HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/CS/HB 1139 Economic Development
SPONSOR(S): Commerce Committee and Transportation & Tourism Appropriations Subcommittee, Clemons and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 426, CS/HB 1271

FINAL HOUSE FLOOR ACTION: 118 **Y's** 0 **N's** **GOVERNOR'S ACTION:** Approved

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SUMMARY ANALYSIS

CS/CS/HB 1139 passed the House on March 11, 2020, as CS/SB 426.

The Regional Rural Development Grants Program is a state matching grant program established to provide funding to build the professional capacity of regional economic development organizations. The Rural Infrastructure Fund assists units of local government with the planning, preparing, and financing of infrastructure projects that encourage job creation and capital investment. Both programs are administered by the Department of Economic Opportunity (DEO).

Relating to the Regional Rural Development Grants Program, the bill clarifies certain terms, increases the total annual grant award available to the three regional economic development organizations recognized by DEO as serving an entire rural area of opportunity (RAO), decreases the annual grant award available to other organizations located in or contracted to serve a RAO, and eliminates grant eligibility for organizations representing rural counties or communities that are not located in a RAO. The bill reduces the percentage of grant funds that must be matched with non-state funds, from 100% to 25% of the state's contribution.

The bill amends the Rural Infrastructure Fund by increasing the percentage of total infrastructure costs that may be funded by a grant award, expanding eligible projects and uses to include broadband internet service, and requiring a review of the grant program and procedures by September 1, 2021.

CareerSource is a not-for-profit corporation that serves as Florida's state-level workforce investment board. CareerSource is responsible for developing and implementing a 5-year plan for the statewide workforce system in collaboration with DEO and local partners to ensure that workforce services provided are consistent with state and local plans.

The bill clarifies the powers, duties and responsibilities of CareerSource, the CareerSource board of directors, and DEO, and makes a number of conforming changes to reflect such clarifications.

The Florida Development Finance Corporation (FDFC) is a statewide development financing authority. The FDFC operates as a conduit bond issuer that issues bonds on behalf of borrowers. FDFC is governed by a five-member board who are appointed by the Governor and confirmed by the Senate for four-year terms.

The bill requires DEO to establish annual performance standards and develop a detailed report of the performance of FDFC each year. The bill increases the membership of the FDFC board from five to seven, adding the executive director of DEO (as chair) and the director of the Division of Bond Finance. The bill provides that s. 288.9604, F.S., the statute creating and authorizing the FDFC, stands repealed July 1, 2023, and every fourth year thereafter, unless reviewed and saved from repeal by the Legislature.

The bill has no fiscal impact on state funds. The bill may have a positive fiscal impact on local governments and the private sector. *See* Fiscal Comments.

The bill was approved by the Governor on June 18, 2020, ch. 2020-30, L.O.F., and will become effective on July 1, 2020.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Present Situation

Regional Economic Development Organizations

Three regional economic development organizations operate in Florida. Each coincides respectively with one of the state's three Rural Areas of Opportunity (RAO). A RAO is a rural community, or a region comprised of rural communities, which has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster, or that presents a unique economic development opportunity of regional impact.[1] The Governor may designate up to three RAOs, establishing each region as a priority assignment for Rural Economic Development Initiative agencies. The Governor can waive the criteria, requirements, or similar provisions of any economic development incentive for projects in a RAO.[2]

The three designated RAOs are:[3]

- Northwest RAO: Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Wakulla, and Washington counties, and the City of Freeport in Walton County.
- South Central RAO: DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee counties, and the cities of Pahokee, Belle Glade, and South Bay (Palm Beach County), and Immokalee (Collier County).
- North Central RAO: Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor, and Union counties.

Coinciding with the RAOs are three regional economic development organizations which are public/private 501(c)(6) organizations that provide economic development support to the local governments represented in the RAOs. Opportunity Florida serves the Northwest RAO; Florida's Heartland Regional Economic Development Initiative, Inc. serves the South Central RAO; and North Florida Economic Development Partnership serves the North Central RAO.

Regional Rural Development Grants Program

The Regional Rural Development Grants Program is a state matching grant program established to provide funding to build the professional capacity of regional economic development organizations.[4] Additionally, grants may be used by an economic development organization to provide technical assistance to businesses within the rural counties and communities that it serves.[5]

Applications submitted to DEO must provide proof:

- of official commitments of support from each local government represented by the regional organization;
- that each local government has made a financial or in-kind commitment to the regional organization;
- that the private sector has made financial or in-kind commitments to the regional organization;
- that the regional organization is in existence and actively involved in economic development activities serving the region; and

[1] S. 288.0656(2)(d), F.S.
[2] S. 288.0656(7)(a), F.S.
[3] Department of Economic Opportunity, *Rural Areas of Opportunity*, http://www.floridajobs.org/community-planning-and-development/rural-community-programs/rural-areas-of-opportunity (last visited Jan. 27, 2020).
[4] S. 288.018, F.S.
[5] S. 288.018(1), F.S.

- the manner in which the regional organization coordinates its efforts with those of other local and state organizations.[6]

An organization may receive up to $50,000 a year or $150,000 if located in a RAO.[7] Grants must be matched by an equivalent amount of non-state resources.[8] DEO is authorized to spend up to $750,000 each fiscal year from funds appropriated to the Rural Community Development Revolving Loan Fund to carry out this program.[9]

Rural Infrastructure Fund

The Rural Infrastructure Fund is a grant program created to facilitate the planning, preparing, and financing of infrastructure projects in rural communities.[10] The program provides access to federal and state infrastructure funding programs, including, but not limited to, those offered by the U.S. Departments of Agriculture, and Commerce.[11] The program funds total infrastructure project grants, infrastructure feasibility grants, and preclearance review grants.

DEO may award grants for up to 30 percent of the total infrastructure project cost. If an application is for a catalyst site,[12] up to 40 percent of the total infrastructure project cost may be awarded.[13] Projects must be related to specific job-creation or job-retention opportunities. Additionally, projects may include improving any inadequate infrastructure that has resulted in regulatory action that prohibits economic or community growth or reducing the costs to community users of proposed infrastructure improvements that exceed such costs in comparable communities.[14]

Eligible uses of funds include improvements to public infrastructure for industrial or commercial sites and upgrades to or development of public tourism infrastructure.[15] Infrastructure can include public or public-private partnership facilities, like storm water systems, telecommunication, broadband, roads, and nature-based tourism.[16]

The infrastructure feasibility grant provides awards of up to 30 percent of the total project costs for infrastructure feasibility studies, design and engineering activities, or other infrastructure planning and preparation activities.[17] Maximum awards are dependent on the number of jobs that a business commits to create and may be up to $300,000 if the project is located in a RAO. The total project participation grant may be used in conjunction with the infrastructure feasibility grant.

The preclearance review grant provides awards to help a local government participate in expedited permitting processes through technical assistance in preparing permit applications and local comprehensive plan amendments.[18] Grants may be used for surveys, feasibility studies, and other activities related to the identification and preclearance review of land use modifications. Grants are

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[6] S. 288.018(2), F.S.
[7] S. 288.018(1), F.S.
[8] *Id.*
[9] S. 288.018(4), F.S.
[10] *See* s. 288.0655, F.S.
[11] S. 288.0655(2)(b), F.S.
[12] S. 288.0656(2)(b), F.S., defines "catalyst site" as a parcel or parcels of land within a rural area of opportunity that has been prioritized as a geographic site for economic development through partnerships with state, regional, and local organizations. The site must be reviewed by the rural economic development initiative and approved by DEO for the purposes of locating a catalyst project.
[13] S. 288.0655(2)(b), F.S.
[14] *Id.*
[15] *Id.*
[16] *Id.*
[17] S. 288.0655(2)(c), F.S.
[18] S. 288.0655(2)(e), F.S. Expedited permitting is pursuant to s. 403.9739(18), F.S.

limited to $75,000 and must be matched 50 percent with local funds. However, projects in a RAO may receive up to $300,000 and must be matched 33 percent with local funds.[19]

Grant applications are reviewed and certified by DEO in consultation with: Enterprise Florida, Inc., VISIT Florida, the Department of Environmental Protection, and the Florida Fish and Wildlife Conservation Commission. Reviews include an evaluation of the economic benefit of the projects and their long-term viability.[20]

Effect of Proposed Changes

Regional Rural Development Grants Program

The bill amends the Regional Rural Development Grants Program to clarify how regional economic development organizations may build their professional capacity, expand grant use for technical assistance, increase the annual grant awards for regional economic development organizations, and reduce match requirements. It also defines a "regional economic development organization" to mean an economic development organization that is located in, or contracted to serve, a RAO.

One authorized use of the matching grant program is to build the professional capacity of regional economic development organizations. The bill specifies that efforts to build professional capacity hiring professional staff to develop, deliver, and provide needed economic development professional services, including technical assistance, education and leadership development, marketing, and project recruitment.

Regional economic development organizations may currently use grant funds to provide technical assistance to businesses within the rural counties and communities it serves. The bill expands this by allowing technical assistance to local governments, local economic development organizations, and existing and prospective businesses.

The bill increases the maximum annual grant award from $150,000 to $250,000 for any three regional economic development organizations recognized by DEO as serving an entire region of a RAO. These organizations are: Opportunity Florida, Florida's Heartland Regional Economic Development Initiative, Inc., and North Florida Economic Development Partnership.

For organizations located in or contracted to serve a RAO, but not recognized as serving the entire RAO, the bill reduces the maximum annual grant amount from $150,000 to $50,000.

Under the bill, any organizations that represent rural counties and communities, but are not located in or serve a RAO, would not meet the definition of "regional economic development organizations" and therefore would no longer be eligible to receive any grant funds.

The bill reduces the required match for a grant under this program to a 25% match of the state contribution, instead of the current one-to-one match requirement.

Rural Infrastructure Fund

The bill amends the Rural Infrastructure Fund by revising grant award percentages, expanding eligible projects and uses to include broadband internet service, and requiring a review of the grant program and procedures by a specific date.

Currently, grants awarded under the Rural Infrastructure Fund program are limited to 30 percent of the total infrastructure project cost, or up to 40 percent if funding is for a catalyst site. The bill increases the

[19] S. 288.0655(2)(e), F.S.
[20] S. 288.0655(3), F.S.

percentage for all grants awarded, including catalyst sites, to 50 percent of the total infrastructure project cost.

The bill specifies that eligible projects may include improving certain inadequate infrastructure that reduces costs to community users of proposed infrastructure improvements that exceeds costs in comparable communities, and improving access to and the availability of broadband Internet service. Further, eligible uses are expanded to include improvements to broadband Internet service and access in unserved or underserved rural communities. These projects must be conducted through a partnership or partnerships with one or more dealers of communications services[21], established by a publicly noticed and competitive selected process.

The bill requires DEO to reevaluate the Rural Infrastructure Fund application guidelines and criteria by September 1, 2021. The review is to be done in consultation with Enterprise Florida, Inc., VISIT Florida, the Department of Environmental Protection, and the Florida Fish and Wildlife Conservation Commission and must include specific factors such as:

- the project's potential for enhanced job creation or increased capital investment;
- the demonstration and level of local public and private commitment;
- whether the project is located in a community development corporation service area or in an urban high-crime area;
- the unemployment rate of the county the project would be located; and
- the poverty rate of the community.

Contracts or Agreements - Regional Rural Development Grants Program and Rural Infrastructure Fund

The bill amends both the Regional Rural Development Grant Program and the Rural Infrastructure Fund to include the same requirements for contracts or agreements that expend grant funds.

A contract or agreement that involves the expenditure of grant funds must include:

- The purpose of the contract or agreement.
- Specific performance standards and responsibilities for each entity under the agreement.
- A detailed project or contract budget, if applicable.
- The value of any services provided.
- The projected travel expenses for employees and board members, if applicable.

These required contract provisions apply to any contract or agreement that expends grant funds, including any contract or agreement between another entity and a regional economic development organization, a unit of local government, or an economic development organization substantially underwritten by a unit of local government.

All contracts and agreements are required to be posted on the contracting regional economic development organization's website at least 14 days before execution. However, specific contracts or agreements that exceed $35,000 must be posted in "plain-language." This applies to a contract or agreement with a private entity, a municipality, or a vendor of services, supplies, or programs, including marketing, or for the purchase or lease or use of lands, facilities, or properties.

Additionally, the bill repeals obsolete language relating to enterprise zones.

<u>Present Situation</u>

Florida's Workforce Development System

[21] S. 202.11(2), F.S., defines a "dealer" as a person registered with the Florida Department of Revenue as a provider of communications services in this state.

The federal Workforce Investment Act of 1998 (WIA) was passed by Congress in an effort to improve the quality of the nation's workforce through implementation of a comprehensive workforce investment system.[22] WIA required each state to establish an investment board at the state level and to also establish workforce investment boards to represent local service areas.[23] WIA also called for the delivery of workforce development services through a system of "one-stop" centers in local communities.[24] Some key principles of WIA were to better integrate workforce services, empower individuals, provide universal access to participants, increase accountability, and improve youth programs.[25]

In response to WIA, Florida established a workforce development system under the Workforce Investment Act of 2000.[26] The act aimed to better connect the state's economic development strategies with its workforce development system and to implement the principles of the federal WIA.[27]

Federal Workforce Innovation and Opportunity Act of 2014

In 2014, Congress passed the Workforce Innovation and Opportunity Act (WIOA), which superseded the Workforce Investment Act of 1998.[28] WIOA requires each state to develop a single, unified plan for aligning workforce services through the identification and evaluation of core workforce programs.[29] In general, WIOA maintains the one-stop framework of WIA, and encompasses provisions aimed at streamlining services, easing reporting requirements, and reducing administrative barriers.[30] WIOA officially became effective on July 1, 2015, the first full program year after enactment.

Core Programs

WIOA identifies four core programs that must coordinate and complement each other in a manner that ensures job seekers have access to needed resources.[31] The core programs are:
- Adult, Dislocated Worker and Youth Programs;
- Employment Services under the Wagner-Peyser Employment Act;
- Vocational Rehabilitation Services; and
- Adult Education and Literacy Activities.

Performance Measures

In an effort to promote transparency and accountability, WIOA created a single set of common measures for the evaluation of core programs.[32] WIOA requires performance reports to be provided at the state, local, and trainer provider levels. The performance measures that now apply across all core programs are:
- The percentage of participants in unsubsidized employment during second quarter after exit;
- The percentage of participants in unsubsidized employment during fourth quarter after exit;
- The median earnings of participants during second quarter after exit;
- The percentage of participants who obtain a postsecondary credential or secondary school diploma within 1 year after exit;
- The achievement of measureable skill gains toward credentials or employment; and

[22] Workforce Investment Act of 1998, 29 U.S.C. § 2801 (1998), *repealed by* Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, H.R. 803, 113th Cong. (July 22, 2014)(codified at 29 U.S.C. § 3101, et seq.).
[23] *See* 29 U.S.C. § 2821 and 29 U.S.C. § 2832 (1998).
[24] *See* 29 U.S.C. § 2841 (1998).
[25] *See* 29 U.S.C. § 2811 (1998).
[26] Ch. 2000-165, Laws of Fla.
[27] *See* s. 445.003, F.S.
[28] Workforce Innovation and Opportunity Act, 29 U.S.C. § 3101 et seq. (2014).
[29] *See* 29 U.S.C. § 3112(a).
[30] *See* 29 U.S.C. § 3111.
[31] *See* 29 U.S.C. § 3102(13).
[32] *See* 29 U.S.C. § 3141.

- The effectiveness in serving employers.

State Workforce Development Plan

Using the common performance measures for core programs, WIOA requires each state to develop and submit a unified state plan based on a 4-year strategy for workforce development.[33] The state plan must describe an overall strategy for the core programs and how the strategy will meet needs for workers, job seekers, and employers.[34] WIOA also provides an option for states to submit a combined plan that outlines plans for the core programs along with additional workforce programs.[35]

Regional Planning and Local Workforce Development Boards

WIOA requires states to identify regional planning areas for workforce development strategies.[36] Within each area, a local workforce development board must be established.[37] Each local workforce development board is required to coordinate planning and service delivery strategies within their area.[38] Formulated strategies are then used by the local workforce development board to develop and submit a local plan for the delivery of workforce services.[39]

One-Stop Delivery System

WIOA aims to strengthen the one-stop delivery system by requiring each local area to have at least one comprehensive one-stop delivery provider.[40] A comprehensive one-stop delivery provider supplies physical access to services provided by core partners, as well as other mandatory partners.[41] WIOA mandates that each partner shares in the funding of services and infrastructure costs of the one-stop delivery system.[42]

Florida's Implementation of WIOA

In 2016, Florida made changes to the workforce development system to conform to the new federal guidelines established by WIOA.[43] Under the current workforce development system, DEO, CareerSource, and 24 local workforce development boards act as partners in administering Florida's comprehensive system for the delivery of workforce strategies, services, and programs.

Department of Economic Opportunity (DEO)

DEO serves as Florida's lead workforce agency.[44] DEO is responsible for the fiscal and administrative affairs of the workforce development system.[45] DEO receives and distributes federal funds for employment-related programs to the local workforce development boards.[46] Additionally, under the direction of CareerSource, DEO must annually meet with each local workforce development board to

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[33] *See* 29 U.S.C. § 3112(a).
[34] *See* 29 U.S.C. § 3112(b).
[35] *See* 29 U.S.C. § 3113.
[36] *See* 29 U.S.C. § 3121.
[37] *Id*.
[38] *See* 29 U.S.C. § 3122.
[39] *See* 29 U.S.C. § 3123.
[40] *See* 29 U.S.C. § 3151.
[41] Other mandatory partners may include programs under the Older Americans Act, Department of Housing and Urban Development, Social Security Act, Perkins Career and Technical Education Act, the Community Service Block Grant Act, and certain adult education and literacy activities. 29 U.S.C. § 3151(b).
[42] *See* 29 U.S.C. § 3151(2).
[43] Ch. 2016-216, Laws of Fla.
[44] Primarily through the Division of Workforce Services. *See* s. 20.60, F.S.
[45] S. 445.009(3)(c), F.S.
[46] *See* s. 445.003, F.S.

review the board's performance and to certify that the board is in compliance with applicable state and federal law.[47]

CareerSource Florida, Inc. (CareerSource)

CareerSource Florida, Inc., a not-for-profit corporation, serves as Florida's state-level workforce development board.[48] CareerSource is responsible for the development of a 4-year plan that is consistent with the requirements of WIOA[49] and collaborates with DEO, the local workforce development boards, and one-stop service providers to ensure workforce services are consistent with state and local plans.[50] CareerSource also provides state-level policy direction, planning, and performance evaluation of the delivery of workforce services.[51]

Local Workforce Development Boards

Twenty-four local workforce development boards deliver Florida's workforce development services through over 100 one-stop service providers.[52] The one-stop service providers give Floridians access to available workforce services, including job placement, career counseling, and skills training.[53] Collectively, the local workforce development boards operate under a charter approved by CareerSource.[54] Each local workforce development board formulates a local budget and oversees the one-stop delivery system within its local area.[55]

Review of CareerSource Tampa Bay and CareerSource Pinellas

In response to a series of articles by the *Tampa Bay Times,*[56] reporting on questionable practices, violations and malfeasance by CareerSource Tampa Bay and CareerSource Pinellas, the US Department of Labor conducted a review of the two local workforce development boards. The review found "fake" job placements, falsified records, and a number of other violations of WIA and WIOA, resulting in over $17 million in questionable costs.[57]

In summary, the US Department of Labor reported that "The improper administration of Federal employment and training funds by the two local workforce boards lead to blatant non-compliance with WIOA requirements. This was further compounded by the lack of fiduciary oversight which fostered an environment vulnerable to mismanagement, waste, fraud, and abuse to occur undetected."[58] The report detailed 17 findings of non-compliance and 3 areas of concern.

Florida Development Finance Corporation

The Florida Development Finance Corporation (FDFC) is a statewide development financing authority created by the Legislature in 1993.[59] The original purpose of the FDFC was to foster the growth of

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[47] *See* s. 445.007(3), F.S.
[48] S. 445.004(5)(a), F.S. Prior to 2014, CareerSource was known as Workforce Florida, Inc.
[49] S. 445.003(2), F.S.
[50] *See* s. 445.004, F.S.
[51] *Id*.
[52] DEO, *CareerSource Florida Network Directory*, http://lcd.floridajobs.org/ (last visited Jan. 17, 2020).
[53] *See* s. 445.009, F.S.
[54] *See* s. 445.004, F.S.
[55] S. 445.007(12), F.S.
[56] Puente and Sampson, *CareerSource: Read the entire investigation*, TAMPA BAY TIMES (Dec. 21, 2018), https://www.tampabay.com/investigations/2018/12/20/careersource-read-the-entire-investigation/ (last visited Jan. 22, 2020).
[57] U.S. Dept. of Labor, *Compliance Review of CareerSource Tampa Bay and CareerSource Pinellas* (May 15, 2019), http://floridajobs.org/docs/default-source/lwdb-resources/program-monitoring-and-reports/2019-usdol-compliance-review-and-deo-response/final-florida-compliance-review---cstb-csp-workforce-areas---16-may-2019.pdf?sfvrsn=2 (last visited Jan. 22, 2020)
[58] *Id.*
[59] Ch. 288, part X, F.S. The corporation was created as a "public body corporate and politic" meaning that it is a legal entity or corporation with a public function. Ch. 93-187, ss. 24-45, Laws of Fla.

manufacturing and other strong job-creating businesses in Florida by brokering private-activity bond financing through inter-local agreements with counties, municipalities, and other local political subdivisions.[60]

The FDFC is governed by a five-member board of directors who are appointed by the Governor and confirmed by the Senate for four-year terms.[61] At least three of the FDFC's directors must be bankers selected from a list of candidates nominated by the Enterprise Florida, Inc. (EFI), and one must be an economic development specialist.[62] The directors are vested with the FDFC's powers, and may take action on behalf of the corporation by a vote of a majority of the directors present at a meeting, unless otherwise required by the FDFC's bylaws.[63] The directors do not receive compensation for their service, but are entitled to necessary expenses, including travel expenses.[64] Lastly, the board is empowered to employ a staff to facilitate the FDFC's functions.[65]

The FDFC must provide an annual report to the Governor, the Legislature, the Auditor General, and the governing body of each public entity with which it has an interlocal agreement, which details:

- The FDFC's activities, operations, and accomplishments, including the specific number of businesses that the FDFC assisted;
- The FDFC's assets, liabilities, income, and operating expenses, including a description of all outstanding revenue bonds; and
- Any findings made by the Auditor General in an audit conducted pursuant to s. 11.45, F.S.

In the 2010 legislative session, the FDFC's responsibilities were broadened to allow it to participate in a federal Department of Energy guaranteed loan program for the development of renewable energy infrastructure projects, and related energy projects that may be eligible under federal law.[66] The FDFC has the power to function within the corporate limits of any public agency including local governments with which it enters into an inter-local agreement.[67]

Pursuant to s. 288.9605, F.S., the FDFC operates as a conduit bond issuer that issues bonds on behalf of borrowers.[68] While the FDFC functions as a mechanism to help borrowers access capital markets, it does not take on responsibility of debt repayment, even when a borrower fails to repay.[69] Conversely, the FDFC does not guarantee the bonds it issues but certain borrowers may opt in to the guaranty fund established by the FDFC pursuant to s. 288.9607, F.S., which guarantees that the bonds issued will be repaid. This guaranty fund consists of premiums paid by businesses that wish to participate in the fund and by a property interest in the infrastructure built with the insured bond's proceeds.[70]

A majority of the FDFC's financial assistance results from the issuance of municipal bonds, of which it may issue either a taxable revenue bond or a tax-exempt bond.[71] The bonds issued can provide financing for projects that further public purposes and are issued on behalf of a range of organizations.

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[60] S. 288.9602, F.S., generally expresses the legislative intent of the FDFC.
[61] S. 288.9604(2), F.S.
[62] S. 288.9604(2), F.S.
[63] S. 288.9604(3), F.S.
[64] S. 288.9604(3)(a)1., F.S.
[65] S. 288.9604(3)(c), F.S.
[66] Ch. 2010-139, ss. 2-10, Laws of Fla.
[67] S. 288.9605(2)(e), F.S.
[68] "[The] FDFC facilitated the issuance of debt obligations…[t]hese bonds do not constitute a general debt, liability or obligation of FDFC, the state, or any local government." Florida Development Finance Corporation, *Financial Statements for the Year Ended June 30, 2019*, 12 (on file with the Senate Committee on Commerce and Tourism). *See also*, FDFC, *Bond Financing*, https://www.fdfcbonds.com/traditional-bonds (last visited Jan. 21, 2020).
[69] *Id*.
[70] The guaranty may not exceed 5% of the aggregate principal amount of bonds or other indebtedness relating to any capital project. S. 288.9607, F.S.
[71] FDFC, *About Us*, https://www.fdfcbonds.com/copy-of-about-us (last visited Jan. 21, 2020).

Tax exempt bonds, known also as Private Activity Bonds, require additional borrower qualification processes, including approval pursuant to the Tax Equity and Fiscal Responsibility Act of 1986 (TEFRA) and allocation from the Florida State Board of Administration's Division of Bond Finance. These bonds are more lucrative financing options because they tend to have a lower interest rate than bank loans or taxable fixed-income securities, and investors benefit by not paying income taxes on interest payments.[72] The FDFC helps its borrowers pursue Private Activity Bonds by assisting them with the additional qualification processes.[73] In the fiscal year ending June 30, 2019, the FDFC facilitated the issuance of $2,885,710,000 in eight new money bonds.

The FDFC also administers the Property Assessed Clean Energy (PACE) program, for which it also may issue bonds and other financial assistance that supports energy conservation.[74] The PACE Program was launched June 29, 2017, and allows a property owner to use equity accrued from the original purchase as the basis for an extension of credit.[75] The PACE Program facilitated $19,353,886 in five taxable residential bonds for the 2018-19 fiscal year.[76]

FDFC's revenues are generated exclusively by fees it charges for the issuance of bonds.[77] The fees assessed are a $1,500 application fee and a tiered issuance fee due at the time of closing (sale of bonds). The tiered issuance fee is based on the face value of the bond issued: bonds valued from $0 - $2.5 million pay 75 basis points (0.75%); bonds valued from $2.5-$32.5 million pay 25 basis points (0.25%); and bonds valued over $32.5 million pay 10 basis points (0.10%).[78]

Division of Bond Finance

The Division of Bond Finance (Division) was created by the Legislature in 1969 to issue bonds on behalf of local governments and agencies of the State of Florida. It assumed the powers of its predecessor, the Florida Development Commission. The Division has been administratively housed within the State Board of Administration since 1992, and operates under the control of a governing board which consists of the Governor and Cabinet.[79] The Division has the power to:

- Sue and be sued;
- Issue any bonds of the state, and to issue bonds on behalf of any state agency;
- Exercise all of the powers relating to the issuance of bonds of any state agency;
- Employ a director of the division to be designated by the Governor;
- Employ or retain persons, firms, or corporations;
- Prepare resolutions and other necessary proceedings relating to the issuance and sale of bonds;
- Sell all state bonds authorized by law;
- Request assistance related to bond issuance from any state agency;
- Exercise the power of eminent domain;
- Remit the proceeds of any bonds sold for any state agency;
- Exercise control over the state's arbitrage compliance program; and
- Undertake investigations.[80]

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72 Steven Maguire and Joseph Hughes, Congressional Research Service, *Private Activity Bonds: An Introduction* (July 13, 2018), https://fas.org/sgp/crs/misc/RL31457.pdf (last visited Jan. 21, 2020).
73 FDFC, *Bond Financing, supra*.
74 FDFC, *Property Assessed Clean Energy "PACE"- Commercial PACE*, https://www.fdfcbonds.com/pace-commerical (last visited Jan. 21, 2020). *See also*, s. 288.9606(7), F.S.
75 *Id*.
76 FDFC, *Financial Statements for the Year Ended June 30, 2019*, *supra,* at 3.
77 *Id.* at 6.
78 FDFC, *Conduit Issuance Policy*, 6-7 (Feb. 26, 2019), https://ca5cce56-0e6c-4988-82a7-74892bf1d07e.filesusr.com/ugd/b1b27e_0b227d45ff2b4e139bb36f2846f70b4b.pdf (last visited Jan. 21, 2020).
79 Division of Bond Finance, *About the Division of Bond Finance,* https://www.sbafla.com/bond/Home/About-the-Division-of-Bond-Finance (last visited January 21, 2020).
80 S. 215.64, F.S.

The Division also determines the allocations for private activity bonds permitted to be issued in Florida under the Internal Revenue Code.[81]

Effect of Proposed Changes

Florida's Workforce Development System

The bill defines the term "state board" to mean the state workforce development board established pursuant to the Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, Title I, s. 101. The bill specifies that the state board is the board of directors of CareerSource, and that CareerSource works at the direction of the state board in consultation with DEO.

The bill clarifies the powers, duties and responsibilities of the state board, CareerSource, and DEO and makes a number of conforming changes to reflect such clarifications.

The bill specifies that CareerSource must operate under an agreement with DEO and repeals the provision in current law which states that CareerSource is not subject to the control, supervision, or direction of DEO.

The bill directs CareerSource to:

- operate at the direction of the state board;
- provide support, including administrative support, to the state board;
- work at the direction of the state board in consultation with DEO when appropriate; and
- implement the policy directives of the state board and administer state workforce development programs as authorized by law, in accordance with its agreement with DEO.

The bill authorizes the state board to hire an executive director and staff to assist in carrying out the functions and spending the funds made available through WIOA. The bill also directs the state board to authorize the executive director and staff to work with DEO in carrying out the functions of WIOA.

The bill requires that the state board notify the Governor and DEO of statewide or local workforce development and training needs that may require policy changes or an update to the state plan required under s. 445.003, F.S. The bill also requires CareerSource to report all donations and grants they receive to the state board and DEO.

The bill authorizes the chief elected official of a local workforce development board to remove, for cause, a member of the local board, the executive director of the local board, or the designated person responsible for the operational and administrative functions of the local board.

The bill defines the term "for cause" to include, but not limited to, engaging in fraud or other criminal acts, incapacity, unfitness, neglect of duty, official incompetence and irresponsibility, misfeasance, malfeasance, nonfeasance, or lack of performance.

The bill also deletes a number of obsolete provisions.

Florida Development Finance Corporation

Relating to the board of directors of the Florida Development Finance Corporation, the bill:

- Increases the board of directors from five to seven members, adding:
    - The executive director of DEO, or his or her designee, as chair of the board.
    - The director of the Division of Bond Finance, or his or her designee, as a director.

[81] S. 159.804, F.S. *See also*, Division of Bond Finance, *Tax Equity and Fiscal Responsibility Act (TEFRA) Approval*, https://www.sbafla.com/bondfinance/Other-Functions/TEFRA (last visited Jan. 21, 2020).

- Specifies that the Governor will appoint the remaining five members, subject to confirmation by the Senate. Of the five appointed members:
    - At least three must have experience in finance.
    - One must have experience in economic development.
- Specifies that the board may remove appointed directors under certain circumstances.
- Specifies that the board of directors must elect a vice chair, by majority vote, each year.
- Provides that meetings of the directors may be conducted by teleconference.

The bill requires DEO to develop a detailed report concerning the performance of FDFC each year, and to include the report, along with an existing summary report of FDFC, in its annual report to the Governor, President and Speaker. The bill also requires DEO to establish annual performance standards for FDFC and to annually report on how such performance measures are being met.

The bill provides that s. 288.9604, F.S., the statute creating and authorizing the FDFC, stands repealed July 1, 2023, and every fourth year thereafter, unless reviewed and saved from repeal by the Legislature.

Additionally, the bill:

- Specifies that FDFC may execute contracts and instruments electronically in accordance with the Electronic Signature Act of 1996.
- Increases the maximum maturity date for revenue bonds issued by FDFC from 30 to 35 years.
- Specifies that bonds issued by FDFC are not a debt, liability, or obligation of the state or any subdivision, or a pledge of faith and credit of FDFC, the state or any subdivision, and requires bonds to contain a statement to that effect.
- Provides for a conflict of interest provision requiring FDFC directors with a direct or indirect interest with affected parties to publicly disclose such interests and prohibits a director with such a conflict from participating in any action by FDFC regarding the affected party.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   See Fiscal Comments.

2. Expenditures:

   See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments.

D. FISCAL COMMENTS:

The bill reduces the required match under the Regional Rural Development Grant Program to a 25 percent match of the state contribution, instead of the current one-to-one match requirement.

The bill also increases the allowable grant award for Rural Infrastructure Fund projects from 30 percent to 50 percent of the total infrastructure project cost.