

By Senator Sobel

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1 A bill to be entitled
2 An act relating to reporting requirements for economic
3 development programs; creating s. 288.076, F.S.;
4 providing definitions; requiring the Department of
5 Economic Opportunity to publish on a website specified
6 information concerning state investment in economic
7 development programs; providing procedures and
8 requirements for reviewing, updating, and
9 supplementing the published information; requiring the
10 department to publish at specified dates twice per
11 year a timeline demonstrating the progress of Quick
12 Action Closing Fund projects; requiring the department
13 to publish certain confidential information pertaining
14 to beneficiary businesses upon expiration of a
15 specified confidentiality period; requiring the
16 department to publish certain reports concerning
17 businesses that fail to complete tax refund agreements
18 under the tax refund program for qualified target
19 industry businesses; requiring the department to
20 provide beneficiary businesses with the opportunity to
21 delay publication of information; providing penalties;
22 providing for construction and legislative intent;
23 requiring the Office of Economic and Demographic
24 Research to annually establish a methodology and
25 formulas for specified calculations to be performed by
26 the department; authorizing the department to adopt
27 rules; amending s. 288.075, F.S.; limiting
28 applicability of an exemption from public records
29 requirements to allow an economic development agency

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30 to disclose certain information pertaining to taxes
31 paid by businesses participating in economic incentive
32 programs; providing an effective date.

33
34 Be It Enacted by the Legislature of the State of Florida:

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36 Section 1. Section 288.076, Florida Statutes, is created to
37 read:

38 288.076 Return on investment reporting for economic
39 development programs.-

40 (1) As used in this section, the term:

41 (a) "Beneficiary business" means a corporation,
42 partnership, or person participating in a program administered
43 by the department that has entered into an agreement with an
44 economic development agency to receive a state investment.

45 (b) "Project" means any business undertaking by a
46 beneficiary business.

47 (c) "Project award date" means the earlier of either the
48 date a beneficiary business enters into an agreement with an
49 economic development agency to receive a state investment, or
50 the date an economic development agency awards a state
51 investment to a beneficiary business, whether payable
52 immediately, payable in the future, or payable upon satisfaction
53 of agreed upon conditions.

54 (d) "State investment" means any state grants, tax
55 exemptions, tax refunds, tax credits, or other state incentives
56 provided to a business under a program administered by the
57 department, including the capital investment tax credit under s.
58 220.191.

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59 (2) The department shall maintain a website for the purpose
60 of publishing the information described in this section. The
61 information required to be published under this section must be
62 provided in a format accessible to the public which enables
63 users to search for and sort specific data and to easily view
64 and retrieve all data at once. Where specific identifying
65 information is temporarily withheld, such as the name of a
66 beneficiary business, the department shall assign a unique code
67 in order to enable the public to properly track information
68 pertaining to the business.

69 (3) Within 48 hours after each project award date, the
70 department shall collect and publish the following information
71 pertaining to each project:

72 (a) General information.-

73 1. The program or programs through which state investment
74 is being made.

75 2. The maximum potential value of the state investment in
76 the project.

77 3. The target industry or industries, and any high-impact
78 sectors implicated by the project.

79 4. The county or counties that will be substantially
80 impacted by the project.

81 5. The total value of local financial commitment and
82 support for the project.

83 (b) Beneficiary business information.-

84 1. The location of the beneficiary business's headquarters
85 or, if a subsidiary, the headquarters of the parent company.

86 2. The number of permanent full-time employees employed by
87 the beneficiary business, including, where applicable, the

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88 number of permanent full-time employees employed by the parent
89 company, and whether the beneficiary business qualifies as a
90 small business as defined in s. 288.703.

91 3. The North American Industry Classification System
92 classifications of the type of business activities or products
93 directly generated by the project.

94 4. The date of the project award date.

95 5. The expected duration of the project.

96 6. The anticipated date when the beneficiary business will
97 claim the last state investment.

98 (c) Project performance goals.-

99 1. The incremental direct jobs attributable to the project,
100 identifying the number of jobs to be generated and the number of
101 jobs to be retained by the project, and the lowest annual wage,
102 highest annual wage, and median annual wage of persons holding
103 such jobs.

104 2. The net indirect and induced incremental jobs in the
105 state to be generated by the project, including the lowest
106 annual wage, highest annual wage, and median annual wage of
107 persons holding such jobs, and a brief but specific description
108 of the methodology used to perform this calculation, including
109 whether and how multipliers were used.

110 3. The incremental direct capital investment in the state
111 to be generated by the project.

112 4. The net indirect and induced incremental capital
113 investment in the state to be generated by the project, and a
114 brief but specific description of the methodology used to
115 perform this calculation, including whether and how multipliers
116 were used.

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117 5. The incremental direct tax revenue to the state to be
118 paid by the beneficiary business to the state.

119 6. The net indirect and induced incremental tax revenue
120 paid to the state to be generated by the project, and a brief
121 but specific description of the methodology used to perform this
122 calculation, including whether and how multipliers were used.

123 (4) On June 30 and December 31 of each year, the department
124 shall:

125 (a) Amend the information collected and published on its
126 website pursuant to paragraphs (3) (a) and (3) (b) to accurately
127 reflect any changes in the published information since the
128 project award date.

129 (b) Publish on its website the total value of state
130 investment disbursed to date for each project.

131 (c) Collect and publish on its website verified results
132 with respect to the performance goals published pursuant to
133 paragraph (3) (c) for each project.

134

135 However, a project is not required to comply with this
136 subsection until the next scheduled update occurring at least 60
137 days after the project award date.

138 (5) On June 30 and December 31 of each year, the department
139 shall publish a timeline demonstrating the progress of each
140 project implemented under the Quick Action Closing Fund pursuant
141 to s. 288.1088. If any of the following has occurred, the
142 department shall publish the date or dates upon which each
143 occurred:

144 (a) The department received a completed application.

145 (b) The department's recommendation was transmitted to the

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146 Governor for approval or disapproval.

147 (c) The Legislature, where required by s. 288.1088, acted
148 to approve or change the project.

149 (d) The department and the business entered into a contract
150 for payment from the fund.

151 (e) The economic development agency validated the
152 beneficiary business's performance.

153 (f) Funds were released to the beneficiary business.

154 (6) (a) Within 48 hours after expiration of the period of
155 confidentiality provided under s. 288.075, the department shall
156 publish both the name of the beneficiary business and a copy of
157 the contract or agreement described in s. 288.061, redacted to
158 protect the beneficiary business from disclosure of information
159 that remains confidential or exempt by law.

160 (b) Within 48 hours after submitting any report of findings
161 and recommendations made pursuant to s. 288.106(7)(d) concerning
162 a business's failure to complete a tax refund agreement pursuant
163 to the tax refund program for qualified target industry
164 businesses, the department shall publish such report.

165 (7) For projects completed before July 1, 2013, the
166 department shall compile and, by July 1, 2014, shall publish the
167 information described in subsections (3), (4), and (5), to the
168 extent such information is available and applicable.

169 (8) Before publication of the information described in
170 subsections (3) and (4), the economic development agency shall
171 provide the beneficiary business an opportunity to request a
172 delay in the publication of some, but in no case all, of the
173 information that the department is required to publish. To make
174 such a request, the beneficiary business must identify the

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175 information, specify how long it requests the publication of the
176 information to be delayed, and describe the circumstances
177 necessitating delayed publication of the information.
178 Circumstances necessitating delayed publication may include
179 those circumstances in which the premature revelation of the
180 business activities of the beneficiary business threatens the
181 ability of the beneficiary business to purchase real property at
182 market prices. Upon a finding by the economic development agency
183 that the disclosure of information so described would impede the
184 beneficiary business's efforts to locate, relocate, expand, or
185 begin its business activities in the state, the department shall
186 delay publication of only that information justified by the
187 finding, and only for such time as is justified by the finding.

188 (9) Any person who is an employee of an economic
189 development agency who violates this section commits a
190 misdemeanor of the second degree, punishable as provided in s.
191 775.082 or s. 775.083.

192 (10) The provisions of this section which restrict the
193 department's publication of information are intended only to
194 limit the information that the department may publish on its
195 website and shall not be construed to create an exemption from
196 public records requirements under s. 119.07(1) or s. 24(a), Art.
197 I of the State Constitution.

198 (11) The Office of Economic and Demographic Research shall
199 annually establish a methodology for calculation of the state's
200 return on investment, including formulas for indirect and
201 induced job creation, incremental capital investment, and
202 increased tax revenue. The department shall publish the
203 methodology and formulas as soon as they are available and shall

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204 use the methodology and formulas in collecting and publishing
205 the information required to be published by this section.

206 (12) The department may adopt rules to administer this
207 section.

208 Section 2. Paragraph (a) of subsection (6) of section
209 288.075, Florida Statutes, is amended to read:

210 288.075 Confidentiality of records.—

211 (6) ECONOMIC INCENTIVE PROGRAMS.—

212 (a) The following information held by an economic
213 development agency pursuant to the administration of an economic
214 incentive program for qualified businesses is confidential and
215 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
216 Constitution for a period not to exceed the duration of the
217 incentive agreement, including an agreement authorizing a tax
218 refund or tax credit, or upon termination of the incentive
219 agreement:

220 1. The percentage of the business's sales occurring outside
221 this state and, for businesses applying under s. 288.1045, the
222 percentage of the business's gross receipts derived from
223 Department of Defense contracts during the 5 years immediately
224 preceding the date the business's application is submitted.

225 2. An individual employee's personal identifying
226 information that is held as evidence of the achievement or
227 nonachievement of the wage requirements of the tax refund, tax
228 credit, or incentive agreement programs or of the job creation
229 requirements of such programs.

230 3. The amount of any of the following which does not appear
231 as the incremental amount of taxes paid for purposes of
232 reporting the state's per project return on investment as

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233 required under s. 288.076 or as the aggregate of taxes paid per
234 program for purposes of the annual incentives report required
235 under s. 288.907:

- 236 a. Taxes on sales, use, and other transactions paid
237 pursuant to chapter 212;
- 238 b. Corporate income taxes paid pursuant to chapter 220;
- 239 c. Intangible personal property taxes paid pursuant to
240 chapter 199;
- 241 d. Insurance premium taxes paid pursuant to chapter 624;
- 242 e. Excise taxes paid on documents pursuant to chapter 201;
- 243 f. Ad valorem taxes paid, as defined in s. 220.03(1); or
- 244 g. State communications services taxes paid pursuant to
245 chapter 202.

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247 However, an economic development agency may disclose in the
248 annual incentives report ~~required under s. 288.907~~ the aggregate
249 amount of each tax identified in this subparagraph and paid by
250 all businesses participating in each economic incentive program
251 and, for purposes of reporting the state's per project return on
252 investment as required under s. 288.076, may disclose the
253 incremental amount of taxes paid.

254 Section 3. This act shall take effect July 1, 2013.