It is therefore the
45 intent of the Legislature that resources be provided for the
46 loan pilot program.

47 (3) (a) To be eligible for a loan under the ~~pilot~~ program,
48 an applicant must be a business eligible for assistance under
49 the Economic Gardening Technical Assistance ~~Pilot~~ Program as
50 provided in s. 288.1082(4) (a).

51 (b) A loan applicant must submit a written application to
52 the loan administrator in the format prescribed by the loan
53 administrator. The application must include:

54 1. The applicant's federal employer identification number,
55 unemployment account number, and sales or other tax registration
56 number.

57 2. The street address of the applicant's principal place of
58 business in this state.

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59 3. A description of the type of economic activity, product,
60 or research and development undertaken by the applicant,
61 including the six-digit North American Industry Classification
62 System code for each type of economic activity conducted by the
63 applicant.

64 4. The applicant's annual revenue, number of employees,
65 number of full-time equivalent employees, and other information
66 necessary to verify the applicant's eligibility for the
67 technical assistance ~~pilot~~ program under s. 288.1082(4)(a).

68 5. The projected investment in the business, if any, which
69 the applicant proposes in conjunction with the loan.

70 6. The total investment in the business from all sources,
71 if any, which the applicant proposes in conjunction with the
72 loan.

73 7. The number of net new full-time equivalent jobs that, as
74 a result of the loan, the applicant proposes to create in this
75 state as of December 31 of each year and the average annual wage
76 of the proposed jobs.

77 8. The total number of full-time equivalent employees the
78 applicant currently employs in this state.

79 9. The date that the applicant anticipates it needs the
80 loan.

81 10. A detailed explanation of why the loan is needed to
82 assist the applicant in expanding jobs in the state.

83 11. A statement that all of the applicant's available
84 corporate assets are pledged as collateral for the amount of the
85 loan.

86 12. A statement that the applicant, upon receiving the
87 loan, agrees not to seek additional long-term debt without prior

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88 approval of the loan administrator.

89 13. A statement that the loan is a joint obligation of the
90 business and of each person who owns at least 20 percent of the
91 business.

92 14. Any additional information requested by the office or
93 the loan administrator.

94 (c) The loan administrator, after verifying the accuracy of
95 a submitted application, shall award the loan to the applicant
96 if the administrator determines that the applicant, as compared
97 to other applicants submitting applications, is in the best
98 position to use the loan to continue making a successful long-
99 term business commitment to the state. The loan administrator
100 also shall consider the following factors:

101 1. Whether the applicant has applied for or received
102 incentives from local governments;

103 2. Whether the applicant has applied for or received
104 waivers of taxes, impact fees, or other fees or charges by local
105 governments; and

106 3. What other sources of investments or financing for the
107 project that is the subject of the loan application will be
108 available to the applicant.

109 (d) A borrower awarded a loan under this section and the
110 loan administrator must enter into a loan agreement that
111 provides for the borrower's repayment of the loan.

112 (4) The following terms apply to a loan received under the
113 ~~pilot~~ program:

114 (a) The maximum amount of the loan is \$250,000.

115 (b) The proceeds of the loan may be used for working
116 capital purchases, employee training, or salaries for newly

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117 created jobs in the state.

118 (c) The security interest for the loan's collateral
119 covering all of the borrower's available corporate assets to
120 cover the amount of the loan must be perfected by recording a
121 lien under the Uniform Commercial Code.

122 (d) The period of the loan is 4 years.

123 (e) The interest rate of the loan is 2 percent. However, if
124 the borrower does not create the projected number of jobs within
125 the terms of the loan agreement, the interest rate shall be
126 increased for the remaining period of the loan to the prime rate
127 published in the Wall Street Journal, as of the date specified
128 in the loan agreement, plus 4 percentage points. The loan
129 agreement may provide flexibility in meeting the projected
130 number of jobs for delays due to governmental regulatory issues,
131 such as including, but not limited to, permitting and other
132 documented justifiable causes.

133 (f) For the first 12 months of the loan, payment is due for
134 interest only, payable during the twelfth month. Thereafter,
135 payment for interest and principal is due each month until the
136 loan is paid in full. Interest and principal payments are based
137 on the unpaid balance of the total loan amount.

138 (5) (a) The office may designate one or more qualified
139 entities to serve as loan administrators for the ~~pilot~~ program.
140 A loan administrator must:

141 1. Be a Florida corporation not for profit incorporated
142 under chapter 617 which has its principal place of business in
143 the state.

144 2. Have 5 years of verifiable experience of lending to
145 businesses in this state.

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146 3. Submit an application to the office on forms prescribed
147 by the office. The application must include the loan
148 administrator's business plan for its proposed lending
149 activities under the ~~pilot~~ program, including, but not limited
150 to, a description of its outreach efforts, underwriting, credit
151 policies and procedures, credit decision processes, monitoring
152 policies and procedures, and collection practices; the
153 membership of its board of directors; and samples of its
154 currently used loan documentation. The application must also
155 include a detailed description and supporting documentation of
156 the nature of the loan administrator's partnerships with local
157 or regional economic and business development organizations.

158 (b) The office, upon selecting a loan administrator, shall
159 enter into a grant agreement with the administrator to issue the
160 available loans to eligible applicants. The grant agreement must
161 specify the aggregate amount of the loans authorized for award
162 by the loan administrator. The term of the grant agreement must
163 be at least 4 years, except that the office may terminate the
164 agreement earlier if the loan administrator fails to meet
165 minimum performance standards set by the office. The grant
166 agreement may be amended by mutual consent of both parties.

167 (c) The office shall disburse from the Economic Development
168 Trust Fund to the loan administrator the appropriations provided
169 for the loan ~~pilot~~ program. Disbursements to the loan
170 administrator must not exceed the aggregate amount of the loans
171 authorized in the grant agreement. The office may not disburse
172 more than 50 percent of the aggregate amount of the loans
173 authorized in the grant agreement until the office verifies the
174 borrowers' use of the loan proceeds and the loan administrator's

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175 successful credit decisionmaking policies.

176 (d) A loan administrator is entitled to receive a loan
177 origination fee, payable at closing, of 1 percent of each loan
178 issued by the loan administrator and a servicing fee of 0.625
179 percent ~~per annum~~ of the loan's outstanding principal balance,
180 payable monthly. During the first 12 months of the loan, the
181 servicing fee shall be paid from the disbursement from the
182 Economic Development Trust Fund, and thereafter the loan
183 administrator shall collect the servicing fee from the payments
184 made by the borrower, charging the fee against repayments of
185 principal.

186 (e) A loan administrator, after collecting the servicing
187 fee in accordance with paragraph (d), shall use ~~remit~~ the
188 borrower's collected interest, principal payments, and charges
189 for late payments to provide additional loans to eligible
190 borrowers under this section ~~to the office on a quarterly basis~~.
191 If the borrower defaults on the loan, the loan administrator
192 shall initiate collection efforts to seek repayment of the loan.
193 The loan administrator, upon collecting payments for a defaulted
194 loan, may ~~shall remit the payments to the office but,~~ to the
195 extent authorized in the grant agreement, ~~may~~ deduct the costs
196 of the administrator's collection efforts, and shall use the
197 remaining payments to provide additional loans to eligible
198 borrowers under this section. ~~The office shall deposit all funds~~
199 ~~received under this paragraph in the General Revenue Fund.~~

200 (f) A loan administrator shall submit quarterly reports to
201 the office which include the information required in the grant
202 agreement. A quarterly report must include, at a minimum, the
203 number of full-time equivalent jobs created as a result of the

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204 loans, the amount of wages paid to employees in the newly
205 created jobs, and the locations and types of economic activity
206 undertaken by the borrowers.

207 (6) All notes, mortgages, security agreements, letters of
208 credit, or other instruments that are given to secure the
209 repayment of loans issued in connection with the financing of
210 any loan under the program, without regard to the status of any
211 party thereto as a private party, are exempt from taxation by
212 the state and its political subdivisions. The exemption granted
213 in this subsection does not apply to any tax imposed by chapter
214 220 on interest, income, or profits on debt obligations owned by
215 corporations.

216 (7) The office shall adopt rules under ss. 120.536(1) and
217 120.54 to administer this section. ~~To the extent necessary to~~
218 ~~expedite implementation of the pilot program, the office may~~
219 ~~adopt initial emergency rules for the pilot program in~~
220 ~~accordance with s. 120.54(4).~~

221 (8) On June 30 and December 31 of each year, beginning in
222 2012 ~~2009~~, the office shall submit a report to the Governor, the
223 President of the Senate, and the Speaker of the House of
224 Representatives which describes in detail the use of the loan
225 funds. The report must include, at a minimum, the number of
226 businesses receiving loans, the number of full-time equivalent
227 jobs created as a result of the loans, the amount of wages paid
228 to employees in the newly created jobs, the locations and types
229 of economic activity undertaken by the borrowers, the amounts of
230 loan repayments made to date, and the default rate of borrowers.

231 (9) Unexpended balances of appropriations provided for the
232 loan ~~pilot~~ program shall not revert to the fund from which the

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233 appropriation was made at the end of a fiscal year but shall be
234 retained in the Economic Development Trust Fund and be carried
235 forward for expenditure for the loan ~~pilot~~ program during the
236 following fiscal year. ~~A loan administrator may not award a new
237 loan or enter into a loan agreement after June 30, 2011.
238 Balances of appropriations provided for the pilot program which
239 remain unexpended as of July 1, 2011, shall revert to the
240 General Revenue Fund.~~

241 ~~(10) This section is repealed July 1, 2016, unless reviewed
242 and reenacted by the Legislature before that date.~~

243 Section 2. Section 288.1082, Florida Statutes, is amended
244 to read:

245 288.1082 Economic Gardening Technical Assistance ~~Pilot~~
246 Program.—

247 (1) There is created within the Office of Tourism, Trade,
248 and Economic Development the Economic Gardening Technical
249 Assistance ~~Pilot~~ Program. The purpose of the ~~pilot~~ program is to
250 stimulate investment in Florida's economy by providing technical
251 assistance for expanding businesses in the state. As used in
252 this section, the term "office" means the Office of Tourism,
253 Trade, and Economic Development.

254 (2) The office shall contract with one or more entities to
255 administer the technical assistance ~~pilot~~ program under this
256 section. The office shall award each contract in accordance with
257 the competitive bidding requirements in s. 287.057 to an entity
258 that demonstrates the ability to implement the ~~pilot~~ program on
259 a statewide basis, has an outreach plan, and has the ability to
260 provide counseling services, access to technology and
261 information, marketing services and advice, business management

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262 support, and other similar services. In selecting these
263 entities, the office also must consider whether the entities
264 will qualify for matching funds to provide the technical
265 assistance.

266 (3) A contracted entity administering the ~~pilot~~ program
267 shall provide technical assistance for eligible businesses which
268 includes, but is not limited to:

269 (a) Access to free or affordable information services and
270 consulting services, including information on markets,
271 customers, and competitors, such as business databases,
272 geographic information systems, and search engine marketing.

273 (b) Development of business connections, including
274 interaction and exchange among business owners and resource
275 providers, such as trade associations, think tanks, academic
276 institutions, business roundtables, peer-to-peer learning
277 sessions, and mentoring programs.

278 (4) (a) To be eligible for assistance under the ~~pilot~~
279 program, a business must be a for-profit, privately held,
280 investment-grade business that employs at least 10 persons but
281 not more than 50 persons, has maintained its principal place of
282 business in the state for at least the previous 2 years,
283 generates at least \$1 million but not more than \$25 million in
284 annual revenue, qualifies for the tax refund program for
285 qualified target industry businesses under s. 288.106, and,
286 during 3 of the previous 5 years, has increased both its number
287 of full-time equivalent employees in this state and its gross
288 revenues.

289 (b) A contracted entity administering the ~~pilot~~ program, in
290 selecting the eligible businesses to receive assistance, shall

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291 choose businesses in more than one industry cluster and, to the
292 maximum extent practicable, shall choose businesses that are
293 geographically distributed throughout Florida or are in
294 partnership with businesses that are geographically distributed
295 throughout Florida.

296 (5) (a) A business receiving assistance under the ~~pilot~~
297 program must enter into an agreement with the contracted entity
298 administering the program to establish the business's commitment
299 to participation in the ~~pilot~~ program. The agreement must
300 require, at a minimum, that the business:

301 1. Attend a minimum number of meetings between the business
302 and the contracted entity administering the ~~pilot~~ program.

303 2. Report job creation data in the manner prescribed by the
304 contracted entity administering the ~~pilot~~ program.

305 3. Provide financial data in the manner prescribed by the
306 contracted entity administering the program.

307 (b) The office or the contracted entity administering the
308 ~~pilot~~ program may prescribe in the agreement additional
309 reporting requirements that are necessary to track the progress
310 of the business and monitor the business's implementation of the
311 assistance. The contracted entity shall report the information
312 to the office on a quarterly basis.

313 (6) A contracted entity administering the ~~pilot~~ program is
314 authorized to promote the general business interests or
315 industrial interests of the state.

316 (7) The office shall review the progress of a contracted
317 entity administering the ~~pilot~~ program at least once each 6
318 months and shall determine whether the contracted entity is
319 meeting its contractual obligations for administering the ~~pilot~~

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320 program. The office may terminate and rebid a contract if the
321 contracted entity does not meet its contractual obligations.

322 (8) On December 31 of each year, beginning in 2012 ~~2009~~,
323 the office shall submit a report to the Governor, the President
324 of the Senate, and the Speaker of the House of Representatives
325 which describes in detail the progress of the ~~pilot~~ program. The
326 report must include, at a minimum, the number of businesses
327 receiving assistance, the number of full-time equivalent jobs
328 created as a result of the assistance, if any, the amount of
329 wages paid to employees in the newly created jobs, and the
330 locations and types of economic activity undertaken by the
331 businesses.

332 (9) The office may adopt rules under ss. 120.536(1) and
333 120.54 to administer this section.

334 Section 3. The amendments made by this act to s. 288.1081,
335 Florida Statutes, shall apply retroactively to loans awarded
336 before the effective date of this act.

337 Section 4. This act shall take effect July 1, 2011.