

**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 Commerce and Tourism

BILL: SB 582

INTRODUCER: Senator Galvano

SUBJECT: Manufacturing Development

DATE: March 29, 2013

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Siples	Hrdlicka	CM	<b>Pre-meeting</b>
2.	_____	_____	CA	_____
3.	_____	_____	ATD	_____
4.	_____	_____	AP	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

SB 582 creates the “Manufacturing Competitiveness Act,” and authorizes local governments to adopt a local manufacturing development program to grant master development approval for the development, expansion, or modification of manufacturing facilities located within its jurisdiction. The Department of Economic Opportunity (department) is tasked with developing a model ordinance for use by local governments by December 1, 2013.

If the local government enacts an ordinance establishing a local manufacturing development program, it must be submitted to the department within 20 days of enactment. The ordinance must remain in effect for at least 24 months. If the ordinance is repealed, any application for a master development plan received by the local government is vested and entitled to participate in the coordinated approval process.

The bill directs the department, in coordination with participating agencies,<sup>1</sup> to establish a manufacturing development coordinated approval process. The approval process must provide for coordinated and simultaneous review of applications for permits by the participating agencies, under their respective authorities. The manufacturer may request that the department convene a meeting with one or more of the participating agencies to facilitate the process. The bill provides that each participating agency must take final agency action on the application within 60 days after the application is filed, unless the deadline is waived or a federally delegated permitting program mandates a different deadline. If an application is not approved or denied within 60 days, it is deemed approved.

<sup>1</sup> The bill defines participating agencies as the Department of Environmental Protection, Department of Transportation, Fish and Wildlife Conservation Commission, and water management districts.

If a participating agency plans to deny an application, it must notify the department. The department must convene an informal meeting to facilitate a resolution. Throughout the process, the manufacturer may initiate an administrative hearing under ch. 120, F.S.

This bill creates ss. 288.1101, 288.1102, 288.1103, 288.1104, and 288.1105, F.S.

## II. Present Situation:

### Manufacturing Industry in Florida

Florida's manufacturing industry includes companies in traditional manufacturing industries, such as plastics, food processing and printing, as well as those that are engaged in innovative technologies, like electronics, medical devices, and aviation/aerospace. The state is home to nearly 18,000 manufacturers accounting for approximately 5 percent of Florida's gross domestic product.<sup>2</sup> The manufacturing industry employs more than 311,000 individuals in Florida.<sup>3</sup>

Enterprise Florida, Inc. (EFI), has identified manufacturing as a targeted industry, along with corporate headquarters, research and development, clean technologies, life sciences, information technology, aviation/aerospace, homeland security/defense, financial/professional services, and emerging technologies. Of the 122 economic development incentive contracts project commitments by EFI for FY 2011-2012, manufacturing ranked highest in terms of the number of project commitments by industry with 38, and expected capital investment with over \$425 million and contracted to create 2,474 jobs paying an average annual wage of \$37,352.<sup>4</sup>

### Permits

Currently, the responsibility for issuance of permits for the development, expansion, or modification of manufacturing facilities resides in several state agencies, as well as local governments.

#### State Permits

The Department of Transportation (DOT), Fish and Wildlife Conservation Commission (FWC), Department of Environmental Protection (DEP), and water management districts<sup>5</sup> may each have responsibilities in the permitting process.

DOT is responsible for regulating work activities that impact state roads, such as access permits,<sup>6</sup> utility permits,<sup>7</sup> and drainage permits,<sup>8</sup> among other things. FWC is responsible for is responsible

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<sup>2</sup> Enterprise Florida, Inc., *The Florida Economy* (Jan. 2013), available at [http://www.eflorida.com/IntelligenceCenter/download/ER/SI\\_Florida\\_Economy\\_Glance.pdf](http://www.eflorida.com/IntelligenceCenter/download/ER/SI_Florida_Economy_Glance.pdf) (last visited Mar. 27, 2013).

<sup>3</sup> *Id.*

<sup>4</sup> Enterprise Florida, Inc., *2012 Annual Incentives Report* (2012), available at [http://www.eflorida.com/IntelligenceCenter/download/ER/BRR\\_Incentives\\_Report.pdf](http://www.eflorida.com/IntelligenceCenter/download/ER/BRR_Incentives_Report.pdf) (last visited on March 27, 2013).

<sup>5</sup> There are five water management districts: Northwest Florida Water Management District, Suwannee River Water Management District, St. Johns River Water Management District, South Florida Water Management District, and Southwest Florida Water Management District.

<sup>6</sup> Sections 335.18 – 335.199, F.S.

for protecting threatened or endangered species.<sup>9</sup> DEP works in conjunction with the water management districts to regulate and issue permits for such programs as stormwater management, surface water management, and consumptive use of water.<sup>10</sup> DEP also issues permits for items relating to air quality, among other things.

#### Current State Expedited Permitting Programs

Section 403.973, F.S., directs DEP to create and implement regional permit action teams for the purpose of expediting the review of permit applications and local comprehensive plan amendments for certain projects.<sup>11</sup> Section 380.0657, F.S., directs DEP and the water management districts to adopt programs to expedite the processing of wetland resource and environmental resource permits for economic development projects that have been identified as a target industry business.<sup>12</sup>

The DOT has implemented One Stop Permitting process for the permits it administers. DOT staff indicates that most applications are processed within 30 days of receipt of the completed application.<sup>13</sup>

#### Local Permits

Local governmental agencies are responsible for issuing building permits within their respective jurisdictions. Chapter 163, F.S., requires local governments to adopt comprehensive plans and land development regulations to regulate the development and growth in their jurisdictions. However, no uniform, statutory process exists for local governments to approve master development plans for manufacturing facilities.

### **III. Effect of Proposed Changes:**

**Section 1** creates s. 288.1101, F.S., and provides that the act may be cited as the “Manufacturing Competitiveness Act (the act).”

**Section 2** creates s. 288.1102, F.S., and provides definitions for terms used in the act. The section defines the terms local government, local government development approval, local

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<sup>7</sup> Section 337.401, F.S.

<sup>8</sup> Section 334.044(15), F.S.

<sup>9</sup> Section 379.2291, F.S.

<sup>10</sup> DEP, Water Management Districts, available at <http://www.dep.state.fl.us/secretary/watman/default.htm> (last visited March 11, 2013).

<sup>11</sup> Those projects that may apply for expedited permitting under this provision include businesses creating at least 50 jobs (or at least 25 jobs if the project is located in an enterprise zone or in a county with limited population), projects located in a designated brownfield area, projects that are a part of the state-of-the-art biomedical research institution and campus, and certain projects relating to the production of biofuels. Certain other projects may be considered for expedited permitting at the request of the local government.

<sup>12</sup> Section 288.106, F.S.

<sup>13</sup> Department of Transportation, *Legislative Bill Review HB 357* (Feb. 11, 2013) (on file with the Senate Commerce and Tourism Committee).

manufacturing development program, manufacturer, participating agency, and state development approval.

**Section 3** creates s. 288.1103, F.S., and provides the process local governments may use to implement a local manufacturing develop program. Specifically, a local government is authorized to adopt an ordinance to establish a local manufacturing development program through which it can grant master development approval to manufacturers for the development or expansion of sites at specified locations within the local government's geographic boundaries.

The establishment of a local manufacturing development program is voluntary; however, if a local government elects to establish one, it must submit a copy of the ordinance establishing the program to the department within 20 days of enactment of the ordinance.

The department must develop a model ordinance<sup>14</sup> by December 1, 2013, which must include:

- Application procedures for a manufacturer to apply for a master development plan and procedures for the local government to review and approve a master development plan;
- Identification of those areas within the local government's jurisdiction which are subject to the program;
- Minimum elements for a master development plan, including but not limited to:
  - A site map;
  - A list proposing the site's land uses;
  - Maximum square footage, floor area ratio, and building heights for future development on the site;
  - Development conditions;
  - A list of development impacts which the local government will require to be addressed in a master development plan, such as drainage, wastewater, vehicular and pedestrian entrance and exit from the site, and offsite transportation impacts;
  - A provision vesting any existing development rights authorized by the local government prior to approval of a master development plan, if requested by the manufacturer;
  - If required, a provision stating that the expiration date of the master development plan may not be earlier than 10 years after the plan's adoption;
  - A provision limiting the circumstances that require an amendment to an approved master development plan, such as the enactment of a state or local law that addresses a direct and immediate threat to public safety or a revision to the master development plan initiated by the manufacturer;
  - A provision limiting the scope of review for an amendment to a master development plan to a review of the proposed amendment and no other provisions of the plan;
  - A provision stating that during the term of a master development plan, a local government may not require additional local development approvals other than a building permit to ensure compliance with the state building code and any other applicable state-mandated life and safety code,
  - A provision requiring the manufacturer, prior to commencement of work, to submit a certification signed by an appropriate professional attesting that the construction or site development work complies with the master development plan; and

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<sup>14</sup> A local government is not required to adopt the model ordinance.

- A provision establishing the form the local government will use to certify that a manufacturer is eligible to participate in the local manufacturing development program adopted by that jurisdiction.

Any local ordinance established must be consistent with the department's model ordinance and must establish procedures for the review and approval of a master development plan, the development of the site in a manner consistent with the master development plan without requiring additional local approvals other than building permits, and the certification that a manufacturer is eligible to participate in the local manufacturing development program. If the local government has enacted an ordinance prior to the effective date of the act, it is deemed to have established a local manufacturing development program, as long as it meets the minimum standards, as outlined above. A copy of such an ordinance must be submitted to the department on or before September 1, 2013.

If a local government establishes a local development program ordinance, the ordinance must remain in effect for at least 24 months. If the ordinance is repealed, any application for a master development plan submitted prior to the effective date of the repeal is vested and remains subject to the local manufacturing development plan in effect at the time the application is submitted.

**Section 4** creates s. 288.1104, F.S., which outlines the manufacturing development coordinated approval process. In cooperation with participating agencies,<sup>15</sup> the department will establish, facilitate, and oversee, the manufacturing development coordinated approval process for manufacturers that are developing or expanding in a jurisdiction that has a local manufacturing development process. The participating agencies must coordinate, collaborate, and simultaneously review applications for the following state development approvals: wetland or environmental permits, surface water management permits, stormwater permits, consumptive water use permits, wastewater permits, air emission permits, permits relating to listed species, highway or roadway access permits, and any other state development approval within the scope of a participating agency's authority.

At the time the manufacturer files its application for state development approval, it must also file with the participating agency and the department proof that its development or expansion is located in a local government that has a local development-manufacturing program. If the local government repeals its local manufacturing development program, a manufacturer that has submitted its application for a state or local government development application prior to the date of repeal, remains eligible to participate in the program. If a manufacturer requests that the department convene a meeting with one or more of the participating agencies, the department must convene a meeting.

If a participating agency determines that the application is incomplete, it must notify the applicant and the department in writing. Unless the manufacturer waives the deadline in writing, a request for additional information from a participating agency must be provided to the manufacturer and the department within 20 days after the application is filed with the agency. If a participating agency fails to request additional information within the 20-day period, it cannot

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<sup>15</sup> The bill defines "participating agencies" as the Department of Environmental Protection, Department of Transportation, Fish and Wildlife Conservation Commission, and water management districts.

later deny the application based on the manufacturer's failure to provide such information. Once the manufacturer has responded to the request for additional information, the participating agency has 10 days to make a second request for additional information, but such request is limited to obtaining clarification of the manufacturer's response.

Unless the manufacturer waives the deadline in writing or a federally delegated permitting program mandates a different deadline, each participating agency must take final agency action on a state development approval within 60 days after a complete application is filed.<sup>16</sup> If a participating agency intends to deny an application, it must notify the department so that the department may timely convene an informal meeting to facilitate a resolution. Unless the time limit is waived by the manufacturer in writing or is governed by a federally delegated permitting program with a different deadline, an application will be deemed approved if the approving agency failed to act within the specified time frames. If a manufacturer seeks to claim approval by default, it must notify, in writing, the clerks of the department and the participating agency. No action may be taken by the manufacturer until such notification is received by the respective clerks.

If the manufacturer initiates a proceeding under ch. 120, F.S., it may, at any time, demand an expeditious resolution by noticing the administrative law judge (ALJ) and all other parties to the proceeding. The ALJ must set the matter for hearing within 30 days of receipt of the notice.

**Section 5** creates s. 288.1105, F.S., and provides that the department will develop materials identifying local governments that have established local manufacturing development programs, which must be provided to prospective, new, expanding, and relocating businesses seeking to conduct business in Florida.

**Section 6** provides that this act shall take effect July 1, 2013.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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<sup>16</sup> The 60-day period is tolled if a proceeding is initiated under ch. 120, F.S.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Manufacturers may benefit in those communities that implement a local manufacturing development program.

**C. Government Sector Impact:**

The department indicates that a new unit would need to be created to administer, mediate, and support the local manufacturing development program functions assigned to it under the bill. The number of FTEs and supporting resources will be determined by the number of local governments that have a manufacturing program, the number of applicants in the program, and the number of applicants seeking mediation.<sup>17</sup>

To the extent that local governments adopt a local manufacturing development program, the streamlined process may reduce administrative costs for those communities.<sup>18</sup>

**VI. Technical Deficiencies:**

The department recommends that the Manufacturing Competiveness Act be placed in ch. 163, F.S., instead of ch. 288, F.S. Chapter 163, F.S., generally addresses local government land use planning and development.<sup>19</sup>

The bill requires that participating agencies simultaneously review applications for various state development approvals, but does not address how such a simultaneous review among participating agencies would function, or what repercussions would exist for participating agencies who fail to simultaneously review applications.

The bill may need to be clarified to indicate that the initial review period does not begin until the appropriate application fee is received.

**VII. Related Issues:**

The bill authorizes the department to adopt rules relating to the creation of a local manufacturing development program.

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<sup>17</sup> Department of Economic Opportunity, *Senate Bill #582 Analysis* (Feb. 18, 2013) (on file with the Senate Commerce and Tourism Committee).

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

**VIII. Additional Information:**

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

None.

- B. **Amendments:**

None.

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

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