

By Senator Latvala

16-01553A-11

20111378

1 A bill to be entitled
2 An act relating to economic development; creating the
3 "Small Business Jobs Creation Act"; amending s.
4 288.061, F.S.; reducing the time period within which
5 Enterprise Florida, Inc., and the Office of Tourism,
6 Trade, and Economic Development must review and
7 evaluate applications for state economic development
8 incentives; amending s. 288.106, F.S.; reducing the
9 time period within which a local government must adopt
10 a resolution to provide financial support to a
11 business applying to participate in the tax refund
12 program for qualified target industry businesses;
13 reducing the time period within which a business
14 applying to participate in the tax refund program for
15 qualified target industry must sign an agreement with
16 the Office of Tourism, Trade, and Economic
17 Development; authorizing an extension of time for a
18 business to sign an agreement under certain
19 circumstances; requiring the Office of Tourism, Trade,
20 and Economic Development to return the unused portion
21 of local financial support within a specified time
22 period if a business fails to timely sign an agreement
23 or no longer participates in the tax refund program;
24 waiving the requirements for certain businesses to pay
25 a minimum average wage during the first year of an
26 agreement under the tax refund program for qualified
27 target industry businesses; amending s. 400.462, F.S.;
28 redefining the term "remuneration" as used in the Home
29 Health Services Act to exclude certain items having a

16-01553A-11

20111378

30 value less than a specified threshold amount;
31 providing an effective date.

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33 WHEREAS, Florida has more than 2 million small businesses
34 and more than 1 million self-employed persons, according to a
35 2009 report produced by the U.S. Small Business Administration's
36 Office of Advocacy, and

37 WHEREAS, Florida's small businesses comprise more than 90
38 percent of the total number of businesses in Florida and employ
39 at least 44 percent of private-sector employees, and

40 WHEREAS, from 2003 until 2006, the greatest number of jobs
41 attributable to small businesses were created by companies
42 having fewer than five employees, according to the U.S. Small
43 Business Administration, and

44 WHEREAS, the Great Recession of 2009-2010 afflicted even
45 more agile small businesses in Florida and nationwide with
46 losses of jobs, contracts, and capital, and

47 WHEREAS, Florida's unemployment rate is at 12 percent,
48 equating to 1.1 million Floridians out of work, many of whom are
49 former employees of a small business, and

50 WHEREAS, in surveys and at public forums provided by the
51 Florida Office of Small Business Advocate in 2010, small
52 business owners revealed that their top three concerns were
53 access to capital, the lack of small business incentives, and an
54 unstable or less favorable climate for small businesses, and

55 WHEREAS, Florida's target industry sectors, including all
56 types of manufacturing, offer the promise of jobs that pay
57 higher wages and more stable employment, NOW, THEREFORE,

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16-01553A-11

20111378

59 Be It Enacted by the Legislature of the State of Florida:

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61 Section 1. This act may be cited as the "Small Business
62 Jobs Creation Act."

63 Section 2. Section 288.061, Florida Statutes, is amended to
64 read:

65 288.061 Economic development incentive application
66 process.—

67 (1) Within 4 ~~10~~ business days after receiving a submitted
68 economic development incentive application, Enterprise Florida,
69 Inc., shall review the application and inform the applicant
70 business whether or not its application is complete. Within 10
71 business days after the application is deemed complete,
72 Enterprise Florida, Inc., shall evaluate the application and
73 recommend approval or disapproval of the application to the
74 director of the Office of Tourism, Trade, and Economic
75 Development. In recommending an applicant business for approval,
76 Enterprise Florida, Inc., shall include in its evaluation a
77 recommended grant award amount and a review of the applicant's
78 ability to meet specific program criteria.

79 (2) Within 3 ~~10~~ calendar days after the Office of Tourism,
80 Trade, and Economic Development receives the evaluation and
81 recommendation from Enterprise Florida, Inc., the office shall
82 notify Enterprise Florida, Inc., whether or not the application
83 is reviewable. Within 14 ~~22~~ calendar days after the office
84 receives the recommendation from Enterprise Florida, Inc., the
85 director of the office shall review the application and issue a
86 letter of certification to the applicant that approves or
87 disapproves an applicant business and includes a justification

16-01553A-11

20111378

88 of that decision, unless the business requests an extension of
89 that time. The final order shall specify the total amount of the
90 award, the performance conditions that must be met to obtain the
91 award, and the schedule for payment.

92 Section 3. Subsection (5) of section 288.106, Florida
93 Statutes, is amended, present subsection (8) of that section is
94 renumbered as subsection (9), and a new subsection (8) is added
95 to that section, to read:

96 288.106 Tax refund program for qualified target industry
97 businesses.—

98 (5) TAX REFUND AGREEMENT.—

99 (a) Each qualified target industry business must enter into
100 a written agreement with the office that specifies, at a
101 minimum:

102 1. The total number of full-time equivalent jobs in this
103 state which ~~that~~ will be dedicated to the project, the average
104 wage of those jobs, the definitions that will apply for
105 measuring the achievement of these terms during the pendency of
106 the agreement, and a time schedule or plan for when such jobs
107 will be in place and active in this state.

108 2. The maximum amount of tax refunds that the qualified
109 target industry business is eligible to receive on the project
110 and the maximum amount of a tax refund that the qualified target
111 industry business is eligible to receive for each fiscal year,
112 based on the job creation and maintenance schedule specified in
113 subparagraph 1.

114 3. That the office may review and verify the financial and
115 personnel records of the qualified target industry business to
116 ascertain whether that business is in compliance with this

16-01553A-11

20111378

117 section.

118 4. The date by which, in each fiscal year, the qualified
119 target industry business may file a claim under subsection (6)
120 to be considered to receive a tax refund in the following fiscal
121 year.

122 5. That local financial support will be annually available
123 and will be paid to the account. The office may not enter into a
124 written agreement with a qualified target industry business if
125 the local financial support resolution is not passed by the
126 local governing body within 45 ~~90~~ days after the office has
127 issued the letter of certification under subsection (4).

128 6. That the office may conduct a review of the business to
129 evaluate whether the business is continuing to contribute to the
130 area's or state's economy.

131 7. That in the event the business does not complete the
132 agreement, the business will provide the office with the reasons
133 the business was unable to complete the agreement.

134 (b) Compliance with the terms and conditions of the
135 agreement is a condition precedent for the receipt of a tax
136 refund each year. The failure to comply with the terms and
137 conditions of the tax refund agreement results in the loss of
138 eligibility for receipt of all tax refunds previously authorized
139 under this section and the revocation by the office of the
140 certification of the business entity as a qualified target
141 industry business, unless the business is eligible to receive
142 and elects to accept a prorated refund under paragraph (6)(e) or
143 the office grants the business an economic recovery extension.

144 1. A qualified target industry business may submit a
145 request to the office for an economic recovery extension. The

16-01553A-11

20111378

146 request must provide quantitative evidence demonstrating how
147 negative economic conditions in the business's industry, the
148 effects of a named hurricane or tropical storm, or specific acts
149 of terrorism affecting the qualified target industry business
150 have prevented the business from complying with the terms and
151 conditions of its tax refund agreement.

152 2. Upon receipt of a request under subparagraph 1., the
153 office has 45 days to notify the requesting business, in
154 writing, whether its extension has been granted or denied. In
155 determining whether an extension should be granted, the office
156 shall consider the extent to which negative economic conditions
157 in the requesting business's industry have occurred in the state
158 or the effects of a named hurricane or tropical storm or
159 specific acts of terrorism affecting the qualified target
160 industry business have prevented the business from complying
161 with the terms and conditions of its tax refund agreement. The
162 office shall consider current employment statistics for this
163 state by industry, including whether the business's industry had
164 substantial job loss during the prior year, when determining
165 whether an extension shall be granted.

166 3. As a condition for receiving a prorated refund under
167 paragraph (6)(e) or an economic recovery extension under this
168 paragraph, a qualified target industry business must agree to
169 renegotiate its tax refund agreement with the office to, at a
170 minimum, ensure that the terms of the agreement comply with
171 current law and office procedures governing application for and
172 award of tax refunds. Upon approving the award of a prorated
173 refund or granting an economic recovery extension, the office
174 shall renegotiate the tax refund agreement with the business as

16-01553A-11

20111378

175 required by this subparagraph. When amending the agreement of a
176 business receiving an economic recovery extension, the office
177 may extend the duration of the agreement for a period not to
178 exceed 2 years.

179 4. A qualified target industry business may submit a
180 request for an economic recovery extension to the office in lieu
181 of any tax refund claim scheduled to be submitted after January
182 1, 2009, but before July 1, 2012.

183 5. A qualified target industry business that receives an
184 economic recovery extension may not receive a tax refund for the
185 period covered by the extension.

186 (c) The agreement must be signed by the director and by an
187 authorized officer of the qualified target industry business
188 within 60 ~~120~~ days after the issuance of the letter of
189 certification under subsection (4), but not before passage and
190 receipt of the resolution of local financial support. The office
191 may grant an extension of this period for up to 60 days at the
192 written request of the qualified target industry business if the
193 business provides the office with compelling reasons for the
194 delay. If an agreement is not signed by the business within 120
195 days after the letter of certification is issued, the office
196 must withdraw the certification. The target industry business
197 may not reapply to participate in the program until the
198 subsequent state fiscal year.

199 (d) If an agreement is not signed by a target industry
200 business within the time specified in paragraph (c), or if a
201 business withdraws from the agreement or the office terminates
202 the agreement for noncompliance under paragraph (b), the office
203 must return the unused portion of the local financial support to

16-01553A-11

20111378

204 the applicable local government within 6 months after those
205 events.

206 (e)~~(d)~~ The agreement must contain the following legend,
207 clearly printed on its face in bold type of not less than 10
208 points in size: "This agreement is not a general obligation of
209 the State of Florida, nor is it backed by the full faith and
210 credit of the State of Florida. Payment of tax refunds is
211 conditioned on and subject to specific annual appropriations by
212 the Florida Legislature sufficient to pay amounts authorized in
213 section 288.106, Florida Statutes."

214 (8) WAIVER OF AVERAGE ANNUAL WAGE REQUIREMENT.—The average
215 annual wage requirement is waived for the first year of an
216 agreement for any target industry business that enters into a
217 tax refund agreement under subsection (5) between July 1, 2011,
218 and June 30, 2012, and agrees to expand its operations within
219 this state.

220 Section 4. Subsection (27) of section 400.462, Florida
221 Statutes, is amended to read:

222 400.462 Definitions.—As used in this part, the term:

223 (27) "Remuneration" means any payment or other benefit made
224 directly or indirectly, overtly or covertly, in cash or in kind.
225 The term does not include items having an individual value of
226 less than \$10 such as plaques, certificates, trophies, or
227 novelties that are intended solely for presentation or are
228 customarily given away solely for promotional or advertising
229 purposes or to recognize a person for an achievement.

230 Section 5. This act shall take effect July 1, 2011.