

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 Committee on Appropriations

BILL: CS/CS/SB 1024

INTRODUCER: Appropriations Committee; Community Affairs Committee; and Commerce Committee

SUBJECT: Department of Economic Opportunity

DATE: April 25, 2013

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Siples</u>	<u>Hrdlicka</u>	<u>CM</u>	CM SPB as introduced
2. <u>Anderson</u>	<u>Yeatman</u>	<u>CA</u>	Fav/CS
3. <u>Pingree</u>	<u>Martin</u>	<u>ATD</u>	Fav/CS
4. <u>Pingree</u>	<u>Hansen</u>	<u>AP</u>	Fav/CS
5. _____	_____	_____	_____
6. _____	_____	_____	_____

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

CS/CS/SB 1024 modifies several activities under the jurisdiction of the Department of Economic Opportunity (DEO or department). The bill creates the Gulf Coast Economic Corridor Act and establishes a nonprofit corporation administratively housed in the DEO to administer, invest, and award certain funds received by the state related to the Deepwater Horizon oil spill. The bill amends provisions related to: the Florida Small Business Development Center Network; the reporting and evaluation of economic development programs; economic development incentives; and the Reemployment Assistance Program. Several of the changes to the Reemployment Assistance Program conform Florida law to federal requirements.

The bill has a fiscal impact on both state revenues and expenditures. The Revenue Estimating Conference adopted an impact for the provisions of the bill related to the sales tax exemption for building materials in redevelopment projects and for the brownfield redevelopment bonus refund of positive \$1.5 million (a combination of increased revenues and decreased expenditures) for FY 2013-2014, and adopted a cash impact of negative \$120,000 (decreased revenues) for FY 2013-2014 for the provisions allowing the expansion of certain enterprise zones located in rural areas of critical economic concern. In Fiscal Year 2013-2014, the bill is projected to have fiscal impacts on the Office of Economic and Demographic Research (EDR), the Office of Program Policy Analysis and Government Accountability (OPPAGA), and the DEO, which are either

addressed in the development of the Fiscal Year 2013-2014 General Appropriations Act or can be handled within existing resources. See Section V.

Highlights of the bill include:

Reporting and Evaluations of Economic Development Programs

- Streamlines the process by which all incentive program applicants are evaluated by requiring that all applicants be evaluated for the “economic benefits” of the proposed project.
- Creates a rotating, 3-year review schedule for specified incentives and programs to be evaluated by the EDR and the OPPAGA.
- Consolidates required reports and reporting dates for various economic development program reports by the DEO, Enterprise Florida, Inc. (EFI), the Office of Film and Entertainment, and Space Florida.
- Creates a project-based reporting system to be developed by the DEO to allow the public to view information relating to economic development projects receiving state incentives.
- Moves the reporting date for the Florida New Markets Tax Credit program from April 1 to January 31.

Florida Small Business Development Center Network

- Aligns the network’s statewide policies with the statewide strategic economic development plan and statewide goals of the university system.
- Specifies the composition of the network’s statewide advisory board.
- Specifies the support services offered by the network.
- Requires the network to provide a match to any direct state appropriation.
- Requires the network to set up incentives for the regional centers to create jobs, institute best practices, and serve new areas of the state or underserved areas.
- Requires regular reporting by the network on programs, services, and outcomes, including information on the network’s economic benefits to the state.

Economic Development Incentives

- Requires the DEO to evaluate each application for economic incentives for the economic benefits of the proposed award to the state, and the EDR is to review and report on the methodology used to calculate the economic benefit.
- Requires recipients of incentives under the Quick Action Closing Fund and the Innovation Incentive Programs to secure the award with a surety bond, letter of credit, or other security before any state funds can be disbursed.
- Provides that the DEO may waive the securitization requirements upon certifying specific information, in writing, to the Governor and the Legislature. The Legislative Budget Commission must approve any waiver granted by the DEO for a project exceeding \$5 million.
- Specifies the meaning of the term “brownfield” for purposes of the sales tax exemption for building materials in redevelopment projects and for the brownfield redevelopment bonus refund.

- Allows enterprise zones that are between 15 and 20 square miles located in rural areas of critical economic concern to increase the zone by 3 square miles, and enterprise zones that are at least 20 square miles located in rural areas of critical economic concern to increase the zone by 5 square miles.

Reemployment Assistance Program

- Requires that an appeals referee employed by the DEO be an attorney in good standing with the Florida Bar. The DEO is permitted to fill the positions through attrition, beginning January 1, 2014.
- Prohibits a claimant from counting the same prospective employer at the same location for three consecutive weeks as proof of work search efforts, unless the employer indicates that it is hiring after the initial contact by the claimant.
- Provides that any excess assessments previously collected to pay interest on federal advances taken to cover unemployment compensation benefit claims be applied to federal interest payments due before additional assessments are made. The bill prohibits the collection of assessments if the amount on deposit is at least 80 percent of the estimated amount of interest.
- Assesses a 15 percent penalty on individuals who fraudulently collect unemployment compensation benefits, in order to comply with the requirements of federal law.
- Reenacts a provision that provides a penalty for disclosing confidential information that was inadvertently repealed in 2012 and required by federal law.
- Extends the deployment date of the Reemployment Assistance Claims and Benefits Information System to June 30, 2014.

Gulf Coast Economic Corridor Act

- Creates the Gulf Coast Economic Corridor Act;
- Creates Triumph Gulf Coast, Inc., a nonprofit corporation administratively housed within the DEO, to administer and invest certain funds received by the state related to the Deepwater Horizon oil spill;
- Directs Triumph Gulf Coast, Inc., to make awards to projects and programs in the 8 disproportionately affected counties that meet certain criteria and priorities.

This bill is effective upon becoming law, except as otherwise provided in the bill.

This bill substantially amends the following sections of the Florida Statutes: 20.60, 201.15, 212.08, 213.053, 220.194, 288.001, 288.005, 288.012, 288.061, 288.0656, 288.106, 288.107, 288.1081, 288.1082, 288.1088, 288.1089, 288.1253, 288.1254, 288.1258, 288.714, 288.7771, 288.903, 288.906, 288.907, 288.92, 288.95155, 288.9918, 290.0055, 290.0056, 290.014, 290.0455, 331.3051, 331.310, 443.036, 443.091, 443.101, 443.1113, 443.131, 443.151, 443.1715, 443.191, and 446.50.

This bill repeals sections 288.095(3)(c) and 288.904(6), Florida Statutes.

This bill creates sections 288.076, 288.80, 288.801, 288.81, 288.82, 288.83, 288.831, 288.832, and 288.84, Florida Statutes.

This bill creates three undesignated sections of the Florida Statutes.

II. Present Situation:

The Department of Economic Opportunity (DEO or department) is charged with supporting the economic and community development of Florida and facilitating the workforce development of Floridians. The department accomplishes these functions under three main divisions: Community Development, Strategic Business Development, and Workforce Services.¹

The Division of Community Development manages the state's land use planning and community development. Under its responsibilities, the division provides technical assistance to local governments on a variety of land use planning topics, provides economic development assistance to rural and urban small businesses, and administers state and federal grant programs for community development, including grants to local governments for infrastructure and revitalization.²

The Division of Strategic Business Development is charged with attracting out-of-state businesses, as well as promoting the creation and expansion of Florida businesses. This division is also responsible for facilitating economic development partnerships.³ Among other things, the division provides oversight and evaluation of the state's economic development incentive programs and coordinates with public and private entities, including Enterprise Florida, Inc. (EFI), to strategically plan for Florida's short-term and long-term economic development needs. The department contracts with Enterprise Florida, Inc. (EFI) to attract businesses to locate, expand, or remain in Florida.

Under Florida's current economic development framework, Enterprise Florida, Inc. (EFI) serves as the state's economic development organization, operating under a contract with the DEO. EFI is a public-private partnership that serves as the state's primary contact for businesses interested in pursuing relocation, expansion, or retention possibilities.⁴ EFI works with businesses to match business needs with state and local resources, including developing an economic development incentive proposal for the prospective business. EFI performs an evaluation of each potential project to determine its prospective economic impact. After EFI has offered an incentive proposal to a business, EFI submits the incentive application to the DEO and the department evaluates the application based on the statutorily defined requirements for the incentive(s). The DEO makes the final determination of incentive eligibility, executes incentive contracts, and is responsible for contract monitoring and compliance.⁵

¹ Section 20.60, F.S.

² See Department of Economic Opportunity brochure, available at http://www.floridajobs.org/pdg/Factsheets/DEO_brochure.pdf (last visited Mar. 26, 2013).

³ *Id.*

⁴ Section 288.901, F.S.

⁵ Section 288.061, F.S.

On August 2, 2012, the DEO launched an online portal for the public to view economic development projects receiving state funds.⁶ Generally, information related to all non-confidential projects is available on the portal. The portal does not include projects “that are confidential or approved but do not yet have an executed agreement and projects that have withdrawn or decided not to proceed with the incentive.”⁷ Projects whose confidentiality has expired will be added to the website quarterly. The portal website allows users to view projects by incentive program, by the county of the project’s location, by the date of the project, and by the recipient business’s name. Information provided includes the total state incentive awarded, payments to date, job requirements, and capital investment requirements.

The Division of Workforce Services administers the reemployment assistance program and partners with Workforce Florida, Inc. (WFI) and the state’s 24 Regional Workforce Boards (RWBs) to administer a number of federally funded workforce development programs. The division also provides technical assistance to One-Stop Career Centers that directly provide employment and training services.⁸

According to the U.S. Department of Labor (USDOL), the Federal-State Unemployment Insurance Program provides unemployment benefits to eligible workers who are unemployed through no fault of their own (as determined under state law) and who meet the requirements of state law.⁹ Individual states collect payroll taxes on a quarterly basis, which are used to pay benefits, while the Internal Revenue Service collects an annual federal payroll tax under the Federal Unemployment Tax Act (FUTA).¹⁰ FUTA collections go to the states for costs related to the administration of state unemployment insurance and job service programs. In addition, the FUTA pays one-half the cost of extended unemployment benefits (during periods of high unemployment) and provides for a fund from which states may borrow, if necessary, to pay benefits.¹¹

States are permitted to set benefit eligibility requirements, the amount and duration of benefits and the state tax structure, as long as state law does not conflict with the FUTA or the Social Security Act requirements. Florida’s unemployment insurance program was created by the Legislature in 1937.¹² The program was rebranded as the “reemployment assistance program” in 2012.¹³ The Department of Economic Opportunity (DEO) is responsible for administering Florida’s reemployment assistance (RA) laws, primarily through its Division for Workforce

⁶ DEO press release, “DEO Launches Public Economic Development Incentives Portal, (August 02, 2012), available at <http://www.floridajobs.org/news-center/news-feed/2012/08/02/deo-launches-public-economic-development-incentives-portal> (last visited Apr. 20, 2013).

⁷ DEO, Economic Development Incentives Portal website, available at <http://www.floridajobs.org/office-directory/division-of-strategic-business-development/economic-development-incentives-portal> (last visited Apr. 19, 2013).

⁸ See Department of Economic Opportunity, About Workforce Services, available at <http://www.floridajobs.org/office-directory/division-of-workforce-services> (last visited Mar. 26, 2013).

⁹ USDOL, Employment and Training Administration, State Unemployment Insurance Benefits, available at <http://workforcesecurity.doleta.gov/unemploy/uifactsheet.asp> (last visited Apr. 20, 2013).

¹⁰ FUTA is codified at 26 U.S.C.

¹¹ USDOL, Employment and Training Administration, Unemployment Insurance Tax Topic, available at <http://workforcesecurity.doleta.gov/unemploy/uitaxtopic.asp> (last visited Apr. 20, 2013).

¹² Chapter 18402, L.O.F.

¹³ Chapter 2012-30, L.O.F.

Services. The DEO contracts with the Florida Department of Revenue (DOR) to provide unemployment tax collection services.¹⁴

In Florida, Reemployment Assistance (RA) benefits are financed solely through contributions by employers – employers pay taxes on the first \$8,000 of each employee’s wages.¹⁵ The calculation for determining each employer’s tax rate is statutorily set, and takes into consideration an employer’s “experience” (as former employees collect RA benefits, these benefits are charged to the employer), the balance of the Unemployment Compensation Trust Fund, and other factors.

The Internal Revenue Service charges each liable employer a federal unemployment tax of 6.0 percent of employees’ annual wages.¹⁶ If, however, a state program meets the federal requirements and has no delinquent federal loans, employers are eligible for up to a 5.4 percent tax credit, making the net tax rate 0.6 percent. Employers file an annual return with the Internal Revenue Service each January for taxes on the first \$7,000 of employee’s annual wages during the previous year.

The USDOL provides the DEO with administrative resource grants from the taxes collected from employers pursuant to the FUTA. These grants are used to fund the operations of the state’s program, including the processing of claims for benefits by DEO, state unemployment tax collections performed by the DOR, appeals conducted by the DEO and the Reemployment Assistance Appeals Commission, and related administrative functions.

Unfortunately, due to the past few years of high unemployment in Florida, more funds have been paid out of the Unemployment Compensation Trust Fund than have been collected. The trust fund fell into deficit in August 2009, and since that time, the state has requested over \$2 billion in federal advances in order to continue to fund unemployment compensation claims. Through voluntary repayment and partial loss of the federal tax credit, Florida has substantially paid down its debt.¹⁷ It is estimated that all federal advances should be repaid by mid-2013.¹⁸

Federal advances accrue interest on a federal fiscal year basis (October to September), and such interest is due no later than September 30 each year. The interest rate for 2013 is 2.5765

¹⁴ Section 443.1316, F.S.

¹⁵ Nonprofit employers may choose to finance compensation through either the contributory method or the reimbursement method. A reimbursing employer is one who must pay the Unemployment Compensation Trust Fund on a dollar-for-dollar basis for the benefits paid to its former employees. The employer is otherwise not required to make payments to the trust fund. See s. 443.1312, F.S. State and local governments are reimbursing employers. Most employers are contributory employers. In January 2015, the “wage base” will be reduced to \$7,000. See s. 443.1217(2)(a), F.S.

¹⁶ 26 U.S.C. s. 3301.

¹⁷ As of April 17, 2013, Florida had an outstanding advance balance of slightly less than \$509 million. See U.S. Department of Treasury, Bureau of Public Debt, Treasury Direct’s [Title XII Advance Activities Schedule](http://treasurydirect.gov/govt/reports/tfmp/tfmp_advactivitiesched.htm) at http://treasurydirect.gov/govt/reports/tfmp/tfmp_advactivitiesched.htm (last visited Apr. 20, 2013).

¹⁸ The most recent forecast by the Revenue Estimating Conference shows repayment of all federal advances by June 2013. On file with the Senate Commerce and Tourism Committee.

percent.¹⁹ The Revenue Estimating Conference estimated on January 15, 2013, that the interest due for 2013 would be \$9.6 million.²⁰

The interest due on advances cannot be paid from funds from the Unemployment Compensation Trust Fund. In order to repay the interest, a state may make an appropriation from general revenue, issue bonds, or impose an assessment on employers.²¹ In 2010, the Legislature imposed an additional assessment on employers to pay interest on federal advances.²²

Section 443.131(5)(b), F.S., sets forth the calculations for the assessment. To determine the additional rate for the assessment, the formula divides the estimated amount of interest owed by 95 percent of total wages paid by employers for the previous year ending June 30. To determine an employer's payment amount, the formula multiplies an employer's taxable wages by the additional rate. DOR is required to calculate and bill the assessment prior to February 1 of the year, based upon the interest estimated by the Revenue Estimating Conference. An employer has 5 months, until June 30th, to pay the assessment. The assessments are paid into the DOR's Audit and Warrant Clearing Trust Fund and may earn interest. Any interest earned is part of the balance available to pay the interest due to the federal government.

On April 20, 2010, the Transocean drilling rig known as Deepwater Horizon exploded in the Gulf of Mexico with the loss of 11 missing and presumed dead crewmembers. An estimated 4.2 million barrels of crude oil spilled from the well into the Gulf waters before it was capped on July 15, 2010. BP p.l.c., one of the responsible parties, set up a process for individuals and businesses to submit claims for losses due to the oil spill. Currently, individual and business claims for economic and property damages and medical benefits are being processed through a court-ordered settlement process.²³ On July 6, 2012 President Obama signed the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies (RESTORE) of the Gulf Coast Act of 2012.²⁴ The RESTORE Act requires 80 percent of the administrative and civil penalties paid by responsible parties under provisions of the federal Clean Water Act (formerly known as the Federal Water Pollution Control Act) be distributed to the Gulf Coast States through five programs outlined in the RESTORE Act.²⁵ The remaining 20 percent of the administrative and civil penalties paid by the responsible parties is deposited in the Oil Spill Liability Trust Fund, which can fund removal costs or damages resulting from discharges of oil.²⁶

¹⁹ The interest rate charged is equal to the fourth calendar quarter yield on the Unemployment Trust Fund for the previous year, capped at 10 percent. See U.S. Department of Treasury, Bureau of Public Debt, Treasury Direct's Unemployment Trust Fund Quarterly Yields at http://treasurydirect.gov/govt/rates/rates_tfr.htm (last visited Apr. 20, 2013).

²⁰ Revenue Estimating Conference forecast, available at <http://edr.state.fl.us/content/revenues/reports/unemployment-compensation-trust-fund/UnemploymentCompensationTax2013InterestDueonFederalAdvancesRevised.pdf> (last visited Apr. 20, 2013).

²¹ The option of issuing bonds to repay the interest may be unavailable to Florida, See Art. VII, s. 11, Fla. Const.

²² Section 443.131(5), F.S. Section 4, ch. 2010-1, L.O.F.

²³ Deepwater Horizon Court-Supervised Settlement Program website, available at <http://www.deepwaterhorizonsettlements.com/Default.aspx> (last visited Apr. 19, 2013).

²⁴ Pub. L. No. 112-141 (113th Congress). Codified at 33 U.S.C. 1321.

²⁵ For more information, see "Flow of Oil Spill Funds in Florida," Version C, as of 12/18/12, available at <http://www.monroecounty-fl.gov/DocumentCenter/View/5157> (last visited Apr. 20, 2013).

²⁶ See 33 U.S.C. s. 1321(s) and 26 U.S.C. s. 9509 for more information. See also U.S. Coast Guard, "The Oil Spill Liability Trust Fund (OSLTF)," available at http://www.uscg.mil/npfc/About_NPFC/osltf.asp (last visited April 24, 2013),

In 2011, the Legislature addressed the negative economic impacts of the Deepwater Horizon oil spill.²⁷ For “disproportionally affected counties,” the law provided for the tolling of permits and waiver of certain requirements for certain economic development programs.²⁸ The law also created s. 377.43, F.S., to direct how funds received by the state for damages caused by the Deepwater Horizon oil spill may be distributed and spent.²⁹ Section 377.43, F.S., provides that 75 percent of “[a]ny funds received by the state from any governmental or private entity for damages caused by the Deepwater Horizon oil spill” may be used in disproportionately affected counties and 25 percent may be used for other counties for the following purposes:

- Scientific research into the impact of the oil spill on fisheries and coastal wildlife and vegetation along the shoreline and the development of strategies to implement restoration measures suggested by that research;
- Environmental restoration of coastal areas damaged by the oil spill;
- Economic incentives directed to any county; and
- Initiatives to expand and diversify the economies of the counties.

Section 377.43, F.S., designates the Department of Environmental Protection as the lead agency for expending funds directed to environmental restoration and the DEO is the lead agency for expending funds directed to economic incentives and diversification efforts.

The Legislature also created the Commission on Oil Spill Response Coordination in 2011. The commission issued its final report in December 2012 for “Recommendations for Improving Oil Spill Planning and Response Capability in Florida”.³⁰ The commission made several recommendations, including recommending that local governments acquire and maintain equipment and trained personnel to respond to disasters, and that local governments work with federal agencies to update response plans.

On April 23, 2013, Attorney General Pam Bondi announced that Florida has filed a lawsuit against HP and Halliburton seeking \$5.48 billion in economic damages related to the oil spill.

III. Effect of Proposed Changes:

Evaluation of Economic Development Programs

The bill creates the Economic Development Programs Evaluation (evaluation). (**Section 1 – undesignated section of the Florida Statutes.**) EDR and OPPAGA are required to jointly present the evaluation to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the legislative appropriations committees. The offices are

²⁷ Chapter 2011-142, L.O.F.

²⁸ The “disproportionally affected counties” are Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, Walton and Wakulla counties.

²⁹ See 2011 Bill Summary for Senate Bill 2156 – Governmental Reorganization, available at <http://www.flsenate.gov/Committees/BillSummaries/2011/html/2156BC> (last visited April 24, 2013).

³⁰ Report available at http://www.dep.state.fl.us/deepwaterhorizon/files2/corc/122112_fcsrc_finalreport.pdf (last visited April 24, 2013). See also Department of Environmental Protection, website for the Commission on Oil Spill Response Coordination, available at <http://www.dep.state.fl.us/deepwaterhorizon/commission.htm> (last visited April 24, 2013).

required to evaluate specified economic development programs according to a 3-year review schedule. Programs are grouped together based on general program type. The evaluation schedule is as follows:

YEAR 1 (January 1, 2014) and every 3rd year	
Programs	Florida Statute(s)
Quick Action Closing Fund	s. 288.1088
Brownfield Redevelopment Bonus Tax Refund	s. 288.107
High Impact Sector Performance Grants	s. 288.108
Capital Investment Tax Credit	s. 220.191
Qualified Target Industry Tax Refund	s. 288.106
Innovation Incentive Program	s. 288.1089
Enterprise Zone Programs	ss. 220.181-182, 212.08(5), 212.096, 212.08(15)

YEAR 2 (January 1, 2015) and every 3rd year	
Programs	Florida Statute(s)
Entertainment Industry Financial Incentive Program	s. 288.1254
Entertainment Industry Sales Tax Exemption Program	s. 288.1258
The Florida Commission on Tourism/Visit Florida	ss. 288.122-124
Florida Sports Foundation	ss. 288.1162-1171

YEAR 3 (January 1, 2016) and every 3rd year	
Programs	Florida Statute(s)
Qualified Defense Contractor and Space Flight Business Tax Refund Program	s. 288.1045
Semiconductor, Defense, or Space Technology Sales Tax Exemption	s. 212.08(5)(j)
Military Base Protection	s. 288.980
Manufacturing & Spaceport Investment Incentive Program	s. 288.1083
Quick Response Training	s. 288.047
Incumbent Worker Training	s. 445.003
International Trade & Business Development	s. 288.826

EDR and OPPAGA are required to coordinate and submit a work plan for the evaluation to the President of the Senate and the Speaker of the House of Representatives by July 1, 2013.

The bill requires EDR to use specialized modeling techniques to evaluate the economic development programs listed above. EDR is required to evaluate each program for “economic benefits,” as well as jobs created, the increase or decrease in personal income, and the impact on state GDP of each program using data from the previous 3 years. The data used to evaluate any tax credits, tax refunds, sales tax exemptions, cash grants, and similar programs is specified as being data from projects that are either fully complete, partially complete with future fund disbursement possible pending performance measures, or partially completed with no future fund disbursement possible as a result of a business’s inability to meet performance measures. EDR is required to provide an explanation of the model used in its analysis, and the model’s key assumptions. EDR is permitted to use another model if it explains why another model is more appropriate.

The OPPAGA is required to evaluate each program for effectiveness and value to Florida taxpayers, and to provide recommendations to the Legislature based on its evaluation of each program. OPPAGA’s analysis is required to include information from interviews, reviews of relevant reports, or other data.

The bill gives EDR and the OPPAGA access to all data necessary to complete the Economic Development Programs Evaluation, including confidential data. The offices may coordinate data collection and analysis. **(Section 6, amends s. 213.053, F.S.)**

The bill updates requirements for the Annual Incentives Report currently produced by EFI **(Section 29, amends s. 288.907, F.S.)** and requires the report to be a joint report by the DEO and EFI. The agencies will no longer be required to report on the “economic benefits” of each project or program in the Annual Incentives Report. The evaluation of “economic benefits” will now be conducted as part of the Economic Development Programs Evaluation, conducted jointly by EDR and the OPPAGA. See above and discussions below under “Evaluation of Incentive Program Applicants” and “Return on Investment Reporting for Economic Development Programs.”

“Jobs” is defined to ensure that all jobs data is reported and evaluated in the same manner across programs. The term means only full-time equivalent positions, and excludes any temporary construction jobs involved with the construction of facilities for a project. **(Section 9, amends s. 288.005, F.S.)**

The bill repeals a required OPPAGA report on the Innovation Incentive Program. **(Section 20, amends s. 288.1089(11)(b), F.S.)** This report is duplicative as a result of the evaluation of the Innovation Incentive Program required as part of the Economic Development Programs Evaluation created in Section 1 of the bill.

A duplicative analysis of EFI’s return on the public’s investment is repealed. **(Section 27, repeals s. 288.904(6), F.S.)** Current law requires the analysis to be included as part of the EFI annual report. Currently, section 20.601(3), F.S., requires the OPPAGA to conduct a similar analysis in 2016.

Agency Reporting Consolidation

Presently, there are multiple reporting requirements for the state's various economic development programs and activities. Some entities are required to submit reports to the Governor, Legislature, and/or the department and the report due dates lack uniformity. The bill consolidates several independent program reports and reporting dates.

Department of Economic Opportunity's Annual Report

The bill makes several changes to the department's annual report. (**Section 2, amends s. 20.60, F.S.**) The report's due date is changed from January 1st to November 1st. The department is directed to include supplements to its annual report on several programs. As a result, the independent due dates for each of the reports are deleted. The programs to be included in the department's annual report are:

- Displaced Homemaker program. (**Section 49, amends s. 446.50, F.S.**)
- Enterprise Zone program. (Sections 29 and 30).
 - Changes the due date of each enterprise zone development agency's report to the department from December 1st to October 1st. (**Section 34, amends s. 290.0056, F.S.**)
 - Changes the due date of the Department of Revenue's report on the usage and revenue impacts, by county, of state incentives relating to enterprise zones from February 1st to October 1st. (**Section 35, amends s. 290.014, F.S.**)
- Economic Gardening Business Loan Pilot Program. (**Section 17, amends s. 288.1081, F.S.**)
- Economic Gardening Technical Assistance Pilot Program. (**Section 18, amends s. 288.1082, F.S.**)
- Black Business Loan Program. (**Section 24, amends s. 288.714, F.S.**)
- Rural Economic Development Initiative. (**Section 12, amends s. 288.0656, F.S.**)

EFI's Annual Report

The bill requires EFI to include, as a supplement in its annual report, information on: (**Section 28, amends s. 288.906, F.S.**)

- State of Florida International Offices. (**Section 10, amends s. 288.012, F.S.**)
- Florida Export Finance Corporation annual report. (**Section 25, amends s. 288.7771, F.S.**)

Additionally, under current law EFI division reports are due independently on October 1st, for inclusion in EFI's annual report. The bill repeals this independent due date. (**Section 30, amends s. 288.92, F.S.**)

Annual Incentives Report

The bill revises the duties of EFI to require the Annual Incentives Report to be a joint report by EFI and the DEO. (**Section 26, amends s. 288.903, F.S.**) The report is currently produced independently by EFI using data supplied by the department.

Information on the Economic Development Trust Fund is required to be included in the Annual Incentives Report. The information is currently required under s. 288.095(3)(c), F.S. The bill repeals this paragraph (**Section 14**) and incorporates the information into the Annual Incentives Report. (**Section 29, amends s. 288.907, F.S.**) The information includes:

- The types of projects supported;
- Tax refunds or other payments made out of the Economic Development Incentives Account for each project supported;
- A separate analysis of the impact of tax refunds on Enterprise Zones, rural communities, brownfield areas, and distressed urban communities; and
- The name and tax refund amounts for each business receiving a qualified target industry or qualified defense space contractor and space flight business tax refund.

Several other stand-alone program reports are incorporated as supplements to the Annual Incentives Report. As a result, the independent due dates for the reports are deleted. The reports required to be included as supplements to the Annual Incentives Report include:

- Florida Space Business Incentives Act annual report (**Section 7, amends s. 220.194, F.S.**), beginning in 2014.
- Information on the causes of a business's failure to complete its qualified target industry incentive agreement. (**Section 15, amends s. 288.106, F.S.**)
- Information relating to Innovation Incentive Program recipients, including the evaluation as to whether the recipients were catalysts for additional economic development. (**Section 20, amends s. 288.1089(11)(a), F.S.**)
- Florida Small Business Technology Growth Program annual report. (**Section 31, amends s. 288.95155, F.S.**)

Validation of contractor performance for all incentive programs is currently required as part of the Annual Incentives Report. The bill adds a cross-reference to s. 288.061, F.S., clarifying that validation of contractor performance is to be included in the Annual Incentives Report. (**Section 29, amends s. 288.907, F.S.**)

The bill clarifies that the DEO, rather than EFI, is responsible for validating contractor performance for the Quick Action Closing Fund incentives and that such information is to be included in the Annual Incentives Report. Current law requires the contractor performance validation to be reported within 6 months of completion. This requirement is deleted by the bill. (**Section 19, amends s. 288.1088, F.S.**)

Validation of contractor performance for the Innovation Incentive Program recipients is required to be included in the Annual Incentives Report. The current law requirement that a report on contractor performance be submitted within 90 days of an agreement's conclusion is repealed. (**Section 20, amends s. 288.1089(9), F.S.**)

Office of Film and Entertainment's Annual Report

The bill changes the due date of the Office of Film and Entertainment's (OFE) Annual Report on the entertainment industry financial incentive program from October 1st to November 1st. (**Section 22, amends s. 288.1254, F.S.**) The OFE's Annual Report is also required to include the OFE expenditures report (**Section 21, amends s. 288.1253, F.S.**) and the report detailing the relationship between tax exemptions and incentives to industry growth. (**Section 23, amends s. 288.1258, F.S.**)

Space Florida's Annual Report

The bill changes the due date for the Space Florida annual performance report from September 1st to November 30th (**Section 37, amends s. 331.3051, F.S.**), and requires Space Florida's annual operations report to be included in the performance report. (**Section 38, amends s. 331.310, F.S.**)

New Markets Tax Credit Program

Section 32 amends s. 288.9918, F.S., to change the due date for a community development entity to issue its annual report to the DEO from April 30 to January 31. The bill requires the annual report to include information on investments made under the New Markets Tax Credit program in the preceding calendar year. Due to financial reporting, the report due date for annual financial statements of a community development entity remains April 30 each year.

Community Planning – Use of Documentary Stamp Tax Distribution

Section 3 amends s. 201.15(1)(c), F.S., to delete obsolete language and clarify that the share of the documentary stamp distribution that DEO receives in the Grants and Donations Trust Fund must be used by the Community Planning Program to provide technical assistance to local governments.

Brownfields

In 1997, the Legislature enacted the Brownfields Redevelopment Act (Act).³¹ The act provides financial and regulatory incentives to encourage voluntary remediation and redevelopment of brownfield sites³² in order to improve public health and reduce environmental hazards.³³ The act also created the Brownfield Redevelopment Bonus Refund to provide a refund to qualified businesses for new jobs that are created in a brownfield area.^{34, 35} The act identifies specific

³¹ Chapter 97-277, Laws of Fla.

³² Section 376.79(3), F.S., defines "brownfield sites" as real property, the expansion, redevelopment, or reuse of which may be complicated by actual or *perceived* environmental contamination.

³³ DEP, *Florida Brownfields Redevelopment Act-1998 Annual Report*, available at http://www.dep.state.fl.us/waste/quick_topics/publications/wc/brownfields/leginfo/1998/98final.pdf (last visited Feb. 15, 2013).

³⁴ Section 376.79(4), F.S., defines "brownfield area" as a contiguous are of one or more brownfield site, some of which may not be contaminated, and which has been designated by a local government by resolution. Such areas may include all or portions of community redevelopment area, enterprise zones, empowerment zones, other such designated economically deprived communities and areas, and Environmental Protection Agency-designated brownfield pilot projects.

³⁵ Section 288.107, F.S.

procedures and criteria for the designation of a brownfield area by local governments,³⁶ counties,³⁷ and municipalities.³⁸ Brownfield areas are also eligible for a number of other incentives created throughout the years.

Section 4 amends s. 212.08, F.S., to specify that a redevelopment project is eligible for the sales tax exemption if it is located in a brownfield site for which a rehabilitation agreement with the Department of Environmental Protection (DEP), or a local government delegated by the DEP, has been executed under s. 376.80, F.S., or any abutting real property parcel within a brownfield area designated by the local government.

Section 16 amends s. 288.107, F.S., to specify that in order to be eligible for the brownfield redevelopment bonus refund for a qualified target industry agreement, the jobs must be created in a brownfield area eligible for bonus refunds. The term “brownfield area eligible for bonus refunds” is defined as a brownfield site for which a rehabilitation agreement with the DEP, or a local government delegated by the DEP, has been executed under s. 376.80, F.S., or any abutting real property parcel within a brownfield area designated by the local government.

Section 5 provides that amendments to ss. 212.08 and 288.107, F.S., do not apply to building materials purchased before the effective date of the bill, or to contracts for brownfield redevelopment bonus refunds executed by the DEO or EFI prior to the bill’s effective date.
(Undesignated section of the Florida Statutes)

Enterprise Zones

The Florida Enterprise Zone Program was created in 1982 to encourage economic development in economically distressed areas of the state by providing incentives and inducing private investment. Currently, Florida has 65 enterprise zones.³⁹ The DEO is responsible for approving applications for enterprise zones, and also approves changes in enterprise zone boundaries when authorized by the Legislature. Florida’s enterprise zones qualify for various state and local incentives from credits for corporate income tax and exemptions from sales and use tax. The program expires on December 31, 2015.⁴⁰

Section 33 amends s. 290.0055, F.S., to allow certain enterprise zones to expand. A local government may apply to DEO to expand its enterprise zone by December 31, 2013, for any enterprise zone that is:

- At least 15 square miles and less than 20 square miles and includes a portion of a rural area of critical economic concern (RACEC) may apply to expand the boundary of the enterprise zone up to 3 square miles.
- At least 20 square miles and includes a portion of the state designated as a RACEC may apply to expand the boundary of the enterprise zone up to 5 square miles.

³⁶ Section 376.80, F.S.

³⁷ Section 125.66, F.S.

³⁸ Section 166.041, F.S.

³⁹ For more information on enterprise zones, see Appropriations Subcommittee on Finance and Tax, Meeting Packet for March 6, 2013, p. 82, available at <http://www.flsenate.gov/Committees/Show/AFT/> (last visited Apr. 21, 2013).

⁴⁰ Section 11, ch. 2005-287, L.O.F.

Florida Small Business Development Center Network

Section 8 significantly amends s. 288.001, F.S., relating to the Florida Small Business Development Center Network (network). The bill provides that the purpose of the network is to serve emerging and established private, for-profit businesses that maintain a place of business in Florida. Florida's network is a consortium of regional small business development centers throughout the state that offer consulting services, training opportunities, and access to other resources and information to current and prospective small businesses.

The national Small Business Development Center program is administered by the U.S. Small Business Administration (SBA) and federal laws and regulations require that various state-level programs be located at higher education institutions. Regional centers are based at several of Florida's colleges and universities, with a total of 39 locations in the state. The network's state headquarters are located at the University of West Florida (UWF).⁴¹

Statewide Director

The bill requires the statewide director to:

- Operate the network in compliance with federal law and Board of Governors Regulation 10.015;
- Consult with the Board of Governors, the DEO, and the network's statewide advisory board to ensure that the network's policies and programs align with the statewide economic development plan and the statewide goals of the State University System;
- Develop support services, in consultation with the advisory board, to be delivered through regional small business development centers;
- Develop a pay-per-performance incentive for regional small business development centers, in coordination with the center's host institution;
- Develop annual programs that support small business assistance best practices, enhance network participation among state universities and colleges, and ensure that network services are offered statewide, especially in rural and underserved areas;
- Update the Board of Governors, the DEO, and the advisory board quarterly on the network's performance, including aggregate information on businesses assisted by the network; and
- Present an annual report on June 30th to the President of the Senate and the Speaker of the House of Representatives on the network's progress and outcomes for the previous fiscal year, including the network's economic benefit to the state.

Statewide Advisory Board

Federal requirements do not specify how members of the network's statewide advisory board are selected or the size of the board, but the board must have members who are small business owners and representative of the program's entire Service Area (in Florida, the Service Area is the entire state). The bill codifies the current membership of the statewide advisory board, with the exception of two additional members to be appointed by the network's statewide director.

⁴¹ See History of the Florida SBDC Network, available at <http://floridasbdc.org/history.php> (last visited March 26, 2013).

The bill requires the statewide advisory board to consist of 19 members from across the state, with at least twelve members being representatives of the private sector who are knowledgeable of the needs and challenges of small businesses, as follows:

- Three members from the private sector appointed by the Governor - two of whom initially serve 2-year terms.
- Three members from the private sector appointed by the President of the Senate - one of whom initially serves a 2-year term.
- Three members from the private sector appointed by the Speaker of the House of Representatives - one of whom initially serves a 2-year term.
- Three members appointed by the statewide director - one of whom initially serves a 2-year term.
- One member appointed by the host institution (the University of West Florida).
- The President of Enterprise Florida, Inc., or his or her designee.
- The Chief Financial Officer or his or her designee.
- The President of the Florida Chamber of Commerce or his or her designee.
- The Small Business Development Center Project Officer from the U.S. Small Business Administration's South Florida District Office or his or her designee.
- The Executive Director of the National Federation of Independent Businesses, Florida or his or her designee.
- The Executive Director of the Florida United Business Association or his or her designee.

The bill requires that minority and gender representation be considered when making appointments to the statewide advisory board.

The bill sets a member's term on the board at 4 years, except for five members who initially serve 2 year terms (as specified above). Statewide advisory board members may be reappointed to a subsequent term. Board members cannot receive compensation for serving on the board but may receive reimbursement for per diem and travel expenses as provided in s. 112.061, F.S.

Small Business Support Services

The bill specifies that the statewide director and the statewide advisory board must develop support services that are delivered by regional small business development centers. Support services must target the needs of businesses that employ fewer than 100 persons and demonstrate an assessed capacity to grow in employment or revenue. Businesses receiving support services must agree to participate in assessments of services received. Information requested of participating businesses includes demographic information, changes in employment and sales, debt and equity capital attained, government contracts obtained, and other information as required by the host institution (UWF).

The bill requires regional small business development centers to provide businesses with support services that include, but are not limited to providing information or research, consulting, educating, or otherwise assisting businesses in specific activities. These activities largely codify the support services already offered by the network and include:

- Planning related to starting-up, operating, or expanding a small business.
- Developing and implementing strategic or business plans.
- Developing the financial literacy of existing businesses.
- Developing and implementing plans for existing businesses to access or expand to new or existing markets.
- Supporting access to capital for business investment and expansion, including providing technical assistance related to obtaining surety bonds.
- Assisting existing business with natural or man-made disaster planning.

Additional State Funds

The bill requires the network to provide a match equal to the amount of any direct legislative appropriation. The match provided by the network must consist of 50 percent cash, with the remaining 50 percent coming from any allowable combination of additional cash, in-kind contributions or indirect costs. The 50 percent cash requirement may include funds from federal or other non-state funding sources designated for the network.

If the host institution (UWF) receives additional state funding specifically designated for the network, half of the funds must be used to establish a pay-per-performance incentive for regional small business development centers. The statewide director, in coordination with the host institution (UWF), will develop the pay-per-performance incentive. The incentive must be distributed based data collected from businesses as provided in the bill. The distribution formula must include recognition of the gross number of jobs created annually by each regional center and the number of jobs created per support service hour. Pay-per-performance incentive funds received by regional centers must be used to supplement operations and services provided by regional centers.

The remaining half of any additional state funds received by the host institution (UWF) for the network must be distributed by the statewide director, in coordination with the advisory board, for the purposes of:

- Ensuring support services are available statewide, especially in underserved and rural areas of the state;
- Encouraging colleges and universities to participate in the program; and
- Encouraging the adoption of small business assistance best practices by regional centers.

The network must announce the annual amount of available funds for each program, as well as any performance expectations or other requirements. The statewide director must present applications and recommendations to the statewide advisory board. The advisory board must approve applications and publicly post approved applications. At a minimum, programs must include new regional small business development centers and awards for the top six regional centers that adopt best practices, as determined by the advisory board. Detailed information about best practices must be made available to regional centers for voluntary implementation.

A regional center cannot receive an award from this allocation of additional state funds if the statewide director has found that the regional center has:

- Performed poorly,
- Engaged in improper activity affecting the operation and integrity of the network, or
- Failed to follow the rules and procedures set forth in the laws, regulations and policies governing the network.

Additional state funds awarded may not reduce matching funds dedicated to the small business development centers.

Reporting Requirements

The bill requires that the statewide director update the Board of Governors, the Department of Economic Opportunity, and the advisory board each quarter on the network's progress and outcomes, including aggregate information on businesses assisted by the network. In addition to quarterly updates, the statewide director and the advisory board must produce an annual report, due by June 30th, to the President of the Senate and the Speaker of the House of Representatives. The report must include: the information provided quarterly; information regarding network services and programs; the use of all federal, state, local, and private funds received by the network and the small business development centers, including the additional state funds discussed above; and the network's economic benefit to the state. The report must include specific information on performance-based metrics used by the network and the methodology used to calculate the network's economic benefit to the state.

Evaluation of Incentive Program Applicants

The bill requires that the department evaluate each economic development incentive application for the "economic benefits" of the proposed award of state incentives for the project. The bill provides that "economic benefits" has the same meaning as in s. 288.005, F.S. Section 288.005(1), F.S., provides:

"Economic benefits" means the direct, indirect, and induced gains in state revenues as a percentage of the state's investment. The state's investment includes state grants, tax exemptions, tax refunds, tax credits, and other state incentives.

EDR must review and evaluate the methodology and model used by the DEO to calculate the economic benefits. The department and EDR are authorized to develop an amended definition of "economic benefits" to evaluate applications. EDR must submit a report on the methodology and model by September 1, 2013, and every third year thereafter, to the President of the Senate and the Speaker of the House of Representatives. (**Section 11, amends s. 288.061, F.S.**)

The bill deletes similar language requiring an up-front analysis of "economic benefits" for a qualified target industry (QTI) tax refund application. The bill requires that applications for a QTI incentive be evaluated to determine if an applicant has previously received economic development incentives in other states, and if applicable, the outcome of those agreements.

Current law requires that QTI tax refund applications be evaluated for their *effect* on the *unemployment rate* in the county where a project will be located. The bill revises this requirement to require that applications be evaluated for the *expected effect* on the *unemployed and underemployed* in the county where a project will be located. The bill deletes the existing requirement that a QTI tax refund application be evaluated for the expected long-term commitment to economic growth and employment in Florida. The bill also expands the review of a business's past activities in other states to include a review of economic development incentives and the results of any incentive agreements. (**Section 15, amends s. 288.106, F.S.**)

Current law requires that a project qualifying for the Innovation Incentive Program as a research and development program or as an alternative and renewable energy project demonstrate that the project will provide a *break-even "return on investment"* to the state over a 20-year period. The term "return on investment" as it relates to the Innovation Incentive Program is not defined under current law.

The bill changes this requirement to a demonstration that the project will provide a *cumulative break-even "economic benefit"* within a 20-year period. This change creates consistent terminology and ensures applicants for the Innovation Incentive Program will be evaluated similarly to other incentive programs. (**Section 20, amends s. 288.1089(4)(b) and (d), F.S.**)

Securitization of Economic Development Incentives

The Quick Action Closing Fund and the Innovation Incentive Program provide financial incentives that can be used in highly competitive negotiations or to attract high-value research and development, innovation business, and alternative and renewal energy projects. The funds are generally distributed prior to the project's completion. Currently, the department uses payment schedules and sanctions, including clawbacks, to address a business's failure to comply with performance conditions.

Section 11 amends s. 288.061, F.S., to require that applicants for Quick Action Closing Fund and Innovation Incentive Program economic development incentives obtain a surety bond for the entire amount of the award before any state funds can be disbursed. Up to half of the premium payment on the surety bond may be paid from the award amount, not to exceed 3 percent of the award.

The DEO is authorized to waive the surety bond requirement by certifying specific information, in writing, to the Governor, President of the Senate, and Speaker of the House of Representatives. If the DEO waives the surety bond requirement, the applicant must secure the award through an irrevocable letter of credit, cash or securities held in trust, or a secured transaction in collateral. The DEO may waive the surety bond or alternate security requirement if the DEO certifies to the Governor and the chair and vice-chair of the Legislative Budget Commission that the applicant has the financial ability to fulfill the requirements of the contract; has previously demonstrated timely compliance with any clawback provisions, if the applicant has received any incentives; and that the waiver is in the best interest of the state.

Return on Investment Reporting for Economic Development Programs

The bill establishes an economic development incentive review and online publication process to be implemented by DEO. **Section 13** creates s. 288.076, F.S., relating to reporting for economic development programs, requiring the DEO to maintain a website that publishes information on economic development incentive awards to businesses. Information must be made available in an easy to use format that allows users to view and retrieve all required information at once. The DEO has 48 hours after the expiration of the period of confidentiality to publish the following information on each project:

Projected Economic Benefits

- The economic benefits *projected* to occur for each project at the time of the initial project award date.

Project Information

- The program or programs through which state investment is being made. “State investment” is defined by the bill as any state grants, tax exemptions, tax refunds, tax credits, or other state incentives awarded to a business under a program administered by the DEO, including the capital investment tax credit.
- The maximum potential cumulative value of the state investment in a project.
- The target industries⁴² or high-impact sectors⁴³ that the project falls under.
- The county or counties that may be impacted by the project.
- The total cumulative value of any local financial commitment and in-kind support for the project.

Participant Business Information

- The location of the participant business’s headquarters or the headquarters of the parent company if it is a subsidiary. “Participant business” is defined by the bill to mean an employing unit, as defined in s. 443.036, F.S., that has entered into an agreement with the DEO to receive a state investment.
- The firm size class of the participant business, or where owned by a parent company, the firm size class of the participant business’s parent company, using firm size classes established by the U.S. Department of Labor’s Bureau of Labor Statistics.
- Whether the participant business qualifies as a small business under s. 288.703, F.S.
- The date of the project award.
- The expected duration of the contract.
- The anticipated date when the participant business will claim its last state investment.

Project Evaluation Criteria

- The economic benefits generated by the project.

⁴² Section 288.106(2)(q), F.S.

⁴³ Section 288.108(6)(a), F.S.

- The net indirect and induced incremental jobs to be generated by the project. The bill states that “jobs” has the same meaning as in s. 288.106(2)(i), F.S., which means full-time equivalent positions, including positions obtained from a temporary employment agency or employee leasing company, or through a union agreement or coemployment under a professional employer organization agreement. Temporary construction jobs are not included in the definition.
- The net indirect and induced incremental capital investment to be generated by the project.

Project Performance Goals

- The incremental direct jobs attributable to the project, identifying the number of jobs generated and the number of jobs retained.
- The number of jobs generated and the number of jobs retained by the project.
- For projects that begin after October 21, 2013, the DEO must report the median annual wage of persons holding such jobs.
- The incremental direct capital investment in the state generated by the project.

Total State Investment to Date

- The total amount of state investment disbursed to the participant business to date, itemized by incentive program.

Additionally, each project’s economic benefits must be published on the DEO website within 48 hours after the conclusion of an agreement between a participant business and the DEO. The DEO is required to use the methodology and formulas developed by the EDR to determine each project’s economic benefits. This ensures a project’s total economic benefits that actually occurred are published, allowing visitors of the website to view and compare the information with projected economic benefits at the time of the project’s award date. The DEO is directed to publish a description of the methodology developed by the EDR to calculate economic benefits of a project, and must publish the information on its website within 48 hours after receiving it from the EDR.

The bill requires the DEO to update information on its website for each project annually from its award date. Verified results must be updated for each project, including information on Project Information, Participant Business Information, Project Evaluation Criteria, Project Performance Goals, and Total State Investment discussed above. The DEO must publish the date the information was last updated on the website.

Within 48 hours after the expiration of the period of confidentiality, the DEO must publish the contract or award agreement with the participant business on its website. The agreement may be redacted to protect a participant business from disclosure of any information that remains confidential or exempt by law.

The bill requires the DEO to publish all information required above for all projects completed prior to October 1, 2013. The DEO has until October 1, 2014, to compile and publish the information.

The bill clarifies that provisions restricting the publication of any information on the DEO's website is limited to that purpose, and is not to be construed as creating a public records exemption.

The DEO may adopt rules to administer the provisions included in **section 13** of the bill.

Qualified Target Industry Tax Refund Reports

DEO must publish on the website any reports of findings and recommendations concerning a business's failure to complete its qualified target industry tax refund program agreement within 48 hours after submitting the report.

Quick Action Closing Fund Timeline

The bill requires DEO to publish information on its website relating to Quick Action Closing Fund⁴⁴ (QACF) incentive projects, including the average number of days between the date the DEO receives a completed QACF application and the date on which the application was approved.

Section 108 Loan Guarantee Program

Currently, the DEO administers the Community Development Block Grant (CDBG) program, a federally funded housing and community development program that targets assistance to low and moderate income populations. Rural or smaller area governments receive grants from the department through a competitive rural distribution mechanism known as the Florida Small Cities Community Development Block Grant (Small Cities CDBG) program. Local governments in urban areas apply and receive funds directly from the U.S. Department of Housing and Urban Development (HUD).

The bill focuses on reducing risks associated with the Section 108 loan guarantee program by amending s. 290.0455, F.S., (**Section 36**) to require an applicant approved by the HUD to receive a Section 108 loan to enter into an agreement with the department that requires the applicant to pledge half the amount necessary to guarantee the loan in the event of default. The department must review all Section 108 loan applications in the order received, provided the applications meet all eligibility requirements and have been deemed financially feasible by a loan underwriter approved by the department. If the statewide maximum available for loan guarantees has not been met, the department may submit the application to HUD with a recommendation that the loan be approved, with or without conditions, or denied.

The bill reduces the maximum amount of an individual loan guarantee commitment from \$7 million to \$5 million and decreases the maximum statewide amount of loan guarantees from five times to two times the amount of the most recent grant received by the department under the Florida Small Cities CDBG Program. The \$5 million loan guarantee limit does not apply to loans guaranteed prior to July 1, 2013, so that they may be refinanced.

⁴⁴ Section 288.1088, F.S.

If a local government defaults on a Section 108 loan requiring the department to reduce its annual grant award to pay the annual debt service on the loan, any future CDBG program funds that the local government receives must be reduced in the amount equal to the amount of the state's grant award used in payment of debt service on the loan.

If a local government, that has received a Section 108 loan through the Florida Small Cities CDBG Program, is granted entitlement community status by HUD, then the local government must pledge its entitlement allocation as a guarantee of its previous loan and request HUD to release the department as guarantor of the loan.

Reemployment Assistance Program

Additional Assessment on Employers to Repay Federal Interest

The bill amends s. 443.131, F.S., (**Section 43**) to provide that no assessment will be levied against contributing employers if the amount of assessments on deposit, plus any earned interest, is at least 80 percent of the estimated amount of interest. The bill further provides that any assessments that remain on deposit, including associated interest, 4 months after all federal advances and associated interest have been repaid are to be transferred to the Unemployment Compensation Trust Fund. The provisions relating to interest assessments on federal advances will expire on July 1, 2014.

Reemployment Assistance Claims and Benefits Information System

In 2009, the Legislature authorized the Department of Economic Opportunity to upgrade and enhance its Unemployment Compensation Claims and Benefits Information System.⁴⁵ The statute provides a project completion date of no later than June 30, 2013 (end of Fiscal Year 2012-2013).

In early 2012, the vendor indicated that an extension of the timeline would be required. The vendor paid \$1,965,000 in liquidated damages and provided a credit of \$2,500,000 to cover the costs incurred by the DEO caused by the delay. After negotiations and a corrective action plan, the revised project schedule calls for an October 28, 2013, implementation date.⁴⁶

Section 42 amends s. 443.1113, F.S., to extend the operational deadline for the Reemployment Assistance Claims and Benefits Information System to June 30, 2014 (end of Fiscal Year 2013-2014).

⁴⁵ Chapter 2009-73, L.O.F. At the time, the Unemployment Compensation program was housed in the Agency for Workforce Innovation, whose functions were transferred to the Department of Economic Opportunity in 2011.

⁴⁶ See Project Connect, Executive Steering Committee Meeting Minutes for August 8, 2012, http://sitefinity.floridajobs.org/Unemployment/UC_ModernizationProject/documents/MinutesAgendas/20120808%20RA%20ESC%20Meeting%20Minutes%20%20FINAL.pdf (last visited Arp. 21, 2013).

Fraudulent Claims

A fraudulent claim is one that knowingly contains a false or fraudulent statement or fails to disclose a material fact for the purpose of obtaining or increasing reemployment benefits.⁴⁷ A claimant found to be collecting benefits fraudulently is disqualified from received benefits beginning the week that the fraudulent claim was made. The disqualification will continue for a period not to exceed 1 year after the DEO discovered the fraud and until any resulting overpayment of benefits has been repaid. Reemployment Assistance fraud can also be prosecuted as a third degree felony.

Federal law requires states to assess a penalty, of at least 15 percent of the amount of the erroneous payment, on any claimant who fraudulently obtained benefits.⁴⁸ Florida does not currently assess a penalty for fraudulent overpayments.

Section 44 amends s. 443.151(6)(a), F.S., to impose a penalty equal to 15 percent of the amount overpaid, on any claimant who fraudulently receives reemployment benefits. This provision will bring Florida into compliance with federal law. Any amounts collected for penalties are to be deposited into the Unemployment Compensation Trust Fund. (**Section 48, amends s. 443.191, F.S.**)

Confidentiality

Information received from an employing unit or individual that reveals an employing unit's or individual's identity under the administration of the RA program is confidential and exempt from disclosure.⁴⁹

In 2012, the statute was amended and the language that made disclosure of such confidential information a second-degree misdemeanor was inadvertently repealed.⁵⁰ Federal regulations require Florida to provide penalties for the unlawful disclosure of confidential information related to reemployment assistance.⁵¹

Section 47 amends s. 443.1715, F.S., to restore penalties for the disclosure of confidential information that were inadvertently repealed in 2012. This provision will bring Florida into compliance with federal law.

⁴⁷ Sections 443.071 and 443.101(6), F.S., discuss fraud and associated penalties.

⁴⁸ 42 U.S.C. s. 503(a)(11).

⁴⁹ Section 443.1715, F.S. This subsection authorizes a number of exceptions for disclosure. Information may be released to the extent necessary for presentation of a claim or upon written authorization of a claimant who has a workers' compensation claim pending or is receiving compensation benefits. Public employees may receive this information in the performance of their public duties but must maintain the confidentiality of the information. A claimant or his or her legal representative is entitled to this information, to the extent necessary, to present a claim at a hearing before an appeals referee or the commission. DEO or DOR may provide a copy of any report submitted by an employer to the employer or a copy of any report submitted by the claimant to the claimant, upon request. Confidential information may also be released pursuant to 20 C.F.R. part 603.

⁵⁰ Chapter 2012-30, L.O.F.

⁵¹ 20 C.F.R. part 603.

Employer Response to Notice of Claim

Under current law, the DEO sends a notice of claim to each employer whose employment records may be impacted by an individual's claim for benefits. Each employer must timely respond to the notice within 20 days of delivery or mailing of the notice of claim in order to be relieved of benefit charges under s. 443.131(3)(a), F.S. Federal law requires that the employer, or its agent, "timely or adequately" respond to the notice of claim.⁵² On March 29, 2013, the U.S. Department of Labor informed the DEO that the state was out of compliance on this provision.⁵³

Section 44 amends s. 443.151(3)(a), F.S., to provide that each employer, *or its agent*, must *timely or adequately* respond to the notice of claim *or request for information*.

Disqualification for Reemployment Assistance Benefits

Under current law, an individual may be disqualified from receiving reemployment assistance benefits for any week in which the department finds that he or she was discharged by his or her employer for misconduct. The bill adds specific examples of "misconduct" to be included in the definition, but the examples are not intended to limit the definition. (**Section 39, amends s. 443.036(30), F.S.**)

Current law also provides additional grounds for which an individual may be disqualified from obtaining reemployment benefits, such as voluntarily leaving employment. The bill adds loss of employment due to failure without good cause to maintain a license, registration, or certification, required by law for the employee to perform her or his assigned duties. "Good cause" is defined to include, but is not limited to, failure of the employer to submit required information for the license, registration, or certification; short term physical injury that prevents the employee from completing a required test; and inability to complete a required test that is outside the employee's control. (**Section 41, creates s. 443.101(13), F.S.**)

Benefit Eligibility Conditions

Section 40 amends s. 443.091, F.S., to amend three current benefit eligibility conditions.

Under current law, an individual must register with the DEO for work. The bill clarifies this requirement to specifically require unemployed individuals to complete the department's online work registration.

Under current law, only individuals who can attest to being illiterate or having a language impediment are exempt from the initial skills review. The bill expands the exemption so that individuals unable to complete the online work registration or initial skills review due to illiteracy, physical or mental impairment, a legal prohibition from using a computer, or a language impediment are exempt from the online work registration and initial skills review. The bill also adds a cross reference to this provision in **Section 44**, amending s. 443.151(2)(b), F.S.

⁵² 26 U.S.C. s. 3303(f) (effective October 21, 2011).

⁵³ See e-mail from U.S. Department of Labor to DEO, March 29, 2013, on file with the Senate Commerce and Tourism Committee.

Under current law, an individual must also provide proof of work search efforts, which includes contacting at least 5 prospective employers for each week of benefits claimed. The bill limits an individual's proof of work search efforts by prohibiting reporting of contacting the same employer at the same location for 3 consecutive weeks. The bill does provide an exception for times when an employer indicates that it is hiring since the time of initial contact by the individual. Further, the bill provides that the work search requirements do not apply to individuals selected to participate in reemployment assistance services, such as Reemployment and Eligibility Assessments (REAs).⁵⁴

Reemployment Assistance Benefits- Determinations, Redeterminations and Appeals

The DEO issues determinations and redeterminations on the monetary and non-monetary eligibility requirements⁵⁵ for reemployment assistance benefits. If a party disagrees with either the determination or redetermination, the applicant or employer may request an administrative hearing before an appeals referee. Appeals referees in the DEO's Office of Appeals hold hearings and issue decisions to resolve disputes related to eligibility for unemployment compensation and the payment and collection of unemployment compensation taxes.⁵⁶ Special deputies within the Office of Appeals handle appeals related to matters on tax, reimbursement, and liability protests. Generally, an appeal must be filed within 20 days of the determination date.

Upon receiving an appeal, the Office of Appeals will schedule a hearing involving all interested parties to address the issues. The parties will be mailed a *Notice of Hearing* telling them when the hearing will be held and whether they are expected to participate in-person or by telephone... The parties are expected to present all of their evidence and testimony to the appeals referee, who will then make a decision based only upon the evidence and testimony presented during the hearing. An audio recording of the hearing will be made by the referee. When the hearing is completed, the referee will issue a written decision.⁵⁷

In the 2012 calendar year, there were a total of 116,534 appeals filed, and the Office of Appeals issued 128,968 decisions. Most appeals were filed by applicants (about 74 percent of the filed appeals), but the outcomes of the decisions were evenly split between decisions to pay or deny

⁵⁴ REAs are in-person interviews with selected claimants to review the claimants' adherence to state eligibility criteria, determine if reemployment services are needed for the claimant to secure future employment, refer individuals to reemployment services, as appropriate, and provide labor market information which addresses the claimant's specific needs. Research has shown that interviewing claimants for the above purposes reduces benefit duration and saves Unemployment Compensation Trust Fund resources by helping claimants find jobs faster and eliminating payments to ineligible individuals. Florida administers the REA Initiative through local One-Stop Career Centers. Rule 60BB-3.028, F.A.C., provides more information on reemployment services and requirements for participation.

⁵⁵ Section 443.151(3), F.S.

⁵⁶ Appeals are governed by s. 443.151(4), F.S., and the Administrative Procedures Act, ch. 120, F.S. Information about the Office of Appeals and the appeals process may be found on the DEO website at <http://www.floridajobs.org/job-seekers-community-services/reemployment-assistance-center/file-an-appeal> (last visited Apr. 21, 2013).

⁵⁷ The DEO, "Reemployment Assistance Appeals Process, Reemployment Assistance Appeals Commission," available at <http://www.floridajobs.org/job-seekers-community-services/reemployment-assistance-center/reemployment-assistance-appeals-commission/reemployment-assistance-appeals-process> (last visited Apr. 21, 2013).

benefits to the applicants.⁵⁸ A decision by an appeals referee can be appealed to the Reemployment Assistance Appeals Commission.

Currently, appeals referees are not required to be licensed attorneys. The DEO currently employs 79 appeals referees, of which approximately 12% are attorneys in good standing with the Florida Bar. **Section 45** amends s. 443.151, F.S., to require that an appeals referee employed by the DEO be an attorney in good standing with the Florida Bar. New employees hired on or after January 1, 2014, must be an attorney within 8 months of his or her employment date. This section is effective January 1, 2014. **Section 46** provides that after January 1, 2014, the DEO must meet these requirements through attrition of staff. (**Undesignated section of the Florida Statutes**)

Gulf Coast Economic Corridor Act

Section 50 creates s. 288.80, F.S., which designates ss. 288.80 – 288.84, F.S., as the “Gulf Coast Economic Corridor Act” (the GCEC act). **Section 51** states that the Legislature intends to provide a long-term source of funding for economic recovery and enhancement efforts in the Gulf Coast region.

Section 52 creates s. 288.81, F.S., to provide definitions for the GCEC act. In particular, “disproportionately affected county” is defined as 8 Florida counties: Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, Walton, and Wakulla. Additionally, “Recovery Fund” is defined as “a trust account established by Triumph Gulf Coast, Inc., for the benefit of the disproportionately affected counties.”

Triumph Gulf Coast, Inc., and the Recovery Fund

Section 53 creates s. 288.82, F.S., to create Triumph Gulf Coast, Inc., a nonprofit corporation administratively housed within the DEO, but which is not a unity or entity of state government. The corporation is not subject to the control, supervision, or direction of the DEO.

Triumph Gulf Coast, Inc., is directed to create and administer the Recovery Fund as a long-term source of revenue, the principal of which will decline over a 30-year period in equal amounts each year. A portion of the principal and any earnings (income generated from investments and interest) will be available each year to make awards to programs and projects in the disproportionately affected counties. The principal of the Recovery Fund is made up of 75 percent of all funds recovered by the Attorney General for economic damage to the state resulting from the Deepwater Horizon oil spill;⁵⁹ and any funds distributed to the state under the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies

⁵⁸ Data from the DEO, “Reemployment Assistance Data, 1st Quarter 2007 through 4th Quarter 2012,” January 7, 2013, on file with the Senate Commerce and Tourism Committee. Note, that not all outcomes that award benefits impact an employer’s taxes, as some cases find that the former employee separated from work due to reasons not attributable to the employer.

⁵⁹ The Attorney General filed a lawsuit for “loss of tax revenue and income and other economic damages” against BP p.l.c. and Halliburton Energy Services, Inc., on April 20, 2013, in the Panama City Division of the Northern District of Florida. For more information, see Attorney General Pam Bondi News Release, Attorney General Pam Bondi Sues BP on Three-Year Anniversary of Deepwater Horizon Oil Spill, April 20, 2013, available at <http://www.myfloridalegal.com/newsrel.nsf/newsreleases/D37C3803876F7AF285257B5300516938> (last visited Apr. 21, 2013).

(RESTORE) of the Gulf Coast Act of 2012. The bill does not affect funds distributed to a county under the RESTORE Act. Any funds remaining in the Recovery Fund after 30 years reverts to the State Treasury. The bill does not make an appropriation.

Triumph Gulf Coast, Inc., is permitted to invest the principal, and must account for each type of principal funds separately from each other and any earnings. The board of directors of the corporation is required to create an investment policy and competitively procure one or more money managers to invest the funds. Any agreement with a money manager must be reviewed every 5 years to determine if the agreement should be continued. Management fees for investments are limited to 1.5 basis points.

Administrative costs, including any management fees for investments, are limited to 1 percent of the earnings each calendar year.

Triumph Gulf Coast, Inc., is required to have two annual audits – one of the investment of the Recovery Fund by an independent certified public accountant, and one of the Recovery Fund and Triumph Gulf Coast, Inc., itself by the Auditor General.

Triumph Gulf Coast, Inc., must report twice a year, on June 30 and December 30, to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Board of Directors

Section 54 creates s. 288.83, F.S., to create a 5-member board of directors for Triumph Gulf Coast, Inc., and the set forth requirements on the members.

The Governor, Attorney General, Chief Financial Officer, (as Trustees of the State Board of Administration), the President of the Senate, and the Speaker of the House of Representatives each select one person from the private sector to serve on the board.

The board is required to annually elect a chair from its members, who serve 4-year terms. The bill provides for staggered terms by limiting the appointments of the President of the Senate and Speaker of the House of Representative to serve 2 year terms initially. All initial appointments are to be made by November 15, 2013. Board members are uncompensated, except for travel and per diem expenses.

Triumph Gulf Coast, Inc., and its board of directors are subject to public records and meeting requirements, as well as, provisions for restrictions on employment of relatives, voting conflicts, and standards of conduct for public officers, which include prohibitions on self-dealing, solicitation of gifts, and postemployment restrictions. Additionally; each board member must agree to refrain from having any direct interest in any contract, program, project, or other benefit arising from an award from the Recovery Fund during the term of appointment to the board and for 2 years following the end of the appointment. The bill provides that it is a first degree misdemeanor to violate these terms of board membership.⁶⁰ Board members must also file

⁶⁰ Punishable by a fine of up to \$1,000 and up to one year imprisonment. See ss. 775.082 and 775.083, F.S.

financial disclosure forms. Board members have a fiduciary duty to the Recovery Fund, and may be removed by the state officer that made the appointment for certain delineated reasons.

The board is required to meet at least quarterly. The executive director of the DEO, the secretary of the Department of Environmental Protection, and the chair of the Committee of 8 Disproportionately Affected Counties (of the Gulf Consortium) must be available to consult with the board and may be requested to attend board meetings.

The board is permitted to hire necessary staff, and is required to retain:

- An independent certified public accountant licensed in Florida;
- An independent financial advisor;
- An economic advisor; and
- A legal advisor.

All staff must also comply with the code of ethics for public employees and agree to refrain from having any direct interest in any contract, program, project, or other benefit arising from an award from the Recovery Fund during the term of employment or contract to the board and for 2 years following the end of employment or contract.

Section 55 creates s. 288.831, F.S., to set forth the powers and duties of the board of directors. These include making and entering into contracts, adopting and using a corporate seal, and a prohibition on pledging the credit of the state on behalf of Triumph Gulf Coast, Inc.

Section 56 creates s. 288.832, F.S., to set forth the duties of Triumph Gulf Coast, Inc. These include managing all funds responsibly and prudently, monitoring and reviewing awardees, and operating in a transparent manner.

Awards

Section 57 creates s. 288.84, F.S., which sets forth the type and requirements for awards from the Recovery Fund. Triumph Gulf Coast, Inc., is permitted to make awards from available earnings and principal for projects or programs that meet the priorities for economic recovery, diversification, and enhancement of the disproportionately affected counties, notwithstanding s. 377.43, F.S.

For awards from earnings and principal of the funds recovered by the Attorney General for economic damage to the state resulting from the Deepwater Horizon oil spill, awards may be made for the following projects or programs within the disproportionately affected counties:

- Ad valorem tax reduction;
- Payment of impact fees;
- Administrative funding for economic development organizations;
- Local match requirements for certain economic incentives programs in ch. 288, F.S.;
- Economic development projects;
- Infrastructure projects that are shown to enhance economic development;

- Grants to local governments to establish and maintain equipment and trained personnel for local action plans of response to disasters;
- Grants to support programs of excellence that prepare students for future occupations and careers at K-20 institutions; and
- Grants to Visit Florida for advertising and promoting tourism, the Fresh From Florida program, or other related content.

For awards from earnings and principal of the funds distributed under the RESTORE act, awards may be made for the following projects or programs within the disproportionately affected counties, in accordance with federal law:

- Administrative funding for economic development organizations;
- Local match requirements for certain economic incentive programs in ch. 288, F.S.;
- Economic development projects;
- Infrastructure projects that are shown to enhance economic development;
- Grants to local governments to establish and maintain equipment and trained personnel for local action plans of response to disasters; and
- Grants to Visit Florida for advertising and promoting tourism, the Fresh From Florida program, or other related content.

Triumph Gulf Coast, Inc., must establish an application and scoring process for all awards. The scoring process should lead to the selection of projects or programs that “have the potential to generate increased economic activity in the disproportionately affected counties.” The process should give priority to projects or programs that:

- Generate maximum economic benefits;
- Expand household income above the national average;
- Expand or establish new high growth industries;
- Leverage or enhance key regional assets, including research facilities and military bases;
- Partner with local governments, convention and visitor bureaus, chambers of commerce, school districts, or educational institutions;
- Have investment commitments from private equity or venture capital funds;
- Provide or encourage seed-stage investments;
- Provide advice or technical assistance to companies on restructuring existing management, operations, or production to attract business opportunities;
- Benefit the environment in addition to the economy; and
- Provide outcome measures for program of excellence.

Triumph Gulf Coast, Inc., is permitted to make awards by establishing an application period or as applications are received. The awards may not be used to finance 100 percent of a project or program, and no one awardee may receive all of the available funds in any given calendar year. A one-to-one private-sector match may be required if applicable and deemed prudent by the board of directors.

Contracts for awards must include performance measures and reports and provisions for recovery of the award if the award was made based on fraudulent information or if the awardee is not

meeting the performance measures. Triumph Gulf Coast, Inc., must establish a schedule for regular reporting by the awardees on the status of the project or program.

Effective Date

The bill takes effect upon becoming law, except as otherwise expressly provided in the act. (Section 58).

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:

The transfer of any remaining funds to the Unemployment Compensation Trust Fund after the final federal interest payment is made may have a positive impact on employer contribution rates.

Revenues generated by the imposition and collection of the penalty created in the bill for fraudulently obtaining unemployment compensation benefits could have a positive impact on employer contribution rates.

The Revenue Estimating Conference adopted an impact for the provisions of the bill related to the sales tax exemption for building materials in redevelopment projects and for the brownfield redevelopment bonus refund of positive \$1.5 million (a combination of increased revenues and decreased expenditures) for FY 2013-2014, and adopted a cash impact of negative \$120,000 (decreased revenues) for FY 2013-2014 for the provisions allowing the expansion of certain enterprise zones located in rural areas of critical economic concern.⁶¹

⁶¹ Revenue Estimating Conference, Impact on HB 7007 – Proposed Amendment, Issue: Enterprise Zone Expansion, RACEC, February 22, 2013, available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2013/pdf/page82-85.pdf> (last visited Apr. 21, 2013).

B. Private Sector Impact:

To the extent that more small businesses are assisted through increased performance by the network and regional centers, the bill may have a positive impact on the private sector.

The bill may impose costs on prospective economic development incentive applicants due to the requirement to secure or guarantee the award amount. The costs imposed may be in the form of premiums or other professional fees related to creating the secured transaction.

If the amount of assessments collected in previous years to pay the interest due on federal advances is at least 80 percent of the estimated interest payment, the Department of Revenue may not make an assessment against employers, which would have a positive fiscal impact to the private sector.

The bill will have a positive fiscal impact to individuals and organizations that are granted an award of funds from the Recovery Fund for a program or project.

Also, see Tax/Fee Issues.

C. Government Sector Impact:

This bill is projected to have a fiscal impact to the Office of Economic and Demographic Research and the Office of Program Policy Analysis and Government Accountability, as follows:

- Office of Economic and Demographic Research (EDR)
 - Economic Development Program Evaluation Workload - three positions and \$302,324 to cover salaries, benefits and expenses associated with the new positions (\$37,002 of the expenses are nonrecurring).
 - Modifications to Statewide Model - \$34,400 to design and develop an employment module for the statewide model.

Funding for EDR would need to be appropriated in the General Appropriation Bill.

- Office of Program Policy Analysis and Government Accountability (OPPAGA)
 - Economic Development Program Evaluation Workload - two positions and a part-time intern - \$178,163 for salaries and benefits. OPPAGA has indicated that they can absorb the additional workload within existing resources.

These estimates assume that EDR and OPPAGA will obtain access to all information related to economic development programs that is needed to complete the Economic Development Program Evaluations without cost to EDR or OPPAGA.

The DEO projects that the provisions of the bill that require “return on investment” reporting for economic development programs will require two full-time positions and

\$398,000 of additional state funds to implement. Currently, information regarding economic development incentives available on the DEO’s Economic Development Incentives Portal includes the following:

- Quick Action Closing Fund
- Innovation Incentive Program
- Qualified Target Industry Tax Refund Program
- Qualified Defense Contractor and Space Flight Business Tax Refund Program
- Brownfield Redevelopment Bonus Tax Refund
- Semiconductor, Defense, or Space Technology Sales Tax Exemption
- Capital Investment Tax Credit
- Manufacturing & Spaceport Investment Incentive Program
- High Impact Sector Performance Grants.

The bill requires the DEO to provide additional information for the programs listed above and to expand the enhanced reporting to all economic development “projects” (defined as the creation of a new business or expansion of an existing business) that receive state grants, tax exemptions, tax refunds, tax credits, or other state incentives provided to a business under an economic development program administered by the DEO. The department projects that it will need an additional \$398,000 from state funding sources in Fiscal Year 2013-2014 and two full-time positions to implement these requirements, as follows:

	<u>Total</u>	<u>Nonrecurring</u>
Process Mapping	\$75,000	\$75,000
Sales Force and portal development	\$85,000	\$85,000
Data Migration	\$50,000	\$50,000
Training	\$ 6,000	\$ 6,000
Cloud Storage	\$12,000	
Additional Software Licenses	\$10,000	
FTE – Technical Administrator	\$80,000	
FTE – Substantive Administrator	\$80,000	
Total Projected Costs	<u>\$398,000</u>	<u>\$216,000</u>

As of April 24, 2013, the Conference Committee on Senate Transportation, Tourism, and Economic Development Appropriations/House Transportation and Economic Development Appropriations has agreed to provide two positions and \$398,000 from the State Economic Enhancement and Development (SEED) Trust Fund to the DEO in the Conference Committee Report on Senate Bill 1500 (Fiscal Year 2013-2014 General Appropriations Act).

Failure to provide a penalty for individuals who fraudulently collect unemployment benefits, restore the penalty for disclosing confidential information, or require the employer’s response to a notice of claim to be made timely *or adequately* puts Florida at risk of being deemed out of conformity with federal law. If the United States Department of Labor made such a finding, it may not certify the state’s reemployment assistance

program and could withhold all administrative funding (approximately \$77 million for Federal FY 2013) or cause the employer federal tax rates to increase to the total of 6.0 percent because of loss of the entire Federal Unemployment Tax Act tax credit.

Imposing the 15 percent penalty upon individuals who fraudulently receive unemployment compensation benefits could have a positive impact to the Unemployment Compensation Trust Fund. According to the department, during FY 2011-12, the department made 25,294 fraud determinations totaling \$33.2 million in benefit overpayments. If these benefit overpayments had been subject to the 15 percent penalty, approximately \$4.9 million could have been deposited in the Unemployment Compensation Trust Fund. Revenues generated by the imposition and collection of the penalty created in the bill could have a positive impact on employer contribution rates.

The provisions of the bill that streamline reporting requirements, delete duplicative reports, and consolidate reporting due dates may improve efficiencies and are not expected to have a fiscal impact to the Department of Economic Opportunity, Enterprise Florida, Inc., the Office of Film and Entertainment, or Space Florida.

The provisions of the bill related to the Small Business Development Center Network are expected to have a minimal, but indeterminate, impact on the operating budgets of the Board of Governors and the department. As of April 24, 2013, the Conference Committee on Senate Appropriations on Education/House Education Appropriations has agreed to include \$4 million of recurring general revenue funds for Small Business Development Centers in Specific Appropriation 142 (Grants and Aids – Education and General Activities appropriation category) in the Conference Committee Report on Senate Bill 1500 (Fiscal Year 2013-2014 General Appropriations Act).

The bill requires the department to establish a process for determining compliance with, or waiving, the securitization requirements created in the bill. The department may promulgate rules to implement the bill. The costs associated with establishing and maintaining processes and rulemaking that the department may incur are indeterminate, but are anticipated to be insignificant.

- The Department of Economic Opportunity

indicates that federal funding received to administer the state's reemployment assistance program could be redirected to cover the increased salaries and benefits costs associated with the requirement that the department fill vacant appeals referees positions with attorneys in good standing with the Florida Bar after January 1, 2014 .

The bill will have a positive fiscal impact to local governments that are granted an award of funds from the Recovery Fund for a program or project.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The DEO is authorized to adopt rules to:

- Establish a process for determining compliance with, or waiving, the securitization requirements created in Section 11 of the bill; and
- Create the website for the return on investment reporting for economic development programs created in Section 13 of the bill.

VIII. Additional Information:

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

CS/CS by Appropriations on April 23, 2013:

The committee substitute:

- Clarifies that the annual report by the Small Business Development Network include information on the use of all federal, state, local, and private funds received by the network and the small business development centers.
- Specifies the meaning of the term “brownfield” for the sales tax exemption for building materials in redevelopment projects and for the brownfield redevelopment bonus refund.
- Adds a requirement that DEO publish certain project-specific information on each economic development program awarded to businesses on its website in an easy-to-use format.
- Removes the provision that the Governor serve as an ex officio, non-voting member of the board of directors of the Florida Tourism Industry Marketing Corporation (VISIT Florida).
- Moves the annual report due date for the New Markets Tax Credit program from April 1 to January 31.
- Permits enterprise zones of certain sizes to expand their boundaries if the zone also includes a portion of a rural area of critical economic concern.
- Revises the limitation on proof of work search contacts for reemployment assistance benefits to prohibit a claimant from reporting a contact to the same employer at the same location in 3 consecutive weeks, unless that employer has indicated that it is hiring since the time of the initial contact.
- Provides that the DEO may fulfill the requirement for appeals referees to be attorneys through attrition of staff.
- Creates the Gulf Coast Economic Corridor Act to create the Triumph Gulf Coast, Inc., to invest funds related to the Deepwater Horizon oil spill and make awards to projects and programs in the 8 disproportionately affected counties.
- Creates a rotating, 3-year review schedule for all incentives and programs to be evaluated by the Office of Economic and Demographic Research (EDR) and the Office of Program Policy Analysis and Government Accountability (OPPAGA).
- Provides EDR and OPPAGA access to all data necessary to complete its evaluations of the economic development programs.

- Defines “jobs” as full-time equivalent positions, and excludes any temporary construction jobs involved with the construction of facilities for a project.
- Repeals duplicative evaluations of economic development programs.
- Aligns the Small Business Development Center Network’s (network) statewide policies with the statewide strategic economic development plan and statewide goals of the university system.
- Specifies the composition of the network’s statewide advisory board.
- Specifies the support services offered by the network.
- Requires the network to provide a match to any direct state appropriation.
- Requires the network to set up incentives for the regional centers to create jobs, institute best practices, and serve new areas of the state or underserved areas.
- Requires regular reporting by the network on programs, services, and outcomes, including information on the network’s economic benefits to the state.
- Requires the department to evaluate each application for economic incentives for the economic benefits of the proposed award to the state, and EDR is to review and report on the methodology used to calculate the economic benefit.
- Requires recipients of incentives under the Quick Action Closing Fund and the Innovation Incentive Programs to secure the award with a surety bond, letter of credit, or other security; provides procedures for the department to waive securitization requirements.
- Eliminates school boards as entities for which funds from the Grants and Donations Trust Fund in the Department of Economic Opportunity may be used to provide community planning technical assistance.
- Creates specific examples of misconduct for which an individual may be disqualified for benefits.
- Prohibits a claimant from counting the same prospective employer at the same location more than once during his or her claim as proof of work search efforts, unless the employer indicates that it is hiring after the initial contact by the claimant.
- Provides that an individual is disqualified from receiving benefits if his or her unemployment is due to a discharge from employment for failure, without good cause, to maintain a license, registration, or certification required by law for the performance of his or her assigned duties and provides examples of good cause.
- Requires an appeals referee to be a member in good standing with the Florida Bar or be successfully admitted to the Florida Bar within 8 months of his or her employment date, effective January 1, 2014, and current appeals referees who have law degrees but are not members in good standing in the Florida Bar must be successfully admitted by September 30, 2014.

CS by Community Affairs on March 7, 2013:

The CS provides the \$5 million loan guarantee limit for the Florida Small Cities Community Development Block Grant Program does not apply to loans guaranteed prior to July 1, 2013, that may be refinanced. The CS creates an exemption for people who are unable to complete the online work registration due to various stated reasons from having to complete the department's online work registration.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
