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# **Transportation & Economic Development Appropriations Subcommittee**

## **Meeting Packet**

**February 16, 2016  
12:30 p.m. – 2:30 p.m.  
Sumner Hall**



## **AGENDA**

Transportation & Economic Development Appropriations Subcommittee

February 16, 2016

12:30 p.m. – 2:30 p.m.

Sumner Hall

**I. Call to Order/Roll Call**

**II. Consideration of Bills**

CS/HB 427 Recreational Vessel Registration by Highway & Waterway  
Safety Subcommittee, Magar

HB 1325 Economic Development by Boyd

HB 1379 Airport Zoning Law of 1945 by Miller

**III. Closing Remarks/Adjourn**



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 427 Recreational Vessel Registration  
**SPONSOR(S):** Magar and others  
**TIED BILLS:** IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Highway & Waterway Safety Subcommittee	11 Y, 0 N, As CS	Whittaker	Smith
2) Transportation & Economic Development Appropriations Subcommittee		Cobb	Davis
3) Economic Affairs Committee			

### SUMMARY ANALYSIS

The bill reduces state vessel registration fees for recreational vessels equipped with an Emergency Position-Indicating Radio Beacon, or for recreational vessels where the owner owns a Personal Locator Beacon. The beacon must be registered with the National Oceanic and Atmospheric Administration in order for the owner to qualify for the reduced registration fee. A person who owns a personal locator beacon and more than one recreational vessel qualifies to pay the reduced fee for only one of their vessels.

As provided in the bill, an **Emergency Position-Indicating Radio Beacon** means a device installed on the vessel being registered that:

- Transmits distress signals at a frequency between 406.0 and 406.1 MHz;
- Is manufactured by a company approved to manufacture beacons by the International Cospas-Sarsat Programme; and
- Is registered with the United States National Oceanic and Atmospheric Administration.

A **Personal Locator Beacon** means a device designed to be carried by an individual that:

- Transmits distress signals at a frequency between 406.0 and 406.1 MHz;
- Is manufactured by a company approved to manufacture beacons by the International Cospas-Sarsat Programme; and
- Is registered with the United States National Oceanic and Atmospheric Administration.

The Revenue Estimating Conference (REC) met on October 29, 2015, and determined that the original bill filed will have a negative recurring impact of \$500,000 to the General Revenue Fund. The bill as amended reduces this impact. The REC has not reviewed the bill as amended; however, using the data from the original REC estimate, House staff estimates that the reduced fees in the amended bill will have a negative recurring impact of approximately \$484,314. See fiscal section.

The bill provides an effective date of July 1, 2016.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### **Vessel Registration**

Vessels operated, used, or stored on the waters of this state must be registered with the Department of Highway Safety and Motor Vehicles (DHSMV) as a commercial or recreational<sup>1</sup> vessel, unless:

- The vessel is operated, used, and stored exclusively on private lakes and ponds;
- The vessel is owned by the U.S. Government;
- The vessel is used exclusively as a ship's lifeboat; or
- The vessel is non-motor-powered and less than 16 feet in length or a non-motor-powered canoe, kayak, racing shell, or rowing scull, regardless of length.<sup>2</sup>

Vessels are classified by their length which determines the base registration fee. The vessel registration fee for a 12-month period is as follows:

- *Class A-1*: Less than 12 feet in length, and all canoes to which propulsion motors have been attached, regardless of length: \$5.50;
- *Class A-2*: 12 feet or more and less than 16 feet in length: \$16.25;
- *Class 1*: 16 feet or more and less than 26 feet in length: \$28.75;
- *Class 2*: 26 feet or more and less than 40 feet in length: \$78.25;
- *Class 3*: 40 feet or more and less than 65 feet in length: \$127.75;
- *Class 4*: 65 feet or more and less than 110 feet in length: \$152.75;
- *Class 5*: 110 feet or more in length: \$189.75; and
- *Dealer registration certificate*: \$25.50.<sup>3</sup>

Additionally, any county may impose an annual registration fee on vessels registered, operated, used, or stored on the waters of this state within its jurisdiction. This fee is 50 percent of the applicable state registration fee, however the first \$1 of every registration must be remitted to the state for deposit in the Save the Manatee Trust Fund.<sup>4</sup> This optional county fee is retained by the county where the vessel is registered and is to be used for patrol, regulation, and maintenance of the lakes, rivers, and waters and for other boating-related activities within the municipality or county.<sup>5</sup>

##### **NOAA Search and Rescue Satellite Aided Tracking**

The National Oceanic and Atmospheric Administration (NOAA) operates the nation's Search and Rescue Satellite Aided Tracking (SARSAT) system to detect mariners, aviators, and others throughout the world using satellites in low-earth and geostationary orbits to detect and locate beacon-users in distress.<sup>6</sup>

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<sup>1</sup> s. 327.02(37), F.S. defines a "recreational vessel" as a vessel manufactured and used primarily for noncommercial purposes, or a vessel leased, rented, or chartered to a person for his or her noncommercial use.

<sup>2</sup> s. 328.48(2), F.S.

<sup>3</sup> s. 328.72(1), F.S.

<sup>4</sup> s. 328.66, F.S.

<sup>5</sup> *Id.*

<sup>6</sup> NOAA, *Welcome to SARSAT*, <http://www.sarsat.noaa.gov/index.html>. (last visited January 5, 2016).

The United States and the governments of Canada, France, and Russia have an agreement to provide for long-term operation of the COSPAS-SARSAT<sup>7</sup> (C-S) Program, which also provides space-based relay of distress signals or alerts from emergency beacons. The program provides alerts to search and rescue authorities internationally.

Ground stations, called Local User Terminals (LUTs), are satellite receiving units. LUTs are fully automated and unmanned. When an LUT receives a distress signal detected by satellite, it is transmitted to the mission control center (MCC) that operates that particular LUT. The MCC collects, stores, and sorts alerts from LUTs and other MCCs and distributes the alerts to search and rescue authorities and other MCCs.<sup>8</sup>

## **Locator Beacons**

The emergency beacons used to detect those in distress operate only in the 406.0 to 406.1 megahertz (MHz) frequency band to transmit digital messages to satellites for transmission to the appropriate LUT. The frequency is restricted to low power satellite emergency position-indicating beacons in the mobile satellite service. According to NOAA, two types of 406 MHz emergency beacons are:

- *Emergency Position-Indicating Radio Beacons*, or EPIRBs:  
An EPIRB is an emergency position-indicating radio beacon used in maritime watercraft that can be automatically or manually activated to transmit a distress signal to a satellite. EPIRBs that activate automatically typically have a hydro-static release mechanism that, when immersed, allows the beacon to release from its bracket, float to the surface and start transmitting. The beacon, along with the bracket, has to sink to approximately 3 meters before it will activate automatically. This should be taken into account when mounting an automatic EPIRB; and
- *Personal Locator Beacons*, or PLBs:  
A PLB is a personal locator beacon designed to be carried by an individual that can only be activated manually. PLBs can be used by people operating in remote areas.<sup>9</sup>

## **Registration of Beacons with NOAA**

Registration of a 406 MHz emergency beacon, and subsequent updating if the information changes, is free and required by Title 47 of the Code of Federal Regulations, part 80 for EPIRBs and part 95 for PLBs. Information provided in the registration of such a device, along with the distress signal from the device, is used by search and rescue authorities solely to help locate and rescue those in distress. NOAA provides an online system for initial and updated beacon registrations, and registration must be renewed every two years.<sup>10</sup>

NOAA indicated, as of October 6, 2015, 12,295 EPIRBs were registered indicating the vessel was registered in Florida, and 26,078 PLBs were registered indicating boat usage with a Florida mailing addresses.<sup>11</sup> Based on this data, approximately 10 percent of vessels currently registered in Florida would qualify for the reduced registration fees.

## **Proposed Change**

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<sup>7</sup> COSPAS is a Russian acronym for “Space System for Search of Vessels in Distress.” See the SARSAT FAQ website: <http://www.sarsat.noaa.gov/faq%202.html>. (last visited January 5, 2016).

<sup>8</sup> Id.

<sup>9</sup> Id.

<sup>10</sup> Id., NOAA prefers owners register beacons online at [www.beaconregistration.noaa.gov](http://www.beaconregistration.noaa.gov), however individuals may also mail or fax signed registration forms.

<sup>11</sup> Revenue Estimating Conference, *Analysis of HB 427 – Vessel Registration Location Indicating Devices* (Oct. 29, 2015) available at: [http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2016/\\_pdf/Impact1029.pdf](http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2016/_pdf/Impact1029.pdf) (last visited January 5, 2016).

**Section 1** of the bill amends s. 328.72, F.S., reducing state vessel registration fees for recreational vessels equipped with an Emergency Position-Indicating Radio Beacon, or for a recreational vessel where the owner owns a Personal Locator Beacon. The beacon must be registered with the National Oceanic and Atmospheric Administration in order for the owner to qualify for the reduced registration fee. A person who owns a personal locator beacon and more than one recreational vessel qualifies to pay the reduced fee for only one of their vessels. The registration fees are reduced as follows:

<b>Recreational Vessel Registration Fees for Each 12-Month Period</b>		
<i>Class of Vessel</i>	<i>Current Base Fee</i>	<i>Reduced Base Fee</i>
Class A-1	\$5.50	\$4.13
Class A-2	\$16.25	\$12.19
Class 1	\$28.75	\$21.56
Class 2	\$78.25	\$58.69
Class 3	\$127.75	\$95.81
Class 4	\$152.75	\$114.56
Class 5	\$189.75	\$142.31

The Department of Highway Safety and Motor Vehicles (DHSMV) may adopt rules specifying what constitutes sufficient proof to qualify for the reduced registration fees, but the proof must contain at least:

- The name of the beacon owner.
- The expiration date of the beacon's registration.
- The unique identification number of the beacon.
- For vessels equipped with an emergency position-indicating radio beacon, identification of the vessel equipped with the beacon.

For each vessel registration qualifying for reduced registration fees, an amount equal to the difference between the full registration fee amount and the actual amount of the registration fee paid for such vessel registration shall be transferred from the General Revenue Fund to the Department of Highway Safety and Motor Vehicles and shall be distributed pursuant to s. 328.76, F.S..

**Section 2** provides that the funds transferred from the General Revenue Fund shall be deposited as specified in the Marine Resources Conservation Trust Fund.

**Section 3** provides that the County Optional Fee for vessel registration remains 50 percent of the applicable state registration fee *without* consideration of the reduced fees.

**Section 4** provides that the bill has an effective date of July 1, 2016.

**B. SECTION DIRECTORY:**

**Section 1** Amends s. 328.72, F.S., providing definitions; providing for a reduced recreational vessel registration fee when the vessel is equipped with an emergency position indicating radio beacon or the owner of the vessel owns a personal locator beacon; limiting application to one vessel per owner; authorizing the Department of Highway Safety and Motor Vehicles to adopt rules relating to proof of qualification; providing for certain funds to supplement the reduced amounts collected.

**Section 2** Amends s. 328.76, F.S., relating to the Marine Resources Conservation Trust Fund; providing for use of the supplemental funds.

**Section 3** Amends s. 328.66, F.S., relating to county and municipality optional registration fees; specifying that the reduced fees do not apply to the limitation on registration fees charged by a county.

**Section 4** Provides an effective date of July 1, 2016.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The Revenue Estimating Conference (REC) reviewed the original bill filed on October 29, 2015, and estimated the bill will reduce the total sum of recreational vessel registration fees collected by DHSMV as follows:<sup>12</sup>

Fiscal Year	General Revenue
2016-2017	\$500,000
2017-2018	\$600,000
2018-2019	\$600,000
2019-2020	\$700,000
2020-2021	\$800,000

The amendment to the original bill filed, which specifically changed the amounts of the reduced fees, will lessen the impact of this bill. The REC has not reviewed the bill as amended; however, using the data from the original REC estimate, House staff estimates that the reduced fees in the amended bill will have a negative recurring impact of approximately \$484,314.

#### 2. Expenditures:

DHSMV estimates 790 programming hours, or the equivalent of \$57,280 in FTE and contracted resources workload, will be required to implement the bill. This will be absorbed within existing resources.<sup>13</sup>

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None

#### 2. Expenditures:

None

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill reduces recreational vessel registration fees for vessels equipped with or whose owner owns certain registered location beacons.

### D. FISCAL COMMENTS:

## III. COMMENTS

<sup>12</sup> Revenue Estimating Conference, *Analysis of HB 427 – Vessel Registration Location Indicating Devices* (Oct. 29, 2015) available at: [http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2016/\\_pdf/Impact1029.pdf](http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2016/_pdf/Impact1029.pdf) (last visited January 5, 2016).

<sup>13</sup> Department of Highway Safety and Motor Vehicles, Agency Analysis of 2016 House Bill 427, p.5 (October 28, 2015) (On file with the House Highway and Waterway Safety Subcommittee).

**A. CONSTITUTIONAL ISSUES:**

**1. Applicability of Municipality/County Mandates Provision:**

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not require a reduction of the percentage of state tax shared with municipalities or counties.

**2. Other:**

None

**B. RULE-MAKING AUTHORITY:**

The bill provides that DHSMV may adopt rules specifying what constitutes sufficient proof to qualify for reduced vessel registration fees. The bill specifies a minimum level of proof requirements.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 13, 2016, The Highway and Waterway Safety Subcommittee adopted one amendment to HB 427 and reported the bill favorably as a committee substitute. The amendment:

- Brings the registration discount to a uniform 25% across each class.

This analysis is drafted to the committee substitute as reported by the Highway and Waterway Safety Subcommittee.

1                                   A bill to be entitled  
 2           An act relating to recreational vessel registration;  
 3           amending s. 328.72, F.S.; providing definitions;  
 4           providing for a reduced recreational vessel  
 5           registration fee when the vessel is equipped with an  
 6           emergency position indicating radio beacon or the  
 7           owner of the vessel owns a personal locator beacon;  
 8           limiting application to one vessel per owner;  
 9           authorizing the Department of Highway Safety and Motor  
 10          Vehicles to adopt rules relating to proof of  
 11          qualification; providing for certain funds to  
 12          supplement the reduced amounts collected; amending s.  
 13          328.76, F.S., relating to the Marine Resources  
 14          Conservation Trust Fund; providing for use of the  
 15          supplemental funds; amending s. 328.66, F.S., relating  
 16          to county and municipality optional registration fees;  
 17          specifying that the reduced fees do not apply to the  
 18          limitation on registration fees charged by a county;  
 19          providing an effective date.

20  
 21   Be It Enacted by the Legislature of the State of Florida:

22  
 23           Section 1. Subsection (1) of section 328.72, Florida  
 24   Statutes, is amended, and subsection (18) is added to that  
 25   section, to read:  
 26           328.72 Classification; registration; fees and charges;

27 surcharge; disposition of fees; fines; marine turtle stickers.-

28 (1) VESSEL REGISTRATION FEE.-

29 (a) Vessels that are required to be registered shall be  
 30 classified for registration purposes according to the following  
 31 schedule~~7~~ and, except as provided in subsection (18), the  
 32 registration certificate fee shall be in the following amounts:

33 1. Class A-1-Less than 12 feet in length, and all canoes  
 34 to which propulsion motors have been attached, regardless of  
 35 length: \$5.50 for each 12-month period registered.

36 2. Class A-2-12 feet or more and less than 16 feet in  
 37 length: \$16.25 for each 12-month period registered. ~~(To county):~~  
 38 2.85 for each 12-month period registered.

39 3. Class 1-16 feet or more and less than 26 feet in length:  
 40 \$28.75 for each 12-month period registered. ~~(To county):~~ 8.85  
 41 for each 12-month period registered.

42 4. Class 2-26 feet or more and less than 40 feet in  
 43 length: \$78.25 for each 12-month period registered. ~~(To county):~~  
 44 32.85 for each 12-month period registered.

45 5. Class 3-40 feet or more and less than 65 feet in  
 46 length: \$127.75 for each 12-month period registered. ~~(To~~  
 47 ~~county):~~ 56.85 for each 12-month period registered.

48 6. Class 4-65 feet or more and less than 110 feet in  
 49 length: \$152.75 for each 12-month period registered. ~~(To~~  
 50 ~~county):~~ 68.85 for each 12-month period registered.

51 7. Class 5-110 feet or more in length: \$189.75 for each  
 52 12-month period registered. ~~(To county):~~ 86.85 for each 12-month

53 | period registered.

54 |       8. Dealer registration certificate: \$25.50 for each 12-  
55 | month period registered.

56 |       (b) The county portion of the vessel registration fee is  
57 | derived from recreational vessels only.

58 |       (18) REDUCED VESSEL REGISTRATION FEE.-

59 |       (a) As used in this subsection, the term:

60 |       1. "Emergency position-indicating radio beacon" means a  
61 | device installed on the vessel being registered that:

62 |       a. Transmits distress signals at a frequency between 406.0  
63 | and 406.1 MHz;

64 |       b. Is manufactured by a company approved to manufacture  
65 | beacons by the International Cospas-Sarsat Programme; and

66 |       c. Is registered with the United States National Oceanic  
67 | and Atmospheric Administration.

68 |       2. "Full registration fee amount" means the registration  
69 | fee as provided in subsection (1) and not the reduced vessel  
70 | registration fee specified in this subsection.

71 |       3. "Personal locator beacon" means a device designed to be  
72 | carried by an individual that:

73 |       a. Transmits distress signals at a frequency between 406.0  
74 | and 406.1 MHz;

75 |       b. Is manufactured by a company approved to manufacture  
76 | beacons by the International Cospas-Sarsat Programme; and

77 |       c. Is registered with the United States National Oceanic  
78 | and Atmospheric Administration.

79 |       (b) The registration certificate fee imposed under  
 80 | subsection (1) for a recreational vessel equipped with an  
 81 | emergency position-indicating radio beacon, or for a  
 82 | recreational vessel the owner of which owns a personal locator  
 83 | beacon, shall be reduced to the following amounts for each 12-  
 84 | month period registered:

- 85 |       1. Class A-1-\$4.13.
- 86 |       2. Class A-2-\$12.19.
- 87 |       3. Class 1-\$21.56.
- 88 |       4. Class 2-\$58.69.
- 89 |       5. Class 3-\$95.81.
- 90 |       6. Class 4-\$114.56.
- 91 |       7. Class 5-\$142.31.

92 |       (c) A person who owns a personal locator beacon and who  
 93 | owns more than one recreational vessel qualifies to pay the  
 94 | reduced fee under paragraph (b) for only one such vessel.

95 |       (d) In order to qualify for reduced registration fees  
 96 | under this subsection, a vessel owner must, at the time of  
 97 | registration, demonstrate that the vessel is equipped with an  
 98 | emergency position-indicating radio beacon or that the vessel  
 99 | owner owns a personal locator beacon. The Department of Highway  
 100 | Safety and Motor Vehicles may adopt rules specifying what  
 101 | constitutes sufficient proof to qualify for reduced registration  
 102 | fees under this subsection, but such proof must contain, at a  
 103 | minimum, the following:

- 104 |       1. The name of the beacon owner.

- 105        2. The expiration date of the beacon's registration.
- 106        3. The unique identification number of the beacon.
- 107        4. For vessels equipped with an emergency position-
- 108 indicating radio beacon, identification of the vessel equipped
- 109 with the beacon.

110        (e) For each vessel registration qualifying for reduced  
 111 registration fees under this subsection, an amount equal to the  
 112 difference between the full registration fee amount and the  
 113 actual amount of registration fee paid for such vessel  
 114 registration shall be transferred from the General Revenue Fund  
 115 to the Department of Highway Safety and Motor Vehicles and shall  
 116 be distributed pursuant to s. 328.76.

117        Section 2. Subsection (1) of section 328.76, Florida  
 118 Statutes, is amended to read:

119        328.76 Marine Resources Conservation Trust Fund; vessel  
 120 registration funds; appropriation and distribution.-

121        (1) Except as otherwise specified in this subsection and  
 122 less the amount equal to any administrative costs which shall be  
 123 deposited in the Highway Safety Operating Trust Fund, in each  
 124 fiscal year beginning on or after July 1, 2001, all funds  
 125 collected from the registration of vessels through the  
 126 Department of Highway Safety and Motor Vehicles and the tax  
 127 collectors of the state and funds transferred from the General  
 128 Revenue Fund pursuant to s. 328.72(18), except for those funds  
 129 designated as the county portion pursuant to s. 328.72(1), shall  
 130 be deposited in the Marine Resources Conservation Trust Fund for

131 recreational channel marking; public launching facilities; law  
 132 enforcement and quality control programs; aquatic weed control;  
 133 manatee protection, recovery, rescue, rehabilitation, and  
 134 release; and marine mammal protection and recovery. The funds  
 135 collected pursuant to s. 328.72(1) shall be transferred as  
 136 follows:

137 (a) In each fiscal year, an amount equal to \$1.50 for each  
 138 commercial and recreational vessel registered in this state  
 139 shall be transferred by the Department of Highway Safety and  
 140 Motor Vehicles to the Save the Manatee Trust Fund and shall be  
 141 used only for the purposes specified in s. 379.2431(4).

142 (b) An amount equal to \$2 from each recreational vessel  
 143 registration fee, except that for class A-1 vessels, shall be  
 144 transferred by the Department of Highway Safety and Motor  
 145 Vehicles to the Invasive Plant Control Trust Fund in the Fish  
 146 and Wildlife Conservation Commission for aquatic weed research  
 147 and control.

148 (c) An amount equal to 40 percent of the registration fees  
 149 from commercial vessels shall be transferred by the Department  
 150 of Highway Safety and Motor Vehicles to the Invasive Plant  
 151 Control Trust Fund in the Fish and Wildlife Conservation  
 152 Commission for aquatic plant research and control.

153 (d) An amount equal to 40 percent of the registration fees  
 154 from commercial vessels shall be transferred by the Department  
 155 of Highway Safety and Motor Vehicles, on a monthly basis, to the  
 156 General Inspection Trust Fund of the Department of Agriculture

157 and Consumer Services. These funds shall be used for shellfish  
 158 and aquaculture development and quality control programs.

159 (e) After all administrative costs are funded and the  
 160 distributions in paragraphs (a)-(d) have been made, up to  
 161 \$400,000 shall be transferred by the Department of Highway  
 162 Safety and Motor Vehicles to the General Inspection Trust Fund  
 163 of the Department of Agriculture and Consumer Services to fund  
 164 activities relating to the protection, restoration, and research  
 165 of the natural oyster reefs and beds of the state. This  
 166 paragraph expires July 1, 2017.

167 (f) After all administrative costs are funded and the  
 168 distributions in paragraphs (a)-(d) have been made, up to  
 169 \$300,000 may be used by the Fish and Wildlife Conservation  
 170 Commission for boating safety education. This paragraph expires  
 171 July 1, 2017.

172 Section 3. Subsection (1) of section 328.66, Florida  
 173 Statutes, is amended to read:

174 328.66 County and municipality optional registration fee.—

175 (1) Any county may impose an annual registration fee on  
 176 vessels registered, operated, used, or stored on the waters of  
 177 this state within its jurisdiction. This fee shall be 50 percent  
 178 of the applicable state registration fee as provided in s.  
 179 328.72(1) and not the reduced vessel registration fee specified  
 180 in s. 328.72(18). However, the first \$1 of every registration  
 181 imposed under this subsection shall be remitted to the state for  
 182 deposit in the Save the Manatee Trust Fund created within the

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2016

183 Fish and Wildlife Conservation Commission, and shall be used  
184 only for the purposes specified in s. 379.2431(4). All other  
185 moneys received from such fee shall be expended for the patrol,  
186 regulation, and maintenance of the lakes, rivers, and waters and  
187 for other boating-related activities of such municipality or  
188 county. A municipality that was imposing a registration fee  
189 before April 1, 1984, may continue to levy such fee,  
190 notwithstanding the provisions of this section.

191       Section 4. This act shall take effect July 1, 2016.



Amendment No. 1

18 under this subsection, a vessel owner must, at the time of  
19 registration, demonstrate that the vessel is equipped with an  
20 emergency position-indicating radio beacon or that the vessel  
21 owner owns a personal locator beacon. The Department of Highway  
22 Safety and Motor Vehicles may adopt rules specifying what  
23 constitutes sufficient proof to qualify for reduced registration  
24 fees under this subsection, but such proof must contain, at a  
25 minimum, the following:

- 26 1. The name of the beacon owner.
- 27 2. The expiration date of the beacon's registration.
- 28 3. The unique identification number of the beacon.
- 29 4. For vessels equipped with an emergency position-  
30 indicating radio beacon, identification of the vessel equipped  
31 with the beacon.

32 (e) For each vessel registration qualifying for reduced  
33 registration fees under this subsection, an amount equal to the  
34 difference between the full registration fee amount and the  
35 actual amount of registration fee paid for such vessel  
36 registration shall be transferred from the General Revenue Fund  
37 to the Department of Highway Safety and Motor Vehicles and shall  
38 be distributed pursuant to s. 328.76.

39 (f) Registration certificate fees provided in this  
40 subsection shall only apply to applicable vessels registered  
41 between July 1, 2016, and June 30, 2017. This subsection  
42 expires July 1, 2017.

43

Amendment No. 1

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T I T L E A M E N D M E N T

Remove line 12 and insert:  
supplement the reduced amounts collected; providing a time  
limitation for a reduced recreational vessel registration fee;  
providing for an expiration of provisions; amending s.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1325 Economic Development  
**SPONSOR(S):** Boyd  
**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Economic Development Appropriations Subcommittee		Proctor	Davis
2) Finance & Tax Committee			

### SUMMARY ANALYSIS

Economic development is the state and local communities, in partnership, improving their investment climate and business environment to enhance competitiveness, retain jobs, create jobs and improve incomes. The state undertakes economic development through a number of grant, loan, tax refund, and tax credit programs; some are contained in statute under ss. 220.191, 288.106, 288.107, 288.108, 288.1088, and 288.1089, F.S.

The bill modifies economic development definitions, processes, and administration. Specifically, the bill:

- requires "cumulative capital investment" to be considered as part of the evaluation of incentive applications and clarifies that such capital investment does not include state or local government funds;
- clarifies that the model used to determine a project's "economic benefits" as developed by the Office of Economic and Demographic Research (EDR) must include all state funds spent to benefit a business;
- establishes a sunset date of January 7, 2019, for various economic development programs;
- requires any business receiving a state incentive award that relocates the incentivized project outside the state within 10 years, to repay the state the full amount of the award received;
- specifies the average wage is the average wage of the county where the project is located;
- modifies the definition of "local financial support" and waiver processes across multiple incentive programs for consistency and uniformity;
- modifies allowable waivers for performance-based cash incentive programs;
- modifies the approval and amendment process for performance-based cash incentive programs;
- establishes a job creation component for the Quick Action Closing Fund (QAC) program;
- modifies the economic benefit requirement of the QAC program to 3.5 to 1;
- removes expired provisions within the Qualified Target Industry Tax Refund program;
- reauthorizes the Qualified Defense Contractor and Space Flight Business Tax Refund program;
- exempts a military base representative from filing a statement of financial interest solely due to their service on a local land planning or zoning board;
- exempts small businesses with 12 or less employees from concurrency/impact fees for three years;
- repeals the International Game Fish Association World Center facility statute;
- requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to review the Retention of Major League Baseball spring training baseball franchises program every three years;
- requires one member of the Enterprise Florida, Inc. board of directors to have expertise in the field of rural economic development;
- creates the Innovation Florida Initiative program;
- provides that the full board of directors of the Florida Development Finance Corporation may ratify or reject previous actions if taken by an incomplete board of directors; and
- requires OPPAGA and EDR to evaluate the impact of the state's investment in the Microfinance Loan and Microfinance Guarantee Programs.

On January 29, 2016, the Revenue Estimating Conference estimated the bill would have an indeterminate negative fiscal impact to the state. See fiscal comments.

The bill provides an effective date of July 1, 2015.

**This document does not reflect the intent or official position of the bill sponsor or House of Representatives.**

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## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **ECONOMIC DEVELOPMENT INCENTIVES**

Economic development is the state and local communities, in partnership, improving their investment climate and business environment to enhance competitiveness, retain jobs, create jobs and improve incomes. The state undertakes economic development through a number of grant, loan, tax refund, and tax credit programs; some are contained in statute under ss. 220.191, 288.106, 288.107, 288.108, 288.1088, and 288.1089, F.S.

Enterprise Florida, Inc., (EFI) is the state's point of contact for businesses seeking relocation, expansion, or job retention opportunities. As part of the early project development process, EFI promotes the value of doing business in the state. When a business is contemplating an expansion or relocation, EFI evaluates the competitive nature of the project in order to determine if incentives are needed and, if so, the appropriate programs for which the project might qualify. A strong commitment by the local community can also help define the level of commitment on behalf of the state.<sup>1</sup>

During the project evaluation process, the needs of the project are identified and an incentive package is developed. It is during this stage that the Department of Economic Opportunity (DEO) analyzes the risk profile of the company involved, the particular project, and the recommended incentive package prepared by EFI to ensure it is in the best interest of the state. Once the incentive package is finalized, DEO and/or the other appropriate state bodies issue the formal approvals.<sup>2</sup>

The state's economic development incentives utilize tax refunds and performance-based cash awards. To receive an incentive, businesses must first enter into a contract with DEO which outlines performance expectations such as specific job creation goals, a schedule by which new jobs should be created, an average wage to be paid for the new jobs, and a schedule by which new capital investment should be made. After the business has commenced the project and begun hiring, it will submit an annual claim form and documentation of taxes paid. The state verifies the claim data with the company's quarterly reemployment assistance and payroll reports and verifies the tax documentation. If the state confirms the contractual obligations have been met and any required local financial support has been received, a tax refund check is sent to the business. Businesses not filing claims or not meeting the performance obligations of its contract may be terminated from the programs.

Businesses receiving economic development incentive grant awards must also enter into performance-based contracts with the state which outline specific milestones for performance and payment. All of the state's incentive grant awards contain penalties for non-performance, and the state may actively pursue the recapture of funds in cases where a business has failed to meet the terms of its contract.

##### **Present Situation**

##### **Qualified Target Industry Tax Refund Program (QTI)**

- The Qualified Target Industry Tax Refund Program was established to serve to attract new high quality, high wage jobs for Floridians.<sup>3</sup>
- Tax refunds are made to qualifying, pre-approved businesses creating new jobs within Florida's target industries.

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<sup>1</sup> Florida Department of Economic Opportunity, *2014 Annual Incentives Report*, pg. 3, (Dec. 30, 2014).

<sup>2</sup> *Id.*

<sup>3</sup> See s. 288.061(1), F.S.

- All QTI projects include a performance-based contract with the state, which outlines specific milestones that must be achieved and verified by the state prior to payment of refunds.
- Local Financial Support: Twenty percent of the award must come from the local city or county government.<sup>4</sup>

Prior to June 30, 2014, DEO was authorized to reduce this requirement by one-half for a qualified target industry business located in the counties of Bay, Escambia, Franklin, Gadsden, Gulf, Jefferson, Leon, Okaloosa, Santa Rosa, Wakulla or Walton. The reduction in local match was determined by DEO and based on a determination that the project facilitates economic development, growth, or new employment within the previously referenced counties, and was in the best interest of the state.<sup>5</sup>

- Economic Recovery Extension: For the period of January 2, 2009, through June 30, 2012, a qualified target industry business could submit a request to DEO for an economic recovery extension. The request was required to provide quantitative evidence that negative economic conditions in the business's industry, the effects of a named hurricane or tropical storm, or specific acts of terrorism have affected the business and prevented it from complying with the terms and conditions of its incentive agreement with the state. An approved economic recovery extension allowed DEO to prorate a business's tax refund and renegotiate the terms of the incentive agreement. Additionally, DEO was authorized to extend the duration of the incentive agreement up to two years.<sup>6</sup>
- Job and Wage Requirements: A project must propose to create at least 10 new jobs, or in the case of a business expansion, must result in a net increase in employment of at least 10 percent at that business. The jobs proposed to be created or retained must pay an average annual wage of at least 115% of the average private sector wage in the area where the business is located, or the statewide private sector average wage.
- The amount of the refund is based on the average wages paid by the business, number of jobs created, and where in the state the eligible business chooses to locate or expand. The minimum tax refund is \$3,000 per employee, and the maximum amount is \$11,000 per employee over the term of the incentive agreement. Jobs created in rural communities and enterprise zones, as well as those paying higher annual average wages, are eligible for more incentives.

### **Qualified Defense Contractor and Space Flight Tax Refund**

- The Qualified Defense Contractor and Space Flight (QDCS) tax refund program was established to attract new high quality, high wage jobs for Floridians in the defense and space industries.<sup>7</sup>
- Tax refunds are made to qualifying, pre-approved businesses bidding on new competitive contracts or consolidating existing defense or space contracts.<sup>8</sup>
- Local Community Support: This incentive is a partnership between the state and local community - 20 percent of the award comes from the local city or county government.<sup>9</sup>
- All QDCS tax refund program projects include a performance-based contract with the state, which outlines specific milestones that must be achieved and verified by DEO prior to payment of refunds.<sup>10</sup>

<sup>4</sup> See s. 288.106(1)(j), F.S.

<sup>5</sup> Section 288.106(4)(f), F.S.

<sup>6</sup> Section 288.106(5)(b), F.S.

<sup>7</sup> See s. 288.1045, F.S.

<sup>8</sup> See s. 288.1045(2), F.S.

<sup>9</sup> Section 288.1045(1)(j), F.S.

<sup>10</sup> Section 288.1045(4), F.S. See *supra* note 1 at 9.

- **Jobs and Wages:** The program requires that jobs created by a QDCS tax refund program project have an average annual wage of at least 115% of the average private sector wage in the area where the business is located, or the statewide private sector average wage.
- The amount of the tax refund is based on the average wages paid by the business, number of jobs created, and where in the state the eligible business chooses to locate or expand. The minimum tax refund is \$3,000 per employee, and the maximum amount is \$8,000 per employee over the term of the incentive agreement.<sup>11</sup>
- Since the QDCS tax refund program's inception 33 Qualified Defense Contractor and Space Flight tax refund program applications have been approved. Of those 33 approved applications 5 remain active. In Fiscal Year 2013-2014, \$3,208,000 in QDCS tax refund program incentives were awarded.<sup>12</sup> Approved applicants may receive up to 25 percent of their total tax refund, not to exceed \$2.5 million, in any given fiscal year.<sup>13</sup>
- Applicants may no longer be certified as eligible for the QDCS tax refund program as of June 30, 2014.<sup>14</sup>

### Quick Action Closing Fund

- The Legislature created the Quick Action Closing Fund in 1999 as a discretionary "deal closing" tool in highly competitive negotiations where the state's traditional incentives are not enough to compel a business to relocate, initiate, or expand a project in Florida. The program was created in reaction to the announcement that the space shuttle program was being discontinued by NASA with expected job losses that would negatively impact families, companies, the state and regional economies.<sup>15</sup>
- **Jobs and Wages:** To be eligible to receive a Quick Action Closing Fund award, an applicant must be a business that operates within a targeted industry,<sup>16</sup> must propose a project that has a positive return on investment (ROI) of at least five to one,<sup>17</sup> must be induced by the award to locate or expand within the state<sup>18</sup> and must pay an average annual wage of at least 125 percent of the average private sector average.<sup>19</sup>
- **Local Community Support:** The project must be supported by the local community in which the project will be located.<sup>20</sup>
- DEO and EFI jointly review applications<sup>21</sup> and determine the eligibility of each project. Waivers of eligibility criteria may be granted based on extraordinary circumstances,<sup>22</sup> in order to mitigate the impact of the conclusion of the space shuttle program,<sup>23</sup> or if the project would significantly benefit the local or regional economy in a rural area of opportunity.<sup>24</sup>
- DEO is required to evaluate proposals for high-impact business facilities based on the following criteria:<sup>25</sup>

<sup>11</sup> Section 288.1045(2)(b), F.S.

<sup>12</sup> See *supra* note 1 at 11.

<sup>13</sup> Section 288.1045(2)(b), F.S.

<sup>14</sup> Section 288.1045(7), F.S.

<sup>15</sup> See s. 288.1088(1)(b), F.S.

<sup>16</sup> As identified by s. 288.106(2)(q), F.S.

<sup>17</sup> Section 288.1088(2)(b), F.S.

<sup>18</sup> Section 288.1088(2)(c), F.S.

<sup>19</sup> Section 288.1088(2)(d), F.S.

<sup>20</sup> Section 288.1088(2)(e), F.S.

<sup>21</sup> See s. 288.061, F.S.

<sup>22</sup> Section 288.1088(3)(a)1., F.S.

<sup>23</sup> Section 288.1088(3)(a)2., F.S.

<sup>24</sup> Section 288.1088(3)(a)3., F.S.

<sup>25</sup> Privately developed rural infrastructure projects are evaluated on the types of business activities and jobs stimulated by the state's investment, not for the number of jobs created or average annual wages. S. 288.1088(3)(b)2., F.S.

- a description of the type of facility or infrastructure, its operations, and the product or service associated with the facility;<sup>26</sup>
  - the number of full-time equivalent jobs that will be created by the facility and the total estimated average annual wages of those jobs;<sup>27</sup>
  - the cumulative amount of capital investment to be made in the facility;<sup>28</sup>
  - a statement of any special impacts the facility is expected to stimulate in a particular business sector in the state or region or in the state's universities or colleges;<sup>29</sup>
  - a statement of the role the award will play in the decision of the company to locate or expand in the state; and<sup>30</sup>
  - a report evaluating the quality and value of the company submitting the proposal.<sup>31</sup>
- Performance-Based Approval Process
    - Within seven business days of evaluating a project, DEO must recommend to the Governor that a project be approved or disapproved for an award. Approved projects may be awarded as follows:<sup>32</sup>
      - The Governor is authorized to award projects less than \$2 million without Legislative approval.
      - For project awards between \$2 million and \$5 million, the Governor must provide a written description and evaluation of a project award to the chair and vice chair of the Legislative Budget Commission (LBC) at least 10 days prior to giving final approval for a project award.
      - Project awards over \$5 million must be approved by the LBC prior to funds being released.
    - Following approval, DEO is required to enter into a contract with the business which specifies the conditions for payment of funds.<sup>33</sup>
    - The contract must include the total amount of funds awarded, the performance conditions for the project,<sup>34</sup> a baseline of current service with a measure of enhanced capability following the project, methodology for measuring performance, the schedule of payments, and sanctions for failure to meet performance conditions.<sup>35</sup>

### **Innovation Incentive Program**

- The Innovation Incentive Program was established to provide financial resources so that the state can "respond expeditiously to extraordinary economic opportunities and to compete effectively for high-value research and development, innovation business, and alternative and renewal energy projects."<sup>36</sup>
- To be eligible for consideration to receive an Innovation Incentive Program award, an innovation business, a research and development entity, or an alternative and renewable energy company

<sup>26</sup> Section 288.1088(3)(b)1., F.S.

<sup>27</sup> Section 288.1088(3)(b)2., F.S.

<sup>28</sup> Section 288.1088(3)(b)3., F.S.

<sup>29</sup> Section 288.1088(3)(b)4., F.S.

<sup>30</sup> Section 288.1088(3)(b)5., F.S.

<sup>31</sup> Section 288.1088(3)(b)6., F.S.

<sup>32</sup> Section 288.1088(3)(c), F.S.

<sup>33</sup> Section 288.1088(3)(d), F.S.

<sup>34</sup> Performance conditions include net new employment in the state, average salary, and total capital investment. *See s. 288.1088(3)(d), F.S.*

<sup>35</sup> Section 288.1088(3)(d), F.S.

<sup>36</sup> Section 288.1089(1), F.S.

must submit a written application to DEO before making a decision to locate new operations in the state or expand an existing operation in the state.<sup>37</sup>

- **Jobs and Wages:** To qualify for review by DEO, the applicant must establish that the jobs created by the project must pay an estimated annual wage of at least 130 percent of the average private sector wage.<sup>38</sup>
- **Waiver of Wage Requirement:** DEO is authorized to waive the average wage requirement at the request of Enterprise Florida, Inc., for a project located in a rural area, a brownfield area, or an enterprise zone, when the merits of the individual project or the specific circumstances in the community in relationship to the project warrant such action.<sup>39</sup>
- **Research and development projects** must provide the state at least a break-even return-on-investment (ROI) within a 20-year period.<sup>40</sup>
- **Local Support:** A one-to-one match from the local community. The match requirement may be reduced or waived in rural areas of opportunity or reduced in rural areas, brownfield areas, and enterprise zones.<sup>41</sup>
- **Performance-Based Approval Process**
  - DEO must make a recommendation to the Governor to approve or deny an Innovation Incentive Program award.
  - If the project is recommended, DEO must include in their recommendation proposed performance conditions that the applicant must meet in order to obtain incentive funds and any other conditions that are required to be met before the receipt of any incentive funds.
  - The Governor must:
    - Approve or deny the award based on the valuation and recommendation received from DEO; and
    - Consult with the President of the Senate and the Speaker of the House of Representatives prior to approving an award. The funds may not be released until the award has been reviewed and approved by the LBC.
- Upon approval, DEO and the award recipient must enter into an agreement that specifies the amount of the award, the performance conditions and measures, and a schedule of payments and sanctions for failure to comply with performance conditions, including clawback provisions.<sup>42</sup> Agreements signed on or after July 1, 2009, must also include, among other things, provisions related to job creation, reinvestment of royalty revenues, reporting requirements, and a process for amending the agreement.<sup>43</sup>

### **High-Impact Sector Performance Incentive**

- The High-Impact Sector Performance Incentive<sup>44</sup> is a grant reserved for major facilities operating in designated portions of high-impact sectors including clean energy, life sciences, financial services, information technology, silicon technology, transportation equipment manufacturing, or a corporate headquarters facility.

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<sup>37</sup> Section 288.1089(3), F.S.

<sup>38</sup> Section 288.1089(4)(a), F.S.

<sup>39</sup> *Id.*

<sup>40</sup> Section 288.1089(4)(b), F.S.

<sup>41</sup> Section 288.1089(4)(b)4., F.S.

<sup>42</sup> Section 288.1089(8)(a), F.S.

<sup>43</sup> Section 288.1089(8)(b), F.S.

<sup>44</sup> Ch. 97-278, L.O.F.

- This performance-based cash award is paid in two equal installments, one upon commencement of operations and the other upon commencement of full operations.<sup>45</sup>
- An “eligible high-impact business” is a business in one of the high-impact sectors identified by EFI, and certified by DEO, which is making a cumulative investment in the state of at least \$50 million and creating at least 50 new full-time equivalent jobs, or a research and development facility making a cumulative investment of at least \$25 million and creating at least 25 new full-time equivalent jobs. Such investment and employment must be achieved in a period not to exceed 3 years after the date the business is certified as a qualified high-impact business.<sup>46</sup>
- DEO reviews an application<sup>47</sup> received from an eligible business for consideration as a qualified high-impact business before the business has made a decision to locate or expand a facility in this state. The business must provide the following information:
  - A complete description of the type of facility, business operations, and product or service associated with the project.
  - The number of full-time equivalent jobs that will be created by the project and the average annual wage of those jobs.
  - The cumulative amount of investment to be dedicated to this project within 3 years.
  - A statement concerning any special impacts the facility is expected to stimulate in the sector, the state, or regional economy and in state universities and community colleges.
  - A statement concerning the role the grant will play in the decision of the applicant business to locate or expand in this state.
  - Any additional information requested by the department.<sup>48</sup>
- In negotiating the amount of a High-Impact Sector Performance Incentive award, DEO must consider the following guidelines in conjunction with other relevant applicant impact and cost information and analysis:<sup>49</sup>
  - A qualified high-impact business making a cumulative investment of \$50 million and creating 50 jobs may be eligible for a total grant between \$500,000 and \$1 million.
  - A qualified high-impact business making a cumulative investment of \$100 million and creating 100 jobs may be eligible for a total grant between \$1 million and \$2 million.
  - A qualified high-impact business making a cumulative investment of \$800 million and creating 800 jobs may be eligible for a total grant between \$10 million and \$12 million.
  - A qualified high-impact business engaged in research and development making a cumulative investment of \$25 million and creating 25 jobs may be eligible for a total grant between \$700,000 and \$1 million.
  - A qualified high-impact business engaged in research and development making a cumulative investment of \$75 million and creating 75 jobs may be eligible for a total grant between \$2 million and \$3 million.
  - A qualified high-impact business engaged in research and development making a cumulative investment of \$150 million and creating 150 jobs may be eligible for a total grant between \$3.5 million and \$4.5 million.
- The total amount of active performance grants scheduled for payment by DEO in any single fiscal year may not exceed the lesser of \$30 million or the amount appropriated by the Legislature for that fiscal year for qualified high-impact business performance grants.<sup>50</sup>

<sup>45</sup> See *supra* note 1 at 10.

<sup>46</sup> Section 288.108(2)(c), F.S.

<sup>47</sup> In accordance with Section 288.061, F.S.

<sup>48</sup> Section 288.108(5), F.S.

<sup>49</sup> Section 288.108(3)(b), F.S.

- Within 10 business days after DEO receives the submitted High-Impact Sector Performance Incentive application, the executive director of DEO must approve or disapprove the application and issue a letter of certification which includes a justification of that decision, unless the business requests an extension of that time.<sup>51</sup>
- DEO has the authority to grant awards to qualifying High-Impact Sector Performance Incentive projects without approval by the Governor or LBC.<sup>52</sup>
- Performance-Based Award
  - Upon approval, DEO and the award recipient must enter into an agreement which specifies the conditions for payment of the qualified high-impact business performance grant.
  - The agreement includes the total amount of the qualified high-impact business facility performance grant award, the performance conditions that must be met to obtain the award, including the employment, average salary, investment, the methodology for determining if the conditions have been met, and the schedule of performance grant payments.<sup>53</sup>

## **Incentive Application Process**

### **Economic Benefits and Cumulative Capital Investment**

Current law requires DEO to review and evaluate each economic development incentive application for the economic benefits of the proposed award of state incentives. The Office of Economic and Demographic Research (EDR) is required to establish the methodology and model used to calculate those economic benefits.<sup>54</sup>

Economic benefits mean the direct, indirect, and induced gains in state revenues as a percentage of the state's investment.<sup>55</sup> State investment means any state grants, tax exemptions, tax refunds, tax credits, or other state incentives provided to a business under a program administered by DEO, including the capital investment tax credit.<sup>56</sup> The cumulative capital investment means the total capital investment in land, buildings, and equipment made in connection with a qualifying project from the beginning of construction of the project to the commencement of operations.<sup>57</sup>

The current methodology and model developed by EDR, which only represents state investments directly under the control of EFI or DEO<sup>58</sup>, is used across all economic development incentive programs required by law to be evaluated for economic benefits.<sup>59</sup>

### **Employ Florida Marketplace**

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<sup>50</sup> Section 288.108(4)(a), F.S.

<sup>51</sup> See s. 288.108(5), F.S.; and s.288.061(3), F.S.

<sup>52</sup> See s. 288.108(3-5), F.S.

<sup>53</sup> Section 288.108(5)(c), F.S.

<sup>54</sup> Section 288.061(2), F.S.

<sup>55</sup> Section 200.005(1), F.S.

<sup>56</sup> Section 288.076((1)(e), F.S.

<sup>57</sup> Section 220.191(1)(b), F.S.

<sup>58</sup> 2013 Review of the Department of Economic Opportunity's Legacy Economic Impact Model (on file with the House Transportation & Economic Development Appropriations Subcommittee).

<sup>59</sup> See s. 288.0001, F.S. The Innovation Incentive Program is not required to be evaluated for economic benefits. Innovation Incentive Program projects are required to have a cumulative break-even economic benefit within a 20-year period except for certain exceptions. See s. 288.1089(4)(b)(3), F.S.

The Employ Florida Marketplace<sup>60</sup> is an automated job-matching or job bank system, implemented by CareerSource Florida, Inc., (formerly Workforce Florida, Inc.), which is accessible to employers, job seekers, and others via the Internet.

Receiving more than 9 million hits per day, EmployFlorida.com also offers labor market statistics, access to training grant information and contact information for any of the state's Regional Workforce Boards and CareerSource Centers. Throughout the life cycle of the Employ Florida Marketplace, nearly 6.5 million individuals have registered in the system, posting more than 4 million resumes and receiving more than 181 million services to assist them with either re-entering the workforce or finding better employment opportunities. In addition, over 200,000 employers have registered in the Employ Florida Marketplace, posting over 2.1 million job openings and receiving nearly 9.7 million employer services.<sup>61</sup>

### **Terms of Incentive Agreement**

Following approval of an incentive package, DEO executes an incentive agreement or contract between the business<sup>62</sup> and the state. The contract or agreement with the applicant must specify the total amount of the award, the performance conditions that must be met to obtain the award, the schedule for payment, and sanctions that would apply for failure to meet performance conditions. DEO may enter into one agreement covering all of the state incentives that are being provided to the applicant.<sup>63</sup> The law does not dictate the length of term for incentive agreements between a business and the state, the usage of escrow accounts for the holding of funds for future performance payments, or whether the contract or agreement must reflect the performance requirements approved in a submitted incentive package.

### **Incentive Agreement Amendments**

Under current law, contracts or agreements executed for the Qualified Defense and Space Contractor Refund Program, QTI, and the Innovation Incentive Program may be amended under certain circumstances.

### **Effect of Proposed Changes**

#### **Waivers (QAC)**

The bill amends the QAC program to prohibit DEO from granting a waiver for any of the QAC program eligibility requirements, with the exception of the local financial support requirement. Any waiving of the local financial support requirement will not impact the amount of state support.

#### **Average Wage (QTI, Qualified Defense Contractor and Space Flight tax refund program, QAC, Innovation Incentive Program)**

The bill amends the economic development incentive application process for the QTI, Qualified Defense Contractor and Space Flight tax refund program, QAC, and Innovation Incentive Program to provide that "average private sector wage in the area" means the average of all private sector wages and salaries in the county in which the project is located or will be located, rather than the state or the standard metropolitan area.

However, the bill also provides for an applicant to the QAC program to request DEO use the statewide average wage in place of the county average wage for a project that will be located in an incorporated

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<sup>60</sup> Employ Florida Marketplace; available at: [www.employflorida.com](http://www.employflorida.com) (last visited Feb. 12, 2015).

<sup>61</sup> *Id.*

<sup>62</sup> In some instances local governments may enter into a contract with DEO for a project.

<sup>63</sup> Section 288.061(3)(a), F.S.

rural city having a population of 25,000 or less within a county having a population greater than 1 million at the request of the local government and EFI.

### **Local Financial Support (Qualified Defense Contractor and Space Flight tax refund program, QTI, High-Impact Sector Performance Incentive , QAC, Innovation Incentive Program)**

The bill amends the Qualified Defense Contractor and Space Flight tax refund program and QTI to create uniform local financial support requirements and waivers across these incentive programs and activities, and provides for a more clear definition of support from local communities for the QAC, and High-Impact Sector Performance Incentive.

#### Qualified Defense Contractor and Space Flight tax refund program and QTI program

The bill authorizes DEO upon the request of a local government to:

- Reduce the required local financial support amount from 20% to 10%; or
- Eliminate the required local financial support amount for a project located within a rural area of opportunity (RAO).

The bill requires a local government that requests a waiver to provide DEO with a resolution adopted by the governing body of the local government notifying DEO of its request, as well as a statement by a state-certified public accountant that describes the financial constraints preventing the local government from providing the required local financial support amount.

The bill provides that a qualified applicant may not receive more than 80% of the total tax refunds approved by DEO from state funds.

#### High-Impact Sector Performance Incentive and QAC (Performance-Based Grant Incentives)

The bill defines “support by the local community” (QAC) and “local financial support” (High-Impact Sector Performance Incentive ) as financial, in-kind, or other quantifiable contributions from local sources that, combined, equal 20% or more of the total investment in the project by state and local sources.

The bill authorizes DEO upon the request of a local government to:

- Reduce the required local financial support amount from 20% to 10%; or
- Eliminate the required local financial support amount for a project located within a RAO.

The bill requires a local government that requests a waiver to provide DEO with a resolution adopted by the governing body of the local government notifying DEO of its request, as well as a statement by a state-certified public accountant that describes the financial constraints preventing the local government from providing the required local financial support amount.

#### Innovation Incentive Program (Performance-Based Grant Incentive)

A local government that requests a waiver reducing or eliminating the one-to-one match requirement of the program must provide DEO with a written statement, prepared by a state-certified public accountant describing the financial constraints preventing the local government from providing the required local financial support amount.

### **Performance-Based Grant Approval Process (High-Impact Sector Performance Incentive, QAC, Innovation Incentive Program)**

#### High-Impact Sector Performance Incentive and Innovation Incentive Program

The bill creates a new, uniform approval process for High-Impact Sector Performance Incentive and Innovation Incentive Program as follows:

Within seven business days after the executive director of DEO approves or disapproves an incentive application, DEO must forward the recommendation to the Governor for approval or disapproval. The recommendation must include:

- the total proposed award amount;
- the award's performance conditions;<sup>64</sup>
- a baseline of current service and a measure of enhanced capability;
- the methodology used for validating performance;
- a schedule of payments; and
- sanctions for failure to meet performance conditions.

For projects less than \$2 million:

- The Governor is authorized to approve the award. However, a written description and evaluation of the project must be provided to the chairman and vice chairman of the Legislative Budget Commission (LBC), the President of the Senate (President), and the Speaker of the House of Representatives (Speaker) within one business day after approval.

For projects from \$2 million to \$7.5 million:

- The Governor must provide a written description and evaluation of the project to the chairman and vice chairman of the LBC, the President, and the Speaker at least 14 days prior to granting approval. If the chair or vice chair of the LBC, the President, or the Speaker advise the Executive Office of the Governor (EOG) in writing that the award exceeds the authority of the EOG or is contrary to legislative policy or intent, the EOG shall instruct DEO to change its action on the project.

For projects greater than \$7.5 million, or projects \$5 million or greater and needing a waiver:

- The Governor shall provide the LBC a written description and evaluation of the project recommended for approval. The Legislative Budget Commission must approve such an award before final approval by the Governor.

### Quick Action Closing Fund

The bill modifies the approval process for the QAC program as follows:

For projects less than \$2 million:

- The Governor is authorized to approve the award. However, a written description and evaluation of the project must be provided to the chairman and vice chairman of the LBC, the President, and the Speaker within one business day after approval.

For projects \$2 million and more:

- The Governor must provide a written description and evaluation of the project to the chairman and vice chairman of the LBC, the President, and the Speaker at least 14 days prior to granting approval. If the chair or vice chair of the LBC, the President, or the Speaker advise the EOG in

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<sup>64</sup> Such performance conditions must include, but are not limited to, net new employment in the state, average salary, and total capital investment incurred by the business.

writing that the award exceeds the authority of the EOG or is contrary to legislative policy or intent, the EOG shall instruct DEO to change its action on the project.

## **QTI**

The bill amends QTI to remove provisions related to economic recovery extensions and local financial support reductions for certain counties. These provisions have expired.

## **Quick Action Closing Fund**

The bill amends QAC to provide that in order for a business to be eligible for a QAC award, the business must create at least 10 new jobs if the business is newly established, or must increase the number of jobs by at least 10% if the business is expanding.

The required economic benefit ratio must be at least 3.5 to 1, rather than 5 to 1.

## **Qualified Defense Contractor and Space Flight Business Tax Refund Program**

### Reauthorization

The bill amends the Qualified Defense Contractor and Space Flight tax refund program to allow DEO to certify eligible applicants under the Qualified Defense Contractor and Space Flight tax refund program until June 30, 2018.

### Filing Extension

The bill amends the Qualified Defense Contractor and Space Flight tax refund program to allow a business that timely submitted a tax refund claim between January 1, 2014, and December 31, 2014, that resulted in DEO withholding a tax refund due to the failure of the business to submit requested supporting documentation, may still receive the tax refund if:

- the business submits the requested documentation to DEO;
- the business provides a written statement to DEO explaining the circumstances that resulted in the business's failure to timely submit the documentation;
- funds appropriated for the Qualified Defense Contractor and Space Flight tax refund program are available;
- the business was scheduled, by the terms of the agreement, to submit information to the department between January 1, 2014, and December 31, 2014; and
- the business has satisfied all other requirements of the agreement.

### Tax Payment Verification

The bill amends the Qualified Defense Contractor and Space Flight tax refund program to remove the requirement that copies of all receipts pertaining to the payment of taxes be submitted for review and instead directs DEO to verify payment of taxes for which a refund is sought.

## **Incentive Application Process**

### Incentive Application

The bill provides that beginning January 1, 2017, the following information must be included in an incentive application being submitted to DEO:

- federal employee ID number;
- reemployment assistance account number;

- state sales tax registration number;
- project location;
- applicant's signature;
- anticipated commencement date;
- description of the business activity to be conducted including applicable NAICS code(s); and
- attestation verifying that the information provided is true and correct.

### Incentive Application Evaluation

The bill amends the incentive application evaluation process to provide for the following:

- a financial analysis of the company including information regarding liens and pending or ongoing litigation, credit ratings, and regulatory filings;
- a review of any independent evaluations of the company;
- a review of the historical market performance of the company;
- a review of the latest audit of the company's financial statement and the related auditor management letter;
- a review of any other audits that are related to the internal controls or management of the company;
- a review of performance in connection with past incentives; and
- any other review deemed necessary by DEO.

### Economic Benefit

The bill amends the definition of economic benefits and the incentive application process to specify that all state funds spent or forwent to benefit a business must be considered the state's investment for the purposes of establishing the economic benefits of a project.

EDR is directed to establish guidelines for the appropriate use of the economic benefits model used to determine economic benefits. EDR may also develop an amended definition of "economic benefits," for the purposes of creating the model and methodology used for the economic benefits model that includes all state funds spent or forwent to benefit a business.

### Cumulative Capital Investment

The bill amends the capital investment tax credit, the incentive application process, and the return on investment reporting requirements to limit the definition of "cumulative capital investment," to the total capital investment made by or on behalf of a business in conjunction with a qualifying project that does not include appropriated funds from the General Appropriations Act or any funds provided by a state agency or local government. Additionally, "cumulative capital investment" must be considered as part of the evaluation process involving economic development incentive applications.

### Employ Florida Marketplace

The bill amends the incentive application process to require that all vacant jobs created as a result of an executed state incentive agreement be posted on the state's job bank system, Employ Florida Marketplace.

### Approval Period

The bill amends the incentive application process to provide that DEO has 7 days after the director makes a recommendation to present an application to the Governor for approval or disapproval.

### **Term and Content of Incentive Agreements**

The bill amends the incentive application process to prohibit DEO from entering into incentive agreements with businesses for terms longer than 10 years. However, the department may enter into a

successive agreement or contract for a specific project to extend the initial 10 year term, if each successive contract or agreement is contingent upon the successful completion of the previous contract or agreement and meets all requirements of the applicable economic development program being utilized as if it was a stand-alone project. The restriction on the term of the agreement or contract does not apply if the contract or agreement is for a project receiving an Innovation Incentive Program award or a Capital Investment Tax Credit.

The bill amends the incentive application process to indicate any initial agreement between DEO and a business must contain any performance criteria approved during the legislative consultation period. Otherwise, funds may not be expended by DEO on the agreement. In addition, the bill provides that any capital investment component must remain in the state for the duration of the agreement, except an investment made in transportation related assets specifically used for the purpose of transporting goods or employees.

### **Incentive Agreement Amendments**

The bill amends the incentive application process for the Qualified Defense Contractor and Space Flight Business Tax Refund Program, QTI, Brownfield Tax Refund Program, High-Impact Sector Performance Incentive, QAC, and Innovation Incentive Program to require DEO to evaluate the projected economic benefits of a project prior to awarding a contract and reevaluate the projected economic benefits of a project each time an amendment, modification, or extension is made to a contract. Should a reevaluation result in the reduction of a project's projected economic benefits, DEO is precluded from executing a contract amendment or modification unless the state incentives outlined in the original contract are reduced by an amount proportionate to the reduction in the projected economic benefits.

An amendment, modification, or extension may not result in a 0.5-point or greater reduction in the economic-benefit ratio of the project, may not result in the waiver of any program requirement, and is subject to a 14-day legislative consultation. If the chair or vice chair of the LBC, the President, or the Speaker timely advises the EOG in writing that the amendment, modification, or extension exceeds the delegated authority of the EOG or is contrary to legislative policy or intent, the EOG must void the amendment, modification, or extension and instruct the department to immediately change action or proposed action.

The department must include in its annual report information pertaining to each incentive contract extension and each contract amendment or modification that alters a performance condition that a project must meet to obtain incentive funds.

### **Rural Areas Definition (Qualified Defense Contractor and Space Flight tax refund program, Innovation Incentive Program, QAC, and QTI)**

The bill amends the Qualified Defense Contractor and Space Flight tax refund program, QTI, QAC, and Innovation Incentive Program to replace various definitions of rural areas with "rural area of opportunity" as defined within s. 288.0656, F.S.<sup>65</sup>

### **10-Year Residency Clawback**

The bill creates a new section of statute to provide that any business who receives an economic development program award through the Capital Investment Tax Credit, Qualified Defense Contractor and Space Flight Business tax refund program, QTI, Brownfield Tax Refund Program, High-Impact Sector Performance Incentive, QAC, and Innovation Incentive Program and, within 10 years after

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<sup>65</sup>“Rural area of opportunity” means a rural community, or a region composed of rural communities, designated by the Governor, 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. Section 288.0656(2)(d), F.S.

receipt of the final program payment or tax credit, relocates the project for which it received the award outside of the state, must repay to the state the full amount of the award received.

## **Incentive Programs Sunset**

The bill creates a new section of statute to provide that an applicant may not be certified as qualified under the Capital Investment Tax Credit, Qualified Defense Contractor and Space Flight Business tax refund program, QTI, Brownfield Tax Refund Program, High-Impact Sector Performance Incentive, QAC, and Innovation Incentive Program after January 7, 2019. Any agreement for those programs existing on that date remains in effect in accordance with its terms.

## **FINANCIAL INTEREST STATEMENT FILING**

### **Present Situation**

Section 112.3145, F.S., requires local officers to file an annual financial disclosure with the Florida Commission on Ethics.<sup>66</sup> The definition of a “local officer” includes an appointed member of:

- A planning or zoning board, board of adjustment, board of appeals, or other board having power over modifying land planning or zoning within the political subdivision, except for:
  - Citizen advisory committees, technical coordinating committees, and “such other groups who only have the power to make recommendations to planning or zoning boards.”<sup>67</sup>
- Any other local government board if required to file the statement of financial interests by the appointing authority or the enabling legislation, ordinance, or resolution creating the board.<sup>68</sup>

Similar to state officers and specified state employees, a local officer whom fails to file the financial disclosure is automatically fined \$25 per day.<sup>69</sup> Although there was 99 percent overall compliance with the annual reporting requirement in 2014,<sup>70</sup> 288 individuals were assessed fines, 43 of whom served on a local planning, zoning or adjustment board.<sup>71</sup>

A maximum cap of \$1,500 exists for failure to file financial disclosure statements.<sup>72</sup> Of the 288 individuals assessed fines for the most recent available reporting timeframe, 82 had reached the maximum fine amount of \$1,500.<sup>73</sup> Prior to 2014, the Commission on Ethics could not initiate an investigation into alleged violations of the financial disclosure laws, without having first received a written complaint.<sup>74</sup> However, chapter 2014-183, L.O.F., required the Commission to initiate an investigation and conduct a public hearing to determine whether a person has willfully failed to file the financial disclosure, if the individual accrues the maximum \$1,500 fine, even if the fine has been paid. The Commission must enter an order recommending the officer or employee be removed from office or employment if it determines the failure to file was willful.

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<sup>66</sup> Section 112.3145(2)(b), F.S. Within 30 days of appointment, local officers must file a financial disclosure, and this filing is deemed to satisfy the annual disclosure requirement. Subsequently, they must file no later than July 1 of each year, and within 60 days after leaving their public position.

<sup>67</sup> Section 112.3145(1)(a)2.d., F.S.

<sup>68</sup> Section 112.3145(1)(a)2.f., F.S.

<sup>69</sup> Section 112.3145(7)(f), F.S. The Commission on Ethics is required to treat an amended financial disclosure as the original filing if the amendment is filed by September 1. Section 112.3145(7)(c), F.S.

<sup>70</sup> State of Florida Commission on Ethics, *Annual Report to the Florida Legislature for Calendar Year 2014*, at 17.

<sup>71</sup> Florida Commission on Ethics, Search for Financial Disclosure Filers, available at <http://public.ethics.state.fl.us/search.cfm>

<sup>72</sup> Section 112.3145(7)(f), F.S.

<sup>73</sup> Florida Commission on Ethics, Search for Financial Disclosure Filers, available at <http://public.ethics.state.fl.us/search.cfm>

<sup>74</sup> Section 112.324(1), F.S.

The Legislature established s. 163.3175, F.S., to encourage compatible land use between local governments and military installations, to help prevent incompatible encroachment, and to facilitate the continued presence of military installations in this state. In an effort to encourage cooperation between local governments and the military and facilitate the exchange of information, local governments are required "to include" a representative of a military installation within its jurisdiction as an *ex officio*, nonvoting member of the affected local government land planning or zoning board.<sup>75</sup> Recently, the Commission on Ethics has received appeals which depend on whether such an *ex officio*, nonvoting member of a local government land planning or zoning board who serves under s. 163.3175(7), F.S., meets the definition of a "local officer" and is required to file the annual financial disclosure.<sup>76</sup>

### **Effect of Proposed Changes**

The bill amends s. 163.3175, F.S. to exclude the representative of a military installation from being required to file a statement of financial interest solely due to his or her service on a local land planning or zoning board.

## **CONCURRENCY, PROPORTIONATE SHARE, AND IMPACT FEES**

### **Present Situation**

#### **Transportation Concurrency and Proportionate Share**

Concurrency requires public facilities and services to be available "concurrent" with the impacts of new development. Under Florida law, concurrency for sanitary sewer, solid waste, drainage, and potable water is required,<sup>77</sup> and concurrency for transportation, schools, and parks and recreation is optional.<sup>78</sup> However, if a local government decides to implement concurrency for one of the optional facilities, it must do so according to state law.<sup>79</sup>

A local government that implements transportation concurrency must define what constitutes an adequate level of service (LOS) for its transportation system, adopt a plan and improvement program to achieve and maintain adequate LOS standards, and measure whether the service needs of a new development exceed existing capacity of the transportation system.<sup>80</sup> Unless and until LOS standards are met, a local government may not issue a development permit without an applicable exception.<sup>81</sup>

If adequate transportation facilities are not currently available to support the impacts of a proposed development (i.e., if LOS standards are not currently met), the local government may require the developer to contribute his or her "proportionate share." Proportionate share is a tool local governments use to require developers to contribute to or build facilities necessary to offset a new development's impacts to ensure LOS standards are met.<sup>82</sup>

The state provides requirements that local governments must follow when implementing proportionate share, including specific formulas local governments must use when calculating proportionate share and criteria for when developers have satisfied proportionate share.<sup>83</sup>

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<sup>75</sup> Section 163.3175(8), F.S.

<sup>76</sup> In re MARION COOK, Florida Commission on Ethics, Financial Disclosure Appeal No. FD 13-110, *available at* <http://www.ethics.state.fl.us/Documents/Ethics/MeetingAgendas/April15%20Materials/FD13-110%20In%20re%20COOK.pdf>

<sup>77</sup> Section 163.3180(1), F.S.

<sup>78</sup> Section 163.3180, F.S.

<sup>79</sup> Section 163.3180(1), F.S.

<sup>80</sup> Section 163.3180(5), F.S.

<sup>81</sup> *E.g.* s. 163.3180(5)(h)1.b., F.S., which exempts public transit facilities from concurrency.

<sup>82</sup> Section 163.3180(5)(h), F.S.

<sup>83</sup> *Id.*

## Impact Fees

Local governments and certain special districts may use their constitutional or statutory home rule powers to enact "impact fees."<sup>84</sup> Impact fees are total or partial payments charged to cover the cost of additional infrastructure necessary as a result of new development. As local governments tailor impact fees to meet the infrastructure needs of new growth, impact fee calculations vary from jurisdiction to jurisdiction and from fee to fee. Impact fees also vary extensively depending on local costs, capacity needs, resources, and a local government's determination to charge the full cost of a fee's earmarked purposes.

The Legislature has found that impact fees are an important source of revenue for local governments to use in funding the infrastructure necessitated by growth.<sup>85</sup> However, due to the growth of impact fee collections and local governments' reliance on impact fees, the Legislature imposes minimum standards local governments must comply with when adopting impact fees.<sup>86</sup>

At a minimum, a county, municipality, or special district that adopts an impact fee must abide by the following statutory requirements:

- require that the calculation of the impact fee be based on the most recent and localized data;
- provide for accounting and reporting of impact fee collections and expenditures;
- limit administrative charges for the collection of impact fees to actual costs; and
- require that notice be provided no less than 90 days before the effective date of an ordinance or resolution imposing a new or increased impact fee.<sup>87</sup>

In addition to the Legislature's requirements, Florida courts have held that impact fees must meet the "dual rational nexus test."<sup>88</sup> That is, there must be (1) a reasonable connection between the need for infrastructure improvements and the population growth generated by new development and (2) a reasonable connection between the expenditure of fees collected and the benefit to the development from those expenditures.<sup>89</sup> Fifty-eight Florida jurisdictions had impact fees in place as of the 2012 National Impact Fee Survey.<sup>90</sup>

## Effect of Proposed Changes

The bill creates a three year window exempting certain new developments from satisfying transportation concurrency requirements and contributing to its corresponding proportionate share. The bill also exempts certain new developments from paying impact fees associated with the mitigation of transportation impacts.

The exemption window will apply to any new business development beginning on or after July 1, 2016, and before July 1, 2019. The exemption does not apply to business developments that consist of more than 6,000 square feet or new business developments that will include a business that employs more than 12 full-time employees. In addition, to maintain the exemption, a new business development must receive a certificate of occupancy on or before July 1, 2020. If the business development does not receive its certificate of occupancy on or before July 1, 2020, the government body may impose the

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<sup>84</sup> See s. 163.31801, F.S.

<sup>85</sup> Section 163.31801, F.S.

<sup>86</sup> *Id.*

<sup>87</sup> Section 163.31801(3), F.S.

<sup>88</sup> See *Hollywood, Inc. v. Broward County*, 431 So. 2d 606, 611-12 (Fla. 4th DCA 1983); *St. Johns County v. N.E. Fla. Builders Assoc.*, 583 So. 2d 635 (Fla. 1991).

<sup>89</sup> *Id.*

<sup>90</sup> The 2012 National Impact Fee Survey is available at [www.impactfees.com/publications%20pdf/2012\\_survey.pdf](http://www.impactfees.com/publications%20pdf/2012_survey.pdf) (last visited Feb. 15, 2015).

appropriate concurrency requirements, proportionate share contribution, and impact fees that it would have imposed but for the exemption.

The exemption window will not apply to a new development in a local government's jurisdiction where such local government, by majority vote of its governing body, revokes the exemption. The exemption window will also not apply if the exemption results in a reduction of previously pledged revenue of a local government authority for currently outstanding bonds or notes or to a local government with a mobility fee-based funding system in place on or before January 1, 2016. Finally, a new business developer may elect to not have the exemption applied.

## **INTERNATIONAL GAME FISH ASSOCIATION WORLD CENTER**

### **Present Situation**

The International Game Fish Association (IGFA) is a nonprofit organization founded in 1939 that focuses on the conservation of game fish and the promotion of responsible and ethical angling practices. The association is currently headquartered in Dania Beach, Florida.<sup>91</sup>

In 1996, the Florida Legislature created a funding program for the IGFA to build and maintain its "World Center" facility in Florida.<sup>92</sup> The program required the IGFA to apply for and receive certification from the Department of Economic Opportunity, which the IGFA accomplished in February, 2000.<sup>93</sup>

Florida law required the following for certification:

- the IGFA World Center must be the only fishing museum, hall of fame, and international administrative headquarters in the U.S. recognized by the IGFA, and that one or more private sector entities have committed to donate to the IGFA land upon which the facility will operate;<sup>94</sup>
- IGFA is a nonprofit Florida corporation that has contracted to construct and operate the facility;<sup>95</sup>
- the municipality or county (if located in an unincorporated area) in which the facility is located has passed a resolution that states the facility serves a public purpose;<sup>96</sup>
- there are existing projections that the facility and co-located privately-owned facilities will attract an attendance of more than 1.8 million annually;<sup>97</sup>
- there is an independent analysis which demonstrates that the amount of sales tax generated by sales at the facility will at least equal \$1 million annually;<sup>98</sup>
- there are existing projections that the project will attract more than 300,000 out-of-state visitors annually;<sup>99</sup>
- the applicant has submitted an agreement to provide \$500,000 annually in national and international media promotion of the facility during the period of time that it receives state funds;<sup>100</sup>

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<sup>91</sup> International Game Fish Association website at <https://igfa.org/About/Headquarters%20and%20Operations>. Last visited January 14, 2016.

<sup>92</sup> Chapter 96-415, s. 2, L.O.F.

<sup>93</sup> Office of Program Policy Analysis and Government Accountability, *Florida Economic Development Program Evaluations – Year 2, Report No. 15-01*, pg. 52. Jan. 1, 2015.

<sup>94</sup> Section 288.1169(2)(a), F.S.

<sup>95</sup> Section 288.1169(2)(b), F.S.

<sup>96</sup> Section 288.1169(2)(c), F.S.

<sup>97</sup> Section 288.1169(2)(d), F.S.

<sup>98</sup> Section 288.1169(2)(e), F.S.

<sup>99</sup> Section 288.1169(2)(f), F.S.

<sup>100</sup> Section 288.1169(2)(g), F.S.

- documentation exists that demonstrates the applicant has provided, or is capable of providing, more than one-half of the cost related to the improvements and the development of the facility;<sup>101</sup> and
- the application for certification is signed by senior officials of the IFGA and is notarized according to state law.<sup>102</sup>

In addition, Florida law required the World Center to be recertified every 10 years by demonstrating that it was open, continued to be the only international administrative headquarters, fishing museum, and hall of fame in the country recognized by the IGFA, and was meeting at least one of the minimum projections established at the time of original certification: 300,000 annual visitors or \$1 million in annual sales tax revenue.<sup>103</sup>

Upon the granting of certification, the Department of Revenue distributed a lump sum payment of \$999,996 to the IGFA and \$83,333 per month thereafter for up to 168 months (for a total of \$13,999,944).<sup>104</sup>

The state made its last disbursement to the facility in February 2014,<sup>105</sup> and on March 19, 2015, the IGFA announced that it would be moving its World Facility to Springfield, Missouri.<sup>106</sup>

### **Effect of Proposed Changes**

The bill repeals s. 288.1169, F.S., which authorizes the International Game Fish Association World Center facility program as well as s. 212.20(6)(d)6.d., F.S., which authorized the monthly payments for the program.

## **OFFICE OF PROGRAM POLICY ANALYSIS AND GOVERNMENT ACCOUNTABILITY EVALUATION OF ECONOMIC DEVELOPMENT PROGRAMS**

### **Present Situation**

In 2013,<sup>107</sup> the Legislature passed a law to require the Office of Economic and Demographic Research (EDR) and the Office of Program Policy Analysis and Government Accountability (OPPAGA) to evaluate and analyze Florida's economic development programs according to the following schedule.<sup>108</sup>

- By January 1, 2014, and every three years, thereafter, EDR and OPPAGA must analyze:
  - the capital investment tax credit established under s. 220.191, F.S.;
  - the qualified target industry tax refund established under s. 288.106, F.S.;
  - the brownfield redevelopment bonus refund established under s. 288.107, F.S.;
  - high-impact business performance grants established under s. 288.108, F.S.;
  - the Quick Action Closing Fund established under s. 288.1088, F.S.;
  - the Innovation Incentive Program established under s. 288.1089, F.S.;

<sup>101</sup> Section 288.1169(2)(h), F.S.

<sup>102</sup> Section 288.1169(2)(i), F.S.

<sup>103</sup> *Id.* The facility reported an average of \$3.8 million in annual sales tax revenues generated from 2000 through 2010 and received recertification in 2011. Office of Program Policy Analysis and Government Accountability, *Florida Economic Development Program Evaluations – Year 2, Report No. 15-01*, pg. 52. Jan. 1, 2015.

<sup>104</sup> Section 212.20(6)(d)6.d., F.S.

<sup>105</sup> Office of Program Policy Analysis and Government Accountability, *Florida Economic Development Program Evaluations – Year 2, Report No. 15-01*, pg. 52. Jan. 1, 2015.

<sup>106</sup> "Fishing Hall of Fame and Museum ditching Dania Beach for Missouri," by Brian Bandell. Orlando Business Journal, March 19, 2015. Available at <http://www.bizjournals.com/southflorida/news/2015/03/19/fishing-hall-of-fame-and-museum-ditching-dania-for.html>. Last visited January 14, 2016. See also IGFA notice at <https://igfa.org/Conserve/Museum>. Last visited January 14, 2016.

<sup>107</sup> Chapter 2013-39, s. 1, L.O.F.

<sup>108</sup> Section 288.0001, F.S.

- Enterprise Zone Program incentives established under ss. 212.08(5) and (15), 212.096, 220.181, and 220.182, F.S.; and
- the New Markets Development Program established under ss. 299.991-288.9922, F.S.<sup>109</sup>
- By January 1, 2015, and every three years thereafter, EDR and OPPAGA must analyze:
  - the entertainment industry financial incentive program established under s. 288.1254, F.S.;
  - the entertainment industry sales tax exemption program established under s. 288.1258, F.S.;
  - VISIT Florida and its programs established or funded under ss. 288.122, 288.1226, 288.12265, and 288.124, F.S.; and
  - the Florida Sports Foundation and related programs established under ss. 288.1162, 288.11621, 288.1166, 288.1167, 288.1168, 288.1169, and 288.1171, F.S.<sup>110</sup>
- By January 1, 2016, and every three years thereafter, EDR and OPPAGA must analyze:
  - the qualified defense contractor and space flight business tax refund program established under s. 288.1045, F.S.;
  - the tax exemption for semiconductor, defense, or space technology sales established under s. 212.08(5)(j), F.S.;
  - the Military Base Protection Program established under s. 288.980, F.S.;
  - the Manufacturing and Spaceport Investment Incentive Program formerly established under s. 288.1083, F.S.;
  - the Quick Response Training Program established under s. 288.047, F.S.;
  - the Incumbent Worker Training Program established under s. 445.003., F.S.; and
  - international trade and business development programs established or funded under s. 288.826, F.S.<sup>111</sup>
- By January 1, 2019, and every three years thereafter, EDR and OPPAGA must analyze the grant and entrepreneur initiative programs established under s. 295.22(3)(d) and (e), F.S.<sup>112</sup>
- Beginning January 1, 2018, and every three years thereafter, EDR and OPPAGA must analyze the Sports Development Program established under s. 288.11625, F.S.<sup>113</sup>

For each analysis, EDR must determine the program’s “economic benefits” for the previous three years.<sup>114</sup> As defined in Florida law, “economic benefits” means the “direct, indirect, and induced gains in state revenues as a percentage of the state’s investment.”<sup>115</sup> EDR must also include an evaluation of the number of jobs created, the increase or decrease in personal income, and the impact on state gross domestic product from the direct, indirect, and induced effects of the state’s investment in the program.<sup>116</sup>

For each analysis, OPPAGA must evaluate the program’s effectiveness and value to Florida taxpayers over the previous three years. Each analysis must also include recommendations on each program for consideration by the Florida Legislature.<sup>117</sup>

### **Major League Baseball Spring Training Retention Program**

Section 288.11631, F.S., authorizes local governments that partner with a spring training baseball franchise to apply for certification from DEO to receive state distributions for the purpose of renovating or constructing a spring training baseball facility.<sup>118</sup>

<sup>109</sup> Section 288.0001(2)(a), F.S.

<sup>110</sup> Section 288.0001(2)(b), F.S.

<sup>111</sup> Section 288.0001(2)(c), F.S.

<sup>112</sup> Section 288.0001(2)(d), F.S.

<sup>113</sup> Section 288.0001(2)(e), F.S.

<sup>114</sup> Section 288.0001(3), F.S.

<sup>115</sup> Section 288.005(1), F.S.

<sup>116</sup> Section 288.0001(3), F.S.

<sup>117</sup> Section 288.0001(4), F.S.

<sup>118</sup> Section 288.11631(1)-(2), F.S.

Certified applicants receive a distribution from state sales tax revenue of up to \$83,333 per month for 20 years for a facility used by a single spring training franchise facility or up to \$166,667 per month for 25 years for a facility used by more than one spring training franchise.<sup>119</sup> The amount of state incentive funding per certified applicant may not exceed \$20 million if the applicant's facility is used by one franchise and \$50 million if the applicant's facility is used by more than one franchise.<sup>120</sup>

### **Effect of Proposed Changes**

The bill adds the Retention of Major League Baseball spring training baseball franchises program authorized by s. 288.11631, F.S., to the list of programs scheduled to be reviewed by OPPAGA and EDR beginning January 1, 2018, and every 3 years thereafter.

## **ENTERPRISE FLORIDA BOARD OF DIRECTORS**

### **Present Situation**

#### **Board Organization**

The board of directors of EFI is comprised of 19 members: seven from the public sector and 12 from the private sector.<sup>121</sup> The seven members of the board from the public sector include the following:

- the Governor or the Governor's designee;
- the Commissioner of Education or his or her designee;
- the Chief Financial Officer or his or her designee;
- the Attorney General or his or her designee;
- the Commissioner of Agriculture or his or her designee;
- the chairperson of the board of directors for CareerSource Florida, Inc.; and
- the Secretary of State or his or her designee.

Of the twelve members from the private sector, the Governor appoints six<sup>122</sup> and the President of the Senate and Speaker of the Florida House of Representatives each appoint three. Such members are appointed to 4-year terms and must include at least one director for each of the following areas of expertise.<sup>123</sup>

- international business;
- tourism marketing;
- the space or aerospace industry;
- managing or financing a minority-owned business;
- manufacturing;
- finance and accounting; and
- sports marketing.

In addition, the President of the Senate must appoint a member of the Senate and the Speaker of the House must appoint a member of the House of Representatives, both of which serve as ex officio members.<sup>124</sup>

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<sup>119</sup> Section 212.20(6)(d)6.e., F.S.

<sup>120</sup> Section 288.11631(2)(c), F.S.

<sup>121</sup> Section 288.901(5), F.S. The board of directors may also appoint at-large members to the board from the private sector, each of whom may serve a term of up to three years. At-large members have the same powers and duties of the other members of the board. Section 288.901(6), F.S.

<sup>122</sup> Members appointed by the Governor are subject to Senate confirmation. Section 288.901(5)(a), F.S.

<sup>123</sup> Section 288.901(5)(b), F.S.

<sup>124</sup> Section 288.901(7), F.S.

The board must meet at least four times each year, upon the call of the chairperson, at the request of the vice chairperson, or at the request of a majority of the membership. A majority of the total number of current voting members constitutes a quorum.<sup>125</sup>

### **Board Powers**

Florida law directs the board of directors to “integrate its efforts in business recruitment and expansion, job creation, marketing the state for tourism and sports, and promoting economic opportunities for minority-owned businesses and promoting economic opportunities for rural and distressed urban communities with those of the department, to create an aggressive, agile, and collaborative effort to reinvigorate the state’s economy.”<sup>126</sup> To that end, Florida law authorizes the Board to:

- secure funding for its programs and activities from federal, state, local, and private sources and from fees charged for services and published materials;
- solicit, receive, hold, invest, and administer any grant, payment, or gift of funds or property and make expenditures;
- make and enter into contracts and other instruments necessary or convenient with its powers and functions;
- elect or appoint officers, employees, and agents as required for its activities and for its divisions;
- carry forward any unexpended state appropriations into succeeding fiscal years;
- create and dissolve advisory councils, working groups, task forces, or other similar organizations, as necessary to carry out its mission;
- establish an executive committee consisting of the chairperson or a designee, the vice chairperson, and as many additional members of the board of directors as the board deems appropriate (with a minimum of five members);
- sue and be sued, and appear and defend all actions and proceedings;
- adopt, use, and alter a common corporate seal for EFI and its divisions;
- adopt, amend, and repeal bylaws;
- acquire, enjoy, use, and dispose of patents, copyrights, and trademarks and any licenses, royalties, and other rights or interests;
- use the state seal when appropriate for standard corporate identity applications; and
- procure insurance or require bond against any loss in connection with the property of EFI.<sup>127</sup>

### **Effect of Proposed Changes**

The bill amends s. 288.901, F.S. to require that at least one of the 12 private sector representatives on the EFI board possess expertise in the field of rural economic development.

## **INNOVATION FLORIDA INITIATIVE**

### **Present Situation**

#### **Enterprising States Report**

The United States Chamber of Commerce Foundation issues an annual *Enterprising States* report, which uses a performance set of 35 metrics to identify the top ten state performers in each of six economic development policy areas: economic performance; transportation and trade; innovation and entrepreneurship; business climate; talent pipeline; and high-tech performance.<sup>128</sup>

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<sup>125</sup> Section 288.901(8), F.S.

<sup>126</sup> Section 288.9015(1), F.S.

<sup>127</sup> Section 288.9015(2), F.S.

<sup>128</sup> United States Chamber of Commerce Foundation, *Enterprising States 2015*, available at:

<https://www.uschamberfoundation.org/enterprisingstates/>. Last visited January 16, 2015.

In the 2015 report, the Chamber ranked Florida ninth in its innovation and entrepreneurship category.<sup>129</sup> To come to such conclusion, the report focused on the following indicators:

- academic research and development intensity;
- academic research and development growth;
- state research and development investment;
- new startup rate;
- high-tech share of all businesses; and
- the Kaufman Entrepreneurship Index.<sup>130</sup>

Notably, Florida ranked in the top ten in both the new startup rate and Kaufman Entrepreneurship Index.<sup>131</sup>

### Florida's High-Tech Corridor

A significant part of Florida's efforts to promote economic innovation resides in Florida's "high-tech corridor." Florida's high-tech corridor is a region stretching across 23 counties known for its high tech clusters of businesses covering a myriad of industries including aerospace, agritechology, modeling and simulation, optics and photonics, digital media, medical technologies, and others.<sup>132</sup> The region is connected by the High-Tech Corridor Council, which consists of representatives from three research universities, more than 20 local and regional economic development organizations, 14 community and state colleges, 12 regional workforce boards, and many industry groups.<sup>133</sup> Council members utilize their knowledge and resources to work together to expand Florida's high-tech footprint.

One of the Council's important initiatives is its Matching Grants Research Program, through which private donors match Council-member investments to leverage their research and development budgets with academic partnerships.<sup>134</sup> Since the inception of the program in 1996, the Council has partnered with 350 companies on more than 1,350 research projects and invested nearly \$62 million, which the Council estimates has resulted in greater than a \$1.3 billion economic impact.<sup>135</sup>

### Florida Economic Gardening

In 2009, the Florida Legislature created the "Economic Gardening Technical Assistance Pilot Program" and "Economic Gardening Business Loan Pilot Program" to stimulate investment in Florida's economy by providing technical assistance and loans to expanding businesses in the state, respectively.<sup>136</sup>

The technical assistance program provides an avenue through which eligible companies can receive counseling services, access to technology and information, marketing services and advice, business management support, and other similar services.<sup>137</sup> To carry out the program, the Department of Economic Opportunity (DEO) contracted with the University of Central Florida (UCF), which in turn established the Florida Economic Gardening Institute or "GrowFL."<sup>138</sup>

To be eligible for assistance through GrowFL, a business must be a for-profit, privately held, investment-grade business that:

- employs at least 10 persons but not more than 50 persons;

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<sup>129</sup> *Id.*

<sup>130</sup> United States Chamber of Commerce Foundation, *Enterprising States*, 2015 Executive Summary, page 4. Available at: <https://www.uschamberfoundation.org/enterprisingstates/>. Last visited January 16, 2015.

<sup>131</sup> *Id.*

<sup>132</sup> The Florida High Tech Corridor Council Website at: <http://www.floridahightech.com/>. Last visited January 16, 2016.

<sup>133</sup> *Id.*

<sup>134</sup> *Id.*

<sup>135</sup> *Id.*

<sup>136</sup> Sections 288.1081 and 288.1082, F.S.

<sup>137</sup> Section 288.1082(2), F.S.

<sup>138</sup> GrowFL website at <http://www.growfl.com/about/>. Last visited January 14, 2016.

- has maintained its principal place of business in the state for at least the previous two years;
- generates at least \$1 million but not more than \$25 million in annual revenue;
- qualifies for the tax refund program for qualified target industry businesses under s. 288.106, F.S.; and
- has increased both its number of full-time equivalent employees in this State and its gross revenues during three of the previous five years.<sup>139</sup>

According to GrowFL, as of June 30, 2014, it had assisted companies representing over 14,000 direct jobs across the State. Further, GrowFL states that over Fiscal Years 2013 and 2014, the program's activities helped generate an estimated 3,545 net new direct, indirect and induced jobs, which in turn contributed over \$547 million to Florida's economy and generated an additional \$18.34 million in total state and local tax revenues.

The Economic Gardening Business Loan program is available to businesses that qualify under the technical assistance program. Under the program, 38 businesses have received 43 loans totaling \$7,875,000.<sup>140</sup> In addition, according to DEO, the loan program is responsible for 171 jobs created and 803 jobs retained in the State.<sup>141</sup>

The loan program is set to expire on July 1, 2016, unless reviewed and reenacted by the Legislature.<sup>142</sup>

### **The Florida Institute for the Commercialization of Public Research**

The Florida Legislature created the Institute for the Commercialization of Public Research (Institute) in 2007 as a non-profit organization tasked with assisting innovation businesses, and public colleges, universities, or research institutes, or any other publicly supported organization in the State in the commercialization of products.<sup>143</sup> Specifically, Florida law directs the Institute to:

- maintain a centralized location to showcase companies and their technologies and products;
- develop an efficient process to inventory and publicize companies and products that have been accepted by the institute for commercialization;
- routinely communicate with private investors and venture capital organizations regarding the investment opportunities in its showcased companies;
- facilitate meetings between prospective investors and eligible organizations in the institute;
- hire full-time staff who understand relevant technologies needed to market companies to the angel investors and venture capital investment community; and
- develop cooperative relationships with publicly supported organizations all of which work together to provide resources or special knowledge that is likely to be helpful to institute companies.<sup>144</sup>

According to the Institute, its overall economic impact equaled \$168 million in Fiscal Year 2014-2015.<sup>145</sup>

### **Effect of Proposed Changes**

The bill amends s. 288.901, F.S., to direct EFI to "foster and encourage high-tech startup and second stage business development within the state."

<sup>139</sup> Section 288.1082(4), F.S.

<sup>140</sup> Department of Economic Opportunity 2013-2014 Annual Report, page 34. Available at <http://www.floridajobs.org/news-center/reports-and-legislative-presentations>. Last visited January 16, 2016.

<sup>141</sup> Department of Economic Opportunity 2014 Annual Incentives Report, page 34, December 30, 2014. Available at <http://www.floridajobs.org/news-center/reports-and-legislative-presentations>. Last visited January 16, 2016.

<sup>142</sup> Section 288.1081(10), F.S.

<sup>143</sup> Section 288.9625(1), F.S.

<sup>144</sup> Section 288.9625(8), F.S.

<sup>145</sup> The Florida Institute for the Commercialization of Public Research, *2014-2015 Annual Report Summary*; available at: <http://www.florida-institute.com/news/annual-report-summary-2014-2015>. Last visited January 16, 2016.

The bill also establishes the "Innovation Florida Initiative" and declares as follows:

"The Legislature finds that successful high-technology startup and second-stage businesses are critical to the state's overall economic growth and such businesses play an outsized role in job creation. The Legislature also finds that Enterprise Florida, Inc., the state's economic development organization, is uniquely suited to foster and encourage more high-technology startup and second stage business development within the state. Therefore, the Legislature declares that it is the policy of the state to prioritize high-technology startup and second-stage business development within the state and directs Enterprise Florida, Inc., to develop the Innovation Florida Initiative to further such policy."

The Initiative requires DEO to develop a statewide strategic plan for fostering and encouraging high-tech startup and second stage businesses in coordination with various economic development entities throughout the state including EFI, the Institute, and GrowFL. In developing the strategic plan, the department must:

- evaluate best practices, examine the startup, entrepreneurship, and second-stage business programs of other states, and survey high-technology startups and second-stage businesses and support organizations, both within and outside the state;
- include actionable steps to provide technical support to local and regional economic development organizations to enhance high-tech startup and second stage business growth at the local and regional levels; and
- evaluate the accessibility of the state's economic development incentive and loan programs to high-tech startups and second stage businesses.

The department must deliver the strategic plan to the Governor, President of the Senate, and the Speaker of the House of Representatives by January 1, 2017. The completed plan must also become part of the five year statewide strategic plan developed by the Division of Strategic Business Development required by s. 20.60, F.S.

In addition, the bill requires EFI to market the state's economic development activities related to the growth and development of high-tech startups and second stage businesses and provide information regarding its activities related to the development of such businesses in its annual report.

Finally, the bill defines "advanced technology products," "high-tech startup," and second stage business" to mean as follows:

- "Advanced technology products" means high-technology products produced by a business that employs a high proportion of scientists, engineers, and technicians.
- "High-tech startup" means a business unit that has been in operation for less than five years, employs fewer than 10 employees, and produces a high proportion of advanced technology products.

"Second-stage business" means a business unit that employs at least 10 but not more than 50 employees, generates at least \$1 million but not more than \$25 million in annual revenue, and produces a high proportion of advanced technology products.

## **FLORIDA DEVELOPMENT FINANCE CORPORATION**

### **Present Situation**

In 1993, the Florida Legislature created the Florida Development Finance Corporation (FDFC) as a state-authorized issuer of industrial revenue bonds, which are typically tax-exempt, private activity bonds.<sup>146</sup> In so doing, the Legislature's aim was to have the FDFC help foster the growth of manufacturing and other job-creating businesses in Florida by brokering private-activity bond financing through inter-local agreements with counties, municipalities, and other local political subdivisions. Over time, the Legislature expanded the FDFC's authority.<sup>147</sup>

Currently, the FDFC's statutorily expressed purpose is to enhance economic activity and development throughout the State by assisting in the financing of certain projects and facilitating the commercial interaction and cooperation between public and private organizations.<sup>148</sup> To undertake such responsibility, s. 288.9605, F.S., grants FDFC many powers, some of which include the following:

- to enter into interlocal agreements with public agencies for the exercise of any power, privilege, or authority consistent with the purposes of FDFC's enacting law;
- to issue revenue bonds for the purpose of financing and refinancing any capital projects for approved applicants;
- to issue bond anticipation notes in connection with the issuance and sale of such revenue bonds;
- to invest funds held in reserve or sinking funds or any such funds not required for immediate disbursement in property or securities in such manner as the board determines, subject to the authorizing resolution on any bonds issued, and to terms established in an investment agreement; and
- to borrow money and apply for and accept advances, loans, grants, contributions, and any other form of financial assistance from the Federal government or the state, county, or other public body or from any sources, public or private, pursuant to the purposes of FDFC's enacting law.

To carry out its purpose, FDFC primarily issues revenue bonds to qualified, financially sound, manufacturing and 501(c)(3) non-profit organizations.<sup>149</sup> 501(c)(3) organizations that have been financed with FDFC issued revenue bonds include charter and private schools, homes for the aged, daycare facilities, and recreation centers.<sup>150</sup>

The FDFC has issued at least 65 bonds for 91 borrowers totaling over \$940,000,000 since 1997.<sup>151</sup>

### **FDFC Board of Directors**

The Governor appoints FDFC's five member board of directors, subject to Senate confirmation.<sup>152</sup> At least three of the board members must be bankers selected by the Governor from a list submitted by Enterprise Florida, Inc. (EFI), and one of the directors must be an economic development specialist.<sup>153</sup> Terms are for four years, and any vacancy occurring during a term is filled by the Governor for the remainder of that term. Board members receive no compensation but are entitled to per diem and travel expenses.<sup>154</sup>

### **Effect of Proposed Changes**

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<sup>146</sup> Sections 25-34, Ch. 93-187, L.O.F. *See also* The Florida Senate *Issue Brief 2011-209*: "An Overview of the Economic Development Affiliates Administered by Enterprise Florida, Inc." October 2010. At 6.

<sup>147</sup> *Id.*

<sup>148</sup> *See* s. 288.9602, F.S.

<sup>149</sup> Information obtained from Enterprise Florida, Inc. website at: <http://www.enterpriseflorida.com/small-business/florida-development-finance-corporation/>. Last visited January 16, 2016..

<sup>150</sup> *Id.*

<sup>151</sup> E-mail from Bill Spivey, FDFC Vice President of Capital Programs. E-mail received on April 16, 2015. E-mail on file with House staff.

<sup>152</sup> Section 288.9604, F.S.

<sup>153</sup> *Id.*

<sup>154</sup> *Id.*

The bill provides that any action taken by FDFC's full board of directors on or before March 31, 2015, to ratify or reject actions taken by a previous board while such previous board was incomplete due to director vacancies, has the same effect as if the ratifying or rejecting board took the original action.

## **MICROFINANCE LOAN AND MICROFINANCE GUARANTEE PROGRAMS**

### **Present Situation**

In 2014, the Legislature found that the ability of entrepreneurs and small businesses to access capital is vital to the overall health and growth of this state's economy, but that access to capital is limited by the lack of available credit for entrepreneurs and small businesses in this state.<sup>155</sup> Accordingly, Florida lawmakers passed the "Florida Microfinance Act"<sup>156</sup> and created the "Microfinance Loan Program"<sup>157</sup> and "Microfinance Guarantee Program".<sup>158</sup>

Through the loan program, qualified businesses can receive short-term, fixed-rate microloans in conjunction with business management training, business development training, and technical assistance for startup costs, working capital, and the acquisition of materials, supplies, furniture, fixtures, and equipment.<sup>159</sup> To be eligible for a microloan, an applicant must, at a minimum, be an entrepreneur or small business that employs 25 or fewer people and generated average annual gross revenues of \$1.5 million or less per year for the preceding 2 years.<sup>160</sup> In addition, the following terms and restrictions apply:

- the amount of a microloan may not exceed \$50,000;
- a borrower may not receive more than \$75,000 per year in total microloans;
- a borrower may not receive more than two microloans per year and may not receive more than five microloans in any three-year period;
- the proceeds of the microloan may be used only for startup costs, working capital, and the acquisition of materials, supplies, furniture, fixtures, and equipment;
- the period of any microloan may not exceed one year;
- the interest rate may not exceed the prime rate published in the Wall Street Journal as of the date specified in the microloan, plus 1000 basis points;
- all microloans must be personally guaranteed;
- the borrower must participate in business management training, business development training, and technical assistance as determined by the loan administrator in the microloan agreement;
- the borrower shall provide such information as required by the loan administrator, including monthly job creation and financial data, in the manner prescribed by the loan administrator; and
- the loan administrator may collect fees for late payments which are consistent with standard business lending practices and may recover costs and fees incurred for any collection efforts necessitated by a borrower's default.<sup>161</sup>

Through the guarantee program, qualified entrepreneurs and small businesses in this state can stimulate their access to credit by receiving targeted loan guarantees.<sup>162</sup> The guarantee program is administered by Enterprise Florida, Inc., which is limited to providing loan guarantees for loans between

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<sup>155</sup> Section 288.9931, F.S.

<sup>156</sup> Section 288.993, F.S.

<sup>157</sup> Section 288.9934, F.S.

<sup>158</sup> Section 288.9935, F.S.

<sup>159</sup> Section 288.9934(1), F.S.

<sup>160</sup> Sections 288.9934(9) and 288.9932(5), F.S.

<sup>161</sup> Section 288.9934(8), F.S.

<sup>162</sup> Section 288.9935(1), F.S.

\$50,000 and \$250,000.<sup>163</sup> To be eligible to receive a loan guarantee under the guarantee program, a borrower must, at a minimum:

- be an entrepreneur or small business located in this state;
- employ 25 or fewer people;
- generate average annual gross revenues of \$1.5 million or less per year for the last 2 years; and
- meet any additional requirements established by Enterprise Florida, Inc.<sup>164</sup>

Florida law requires the Office of Economic and Demographic Research (EDR) to analyze, evaluate, and determine the economic benefits of the first three years of the Microfinance Loan Program and the Microfinance Guarantee Program.<sup>165</sup> The analysis must also evaluate the number of jobs created, the increase or decrease in personal income, and the impact on state gross domestic product from the direct, indirect, and induced effects of the state's investment.<sup>166</sup> Finally, the analysis must identify any inefficiencies in the programs and provide recommendations for changes to the programs.<sup>167</sup> EDR shall submit a report with the findings of the analysis to the President of the Senate and the Speaker of the House of Representatives by January 1, 2018.<sup>168</sup>

### **Effect of Proposed Changes**

The bill provides that both EDR and OPPAGA must each prepare and provide to the President of the Senate and the Speaker of the House of Representatives a report on the Microfinance Loan Program and Microfinance Guarantee Program and modifies the date of submittal from January 1, 2018, to January 15, 2018.

EDR's report must evaluate the number of jobs created, the increase or decrease in personal income, and the impact on state gross domestic product from the direct, indirect, and induced effects of the State's investment in the programs. OPPAGA's report must identify inefficiencies in the programs and provide recommendations for changes to the programs.

#### **B. SECTION DIRECTORY:**

- Section 1: Amends s. 163.3175, F.S., providing an exemption for a military base representative.
- Section 2: Amends s. 163.3180, F.S., exempting certain small businesses from concurrency fees for three years.
- Section 3: Amends s. 163.31801, F.S., exempting certain small businesses from impact fees for three years.
- Section 4: Amends s. 212.20, F.S., removing the International Game Fish Association World Center facility.
- Section 5: Amends s. 220.191, F.S., excluding certain funds from the definition of "cumulative capital investment."
- Section 6: Amends s. 220.196, F.S., conforming cross reference.
- Section 7: Amends s. 288.0001, F.S., providing for an analysis of the retention of Major League Baseball spring training baseball franchises.
- Section 8: Amends s. 288.005, F.S., including certain funds from the definition of "economic benefits."
- Section 9: Amends s. 288.061, F.S., relating to the economic development incentive application process.

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<sup>163</sup> Section 288.9935(4), F.S.

<sup>164</sup> Section 288.9935(7), F.S.

<sup>165</sup> Section 288.9937, F.S.

<sup>166</sup> *Id.*

<sup>167</sup> *Id.*

<sup>168</sup> *Id.*

- Section 10: Amends s. 288.076, F.S., relating to the return on investment reporting for economic development programs.
- Section 11: Creates s. 288.103, F.S., relating to the clawback of economic development incentive awards for projects relocating out of state.
- Section 12: Creates s. 288.1031, F.S., relating to the certification of economic development program applicants.
- Section 13: Amends s. 288.1045, F.S., relating to the Qualified Defense Contractor and Space Flight Business tax refund program.
- Section 14: Amends s. 288.106, F.S., relating to the Qualified Target Industry tax refund program.
- Section 15: Amends s. 288.108, F.S., relating to the High Impact Performance Incentive.
- Section 16: Amends s. 288.1088, F.S., relating to the Quick Action Closing Fund.
- Section 17: Amends s. 288.1089, F.S., relating to the Innovation Incentive Program.
- Section 18: Repealing s. 288.1169, F.S., relating to the International Game Fish Association World Center facility.
- Section 19: Amends s. 288.901, F.S., relating to Enterprise Florida, Inc.
- Section 20: Creates s. 288.913, F.S., relating to the Innovation Florida Initiative.
- Section 21: Amends s. 288.9604, F.S., relating to the Florida Development Finance Corporation.
- Section 22: Amends s. 288.9937, F.S., relating to the evaluation of programs by the Office of Economic and Demographic Research and the Office of Program Policy Analysis and Government Accountability.
- Section 23: Amends s. 189.033, F.S., conforming cross reference.
- Section 24: Amends s. 196.012, F.S., conforming cross reference.
- Section 25: Amends s. 288.11625, F.S., conforming cross reference.
- Section 26: Amends s. 288.11631, F.S., conforming cross reference.
- Section 27: Reenacts s. 159.803, F.S., conforming cross reference.
- Section 28: Provides an effective date of July 1, 2016.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

The fiscal impact to the state depends upon the use of the various economic development incentives and programs addressed in the bill. Should a business decide to locate or expand in the state based on the various incentives and programs, it may positively impact a variety of revenues generated from taxes and fees.

#### **2. Expenditures:**

The fiscal impact to the state depends upon the use of the various economic development incentives and programs addressed in the bill. Should a business decide to locate or expand in the state based on the various incentives and programs, it may negatively impact state expenditures based on anticipated appropriations for payments.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

#### **1. Revenues:**

On January 29, 2016, the Revenue Estimating Conference estimated the bill would have an indeterminate negative fiscal impact to the state for proposed modifications to transportation concurrency and impact fees for a three-year period (i.e., July 1, 2016 through July 1, 2019) during which a county, municipality, or special district may not impose any new or existing impact fee or any new or existing fee associated with the mitigation of transportation impacts on new business development, unless authorized by the affirmative majority vote of the entity's governing body.

In addition, the fiscal impact on local governments depends upon the use of the various economic development incentives and programs addressed in the bill. Should a business decide to locate or expand in a community based on incentives it may positively impact a variety of revenues generated by local taxes and fees.

2. Expenditures:

The fiscal impact depends upon the use of the various economic development incentives and programs addressed in the bill. Should a business decide to locate or expand in a community based on the various incentives and programs it may negatively impact expenditures based on anticipated payments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The extension of the QDSC program may have an indeterminate negative fiscal impact to state and local governments to the extent an entity applies to participate in the program and qualifies for tax refund payments.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1                                   A bill to be entitled  
2           An act relating to economic development; amending s.  
3           163.3175, F.S.; providing that certain representatives  
4           of military installations are not required to file a  
5           statement of financial interest; amending s. 163.3180,  
6           F.S.; prohibiting a local government from applying  
7           transportation concurrency within its jurisdiction  
8           under certain conditions; providing applicability;  
9           providing for expiration of the prohibition; amending  
10          s. 163.31801, F.S.; prohibiting a county,  
11          municipality, or special district from applying  
12          certain impact fees or other fees within its  
13          jurisdiction under certain conditions; providing  
14          applicability; amending s. 212.20, F.S.; conforming  
15          provisions to the repeal by the act of s. 288.1169,  
16          F.S.; amending s. 220.191, F.S.; revising the  
17          definition of the term "cumulative capital investment"  
18          for purposes of the capital investment tax credit;  
19          amending s. 220.196, F.S.; conforming a cross-  
20          reference; amending s. 288.0001, F.S.; revising  
21          required elements of specified analyses prepared by  
22          the Office of Economic and Demographic Research and  
23          the Office of Program Policy Analysis and Government  
24          Accountability; conforming provisions; amending s.  
25          288.005, F.S.; revising the definition of the term  
26          "economic benefits"; providing for expiration of the

27 prohibition; amending s. 288.061, F.S.; requiring the  
 28 Department of Economic Opportunity to prescribe the  
 29 format for certain economic incentive applications;  
 30 providing required elements of the applications;  
 31 revising evaluation and contract requirements of the  
 32 economic development incentive application process;  
 33 revising a definition; providing and revising  
 34 responsibilities of the department; amending s.  
 35 288.076, F.S.; revising definitions; creating s.  
 36 288.103, F.S.; providing for the repayment of economic  
 37 development program awards by certain businesses;  
 38 providing applicability; creating s. 288.1031, F.S.;

39 prohibiting the certification of certain economic  
 40 development program applications after a specified  
 41 date; amending s. 288.1045, F.S.; revising  
 42 definitions; revising the application process for the  
 43 qualified defense contractor and space flight business  
 44 tax refund program; revising tax refund requirements;  
 45 revising the expiration date of the program; amending  
 46 s. 288.106, F.S.; revising definitions; revising the  
 47 application process for the tax refund program for  
 48 qualified target industry businesses; revising tax  
 49 refund requirements; removing provisions regarding  
 50 economic recovery extensions of certain tax refund  
 51 agreements; amending s. 288.108, F.S.; revising and  
 52 providing definitions; revising application

53 requirements and requiring the Department of Economic  
 54 Opportunity to certify high-impact business grant  
 55 applications; providing duties of the Governor and the  
 56 department; amending s. 288.1088, F.S.; revising  
 57 provisions relating to the Quick Action Closing Fund;  
 58 revising project eligibility requirements; providing  
 59 limitations on, and authorizing waivers from, local  
 60 financial support requirements; revising contract  
 61 requirements for certain projects; revising approval  
 62 requirements for amendments or modifications of  
 63 contract requirements for such projects; revising  
 64 duties of the Governor; amending s. 288.1089, F.S.;  
 65 revising definitions; revising application  
 66 requirements for the Innovation Incentive Program;  
 67 authorizing the department to waive certain wage  
 68 requirements for projects in a rural area of  
 69 opportunity or certified enterprise zone; revising  
 70 duties of the Governor and the department; revising  
 71 approval requirements for amendments or modifications  
 72 of contract requirements for such projects; repealing  
 73 s. 288.1169, F.S., relating to state agency funding of  
 74 the International Game Fish Association World Center  
 75 facility; amending s. 288.901, F.S.; revising the  
 76 purpose and duties of Enterprise Florida, Inc., with  
 77 respect to fostering and encouraging high-technology  
 78 startup and second-state business development;

79 | revising membership requirements for the board of  
 80 | directors of Enterprise Florida, Inc.; creating s.  
 81 | 288.913, F.S.; creating the Innovation Florida  
 82 | Initiative; providing legislative findings; providing  
 83 | definitions; requiring the department to develop a  
 84 | statewide strategic plan for high-technology startup  
 85 | and second-stage business growth and development;  
 86 | providing requirements for the plan; providing  
 87 | marketing requirements; providing reporting  
 88 | requirements; amending s. 288.9604, F.S.; providing  
 89 | for ratification of certain actions taken by the board  
 90 | of directors of the Florida Development Finance  
 91 | Corporation; amending s. 288.9937, F.S.; requiring the  
 92 | Office of Program Policy Analysis and Government  
 93 | Accountability to evaluate the Microfinance Loan  
 94 | Program; providing requirements for the evaluation;  
 95 | revising reporting requirements; amending ss. 189.033,  
 96 | 288.11625, 288.11631, and 196.012, F.S.; conforming  
 97 | cross-references; reenacting s. 159.803(11), F.S.,  
 98 | relating to definitions applicable to the Florida  
 99 | Private Activity Bond Allocation Act, to incorporate  
 100 | the amendment made by the act to s. 288.106, F.S., in  
 101 | a reference thereto; providing an effective date.

102 |  
 103 | Be It Enacted by the Legislature of the State of Florida:  
 104 |

105 Section 1. Subsection (7) of section 163.3175, Florida  
 106 Statutes, is amended to read:

107 163.3175 Legislative findings on compatibility of  
 108 development with military installations; exchange of information  
 109 between local governments and military installations.-

110 (7) To facilitate the exchange of information provided for  
 111 in this section, a representative of a military installation  
 112 acting on behalf of all military installations within that  
 113 jurisdiction shall serve ~~be included as an~~ ex officio as a  
 114 nonvoting member of the county's or affected local government's  
 115 land planning or zoning board. The representative is not  
 116 required to file a statement of financial interest pursuant to  
 117 s. 112.3145 solely due to his or her service on the county's or  
 118 affected local government's land planning or zoning board.

119 Section 2. Subsection (7) is added to section 163.3180,  
 120 Florida Statutes, to read:

121 163.3180 Concurrency.-

122 (7) (a) Notwithstanding any other provision of law,  
 123 ordinance, or resolution, a local government may not apply  
 124 transportation concurrency within its jurisdiction and may not  
 125 require a proportionate-share contribution or construction for a  
 126 new business development before July 1, 2019, unless authorized  
 127 by the affirmative majority vote of the local government's  
 128 governing authority. This paragraph does not apply to:

129 1. Proportionate-share contribution or construction  
 130 assessed on an existing development before July 1, 2016.

131 2. A new business development that is larger than 6,000  
 132 square feet.

133 3. A new business development that includes a business  
 134 employing more than 12 full-time employees.

135 (b) To maintain the exemption from transportation  
 136 concurrency and proportionate-share contribution or construction  
 137 pursuant to paragraph (a), a new business development must  
 138 receive a certificate of occupancy on or before July 1, 2020. If  
 139 the certificate of occupancy is not received by July 1, 2020,  
 140 the local government may apply transportation concurrency and  
 141 require the appropriate proportionate-share contribution or  
 142 construction for the business development that would have been  
 143 applied except for this subsection. Any outstanding obligation  
 144 related to the proportionate-share contribution or construction  
 145 runs with the land and is enforceable against any person  
 146 claiming a fee interest in the land subject to that obligation.

147 (c) This subsection does not apply if it results in a  
 148 reduction of previously pledged revenue of a local government  
 149 authority for outstanding bonds or notes or to a local  
 150 government with a mobility fee-based funding system in place on  
 151 or before January 1, 2016.

152 (d) Upon written notification to the local government, a  
 153 developer may elect to have the local government apply  
 154 transportation concurrency and proportionate-share contribution  
 155 or construction to a business development.

156 (e) This subsection expires July 1, 2020.

157 Section 3. Subsection (6) is added to section 163.31801,  
 158 Florida Statutes, to read:

159 163.31801 Impact fees; short title; intent; definitions;  
 160 ordinances levying impact fees.—

161 (6) (a) Notwithstanding any other provision of law,  
 162 ordinance, or resolution, a county, municipality, or special  
 163 district may not impose any new or existing impact fee or any  
 164 new or existing fee associated with the mitigation of  
 165 transportation impacts on new business development before July  
 166 1, 2019, unless authorized by the affirmative majority vote of  
 167 the governing authority of the county, municipality, or special  
 168 district. This paragraph does not apply to:

169 1. An impact fee or fee associated with the mitigation of  
 170 transportation impacts previously enacted by law, ordinance, or  
 171 resolution assessed on an existing business development before  
 172 July 1, 2016.

173 2. A new business development larger than 6,000 square  
 174 feet.

175 3. A new business development that includes a business  
 176 employing more than 12 full-time employees.

177 (b) Any governing authority of a local government imposing  
 178 an impact fee in existence on July 1, 2016, must reauthorize the  
 179 imposition of the fee pursuant to this subsection.

180 (c) To maintain the exemption from impact fees and fees  
 181 associated with the mitigation of transportation impacts  
 182 pursuant to paragraph (a), a new business development must

183 receive a certificate of occupancy on or before July 1, 2020. If  
 184 the certificate of occupancy is not received by July 1, 2020,  
 185 the county, municipality, or special district may impose the  
 186 appropriate impact fees and fees associated with the mitigation  
 187 of transportation impacts on the development that would have  
 188 been applied except for this subsection. Any outstanding  
 189 obligation related to impact fees, and fees associated with the  
 190 mitigation of transportation impacts on the development, runs  
 191 with the land and is enforceable against any person claiming a  
 192 fee interest in the land subject to that obligation.

193 (d) This subsection does not apply if it results in a  
 194 reduction of previously pledged revenue of a local government  
 195 authority for currently outstanding bonds or notes or to a local  
 196 government with a mobility fee-based funding system in place on  
 197 or before January 1, 2016.

198 (e) Upon notification to the county, municipality, or  
 199 special district, a developer may elect to have impact fees and  
 200 fees associated with the mitigation of transportation impacts  
 201 imposed on a development.

202 (f) This subsection expires July 1, 2020.

203 Section 4. Paragraph (d) of subsection (6) of section  
 204 212.20, Florida Statutes, is amended to read:

205 212.20 Funds collected, disposition; additional powers of  
 206 department; operational expense; refund of taxes adjudicated  
 207 unconstitutionally collected.-

208 (6) Distribution of all proceeds under this chapter and

209 ss. 202.18(1)(b) and (2)(b) and 203.01(1)(a)3. is as follows:

210 (d) The proceeds of all other taxes and fees imposed  
 211 pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)  
 212 and (2)(b) shall be distributed as follows:

213 1. In any fiscal year, the greater of \$500 million, minus  
 214 an amount equal to 4.6 percent of the proceeds of the taxes  
 215 collected pursuant to chapter 201, or 5.2 percent of all other  
 216 taxes and fees imposed pursuant to this chapter or remitted  
 217 pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in  
 218 monthly installments into the General Revenue Fund.

219 2. After the distribution under subparagraph 1., 8.9744  
 220 percent of the amount remitted by a sales tax dealer located  
 221 within a participating county pursuant to s. 218.61 shall be  
 222 transferred into the Local Government Half-cent Sales Tax  
 223 Clearing Trust Fund. Beginning July 1, 2003, the amount to be  
 224 transferred shall be reduced by 0.1 percent, and the department  
 225 shall distribute this amount to the Public Employees Relations  
 226 Commission Trust Fund less \$5,000 each month, which shall be  
 227 added to the amount calculated in subparagraph 3. and  
 228 distributed accordingly.

229 3. After the distribution under subparagraphs 1. and 2.,  
 230 0.0966 percent shall be transferred to the Local Government  
 231 Half-cent Sales Tax Clearing Trust Fund and distributed pursuant  
 232 to s. 218.65.

233 4. After the distributions under subparagraphs 1., 2., and  
 234 3., 2.0810 percent of the available proceeds shall be

235 transferred monthly to the Revenue Sharing Trust Fund for  
 236 Counties pursuant to s. 218.215.

237 5. After the distributions under subparagraphs 1., 2., and  
 238 3., 1.3653 percent of the available proceeds shall be  
 239 transferred monthly to the Revenue Sharing Trust Fund for  
 240 Municipalities pursuant to s. 218.215. If the total revenue to  
 241 be distributed pursuant to this subparagraph is at least as  
 242 great as the amount due from the Revenue Sharing Trust Fund for  
 243 Municipalities and the former Municipal Financial Assistance  
 244 Trust Fund in state fiscal year 1999-2000, no municipality shall  
 245 receive less than the amount due from the Revenue Sharing Trust  
 246 Fund for Municipalities and the former Municipal Financial  
 247 Assistance Trust Fund in state fiscal year 1999-2000. If the  
 248 total proceeds to be distributed are less than the amount  
 249 received in combination from the Revenue Sharing Trust Fund for  
 250 Municipalities and the former Municipal Financial Assistance  
 251 Trust Fund in state fiscal year 1999-2000, each municipality  
 252 shall receive an amount proportionate to the amount it was due  
 253 in state fiscal year 1999-2000.

254 6. Of the remaining proceeds:

255 a. In each fiscal year, the sum of \$29,915,500 shall be  
 256 divided into as many equal parts as there are counties in the  
 257 state, and one part shall be distributed to each county. The  
 258 distribution among the several counties must begin each fiscal  
 259 year on or before January 5th and continue monthly for a total  
 260 of 4 months. If a local or special law required that any moneys

261 accruing to a county in fiscal year 1999-2000 under the then-  
 262 existing provisions of s. 550.135 be paid directly to the  
 263 district school board, special district, or a municipal  
 264 government, such payment must continue until the local or  
 265 special law is amended or repealed. The state covenants with  
 266 holders of bonds or other instruments of indebtedness issued by  
 267 local governments, special districts, or district school boards  
 268 before July 1, 2000, that it is not the intent of this  
 269 subparagraph to adversely affect the rights of those holders or  
 270 relieve local governments, special districts, or district school  
 271 boards of the duty to meet their obligations as a result of  
 272 previous pledges or assignments or trusts entered into which  
 273 obligated funds received from the distribution to county  
 274 governments under then-existing s. 550.135. This distribution  
 275 specifically is in lieu of funds distributed under s. 550.135  
 276 before July 1, 2000.

277       b. The department shall distribute \$166,667 monthly to  
 278 each applicant certified as a facility for a new or retained  
 279 professional sports franchise pursuant to s. 288.1162. Up to  
 280 \$41,667 shall be distributed monthly by the department to each  
 281 certified applicant as defined in s. 288.11621 for a facility  
 282 for a spring training franchise. However, not more than \$416,670  
 283 may be distributed monthly in the aggregate to all certified  
 284 applicants for facilities for spring training franchises.  
 285 Distributions begin 60 days after such certification and  
 286 continue for not more than 30 years, except as otherwise

287 provided in s. 288.11621. A certified applicant identified in  
 288 this sub-subparagraph may not receive more in distributions than  
 289 expended by the applicant for the public purposes provided in s.  
 290 288.1162(5) or s. 288.11621(3).

291 c. Beginning 30 days after notice by the Department of  
 292 Economic Opportunity to the Department of Revenue that an  
 293 applicant has been certified as the professional golf hall of  
 294 fame pursuant to s. 288.1168 and is open to the public, \$166,667  
 295 shall be distributed monthly, for up to 300 months, to the  
 296 applicant.

297 ~~d. Beginning 30 days after notice by the Department of~~  
 298 ~~Economic Opportunity to the Department of Revenue that the~~  
 299 ~~applicant has been certified as the International Game Fish~~  
 300 ~~Association World Center facility pursuant to s. 288.1169, and~~  
 301 ~~the facility is open to the public, \$83,333 shall be distributed~~  
 302 ~~monthly, for up to 168 months, to the applicant. This~~  
 303 ~~distribution is subject to reduction pursuant to s. 288.1169. A~~  
 304 ~~lump sum payment of \$999,996 shall be made after certification~~  
 305 ~~and before July 1, 2000.~~

306 d.e. The department shall distribute up to \$83,333 monthly  
 307 to each certified applicant as defined in s. 288.11631 for a  
 308 facility used by a single spring training franchise, or up to  
 309 \$166,667 monthly to each certified applicant as defined in s.  
 310 288.11631 for a facility used by more than one spring training  
 311 franchise. Monthly distributions begin 60 days after such  
 312 certification or July 1, 2016, whichever is later, and continue

313 | for not more than 20 years to each certified applicant as  
 314 | defined in s. 288.11631 for a facility used by a single spring  
 315 | training franchise or not more than 25 years to each certified  
 316 | applicant as defined in s. 288.11631 for a facility used by more  
 317 | than one spring training franchise. A certified applicant  
 318 | identified in this sub-subparagraph may not receive more in  
 319 | distributions than expended by the applicant for the public  
 320 | purposes provided in s. 288.11631(3).

321 |       e.f. Beginning 45 days after notice by the Department of  
 322 | Economic Opportunity to the Department of Revenue that an  
 323 | applicant has been approved by the Legislature and certified by  
 324 | the Department of Economic Opportunity under s. 288.11625 or  
 325 | upon a date specified by the Department of Economic Opportunity  
 326 | as provided under s. 288.11625(6)(d), the department shall  
 327 | distribute each month an amount equal to one-twelfth of the  
 328 | annual distribution amount certified by the Department of  
 329 | Economic Opportunity for the applicant. The department may not  
 330 | distribute more than \$7 million in the 2014-2015 fiscal year or  
 331 | more than \$13 million annually thereafter under this sub-  
 332 | subparagraph.

333 |       f.g. Beginning December 1, 2015, and ending June 30, 2016,  
 334 | the department shall distribute \$26,286 monthly to the State  
 335 | Transportation Trust Fund. Beginning July 1, 2016, the  
 336 | department shall distribute \$15,333 monthly to the State  
 337 | Transportation Trust Fund.

338 |       7. All other proceeds must remain in the General Revenue

339 Fund.

340 Section 5. Paragraph (b) of subsection (1) of section  
 341 220.191, Florida Statutes, is amended to read:

342 220.191 Capital investment tax credit.—

343 (1) DEFINITIONS.—For purposes of this section:

344 (b) "Cumulative capital investment" means the total  
 345 capital investment in land, buildings, and equipment made by or  
 346 on behalf of a qualifying business in connection with a  
 347 qualifying project during the period from the beginning of  
 348 construction of the project to the commencement of operations.  
 349 The term does not include funds granted to or spent on behalf of  
 350 a qualifying business by the state, a local government, or  
 351 another governmental entity; funds appropriated in the General  
 352 Appropriations Act; or funds otherwise provided to a qualifying  
 353 business by a state agency, a local government, or another  
 354 governmental entity.

355 Section 6. Paragraph (a) of subsection (2) of section  
 356 220.196, Florida Statutes, is amended to read:

357 220.196 Research and development tax credit.—

358 (2) TAX CREDIT.—

359 (a) As provided in this section, a business enterprise is  
 360 eligible for a credit against the tax imposed by this chapter if  
 361 it:

- 362 1. Has qualified research expenses in this state in the
- 363 taxable year exceeding the base amount;
- 364 2. Claims and is allowed a research credit for such

365 | qualified research expenses under 26 U.S.C. s. 41 for the same  
 366 | taxable year as subparagraph 1.; and

367 |         3. Is a qualified target industry business as defined in  
 368 | s. 288.106(2)(m) ~~288.106(2)(n)~~. Only qualified target industry  
 369 | businesses in the manufacturing, life sciences, information  
 370 | technology, aviation and aerospace, homeland security and  
 371 | defense, cloud information technology, marine sciences,  
 372 | materials science, and nanotechnology industries may qualify for  
 373 | a tax credit under this section. A business applying for a  
 374 | credit pursuant to this section shall include a letter from the  
 375 | Department of Economic Opportunity certifying whether the  
 376 | business meets the requirements of this subparagraph with its  
 377 | application for credit. The Department of Economic Opportunity  
 378 | shall provide such a letter upon receiving a request.

379 |         Section 7. Paragraphs (b) and (e) of subsection (2) of  
 380 | section 288.0001, Florida Statutes, are amended to read:

381 |         288.0001 Economic Development Programs Evaluation.—The  
 382 | Office of Economic and Demographic Research and the Office of  
 383 | Program Policy Analysis and Government Accountability (OPPAGA)  
 384 | shall develop and present to the Governor, the President of the  
 385 | Senate, the Speaker of the House of Representatives, and the  
 386 | chairs of the legislative appropriations committees the Economic  
 387 | Development Programs Evaluation.

388 |         (2) The Office of Economic and Demographic Research and  
 389 | OPPAGA shall provide a detailed analysis of economic development  
 390 | programs as provided in the following schedule:

391 (b) By January 1, 2015, and every 3 years thereafter, an  
 392 analysis of the following:

393 1. The entertainment industry financial incentive program  
 394 established under s. 288.1254.

395 2. The entertainment industry sales tax exemption program  
 396 established under s. 288.1258.

397 3. The Florida Tourism Industry Marketing Corporation  
 398 ~~VISIT Florida~~ and its programs established or funded under ss.  
 399 288.122, 288.1226, 288.12265, and 288.124.

400 4. The Florida Sports Foundation and related programs  
 401 established under ss. 288.1162, 288.11621, 288.1166, 288.1167,  
 402 288.1168, ~~288.1169~~, and 288.1171.

403 (e) Beginning January 1, 2018, and every 3 years  
 404 thereafter, an analysis of the Sports Development Program  
 405 established under s. 288.11625 and the retention of Major League  
 406 Baseball spring training baseball franchises under s. 288.11631.

407 Section 8. Subsection (1) of section 288.005, Florida  
 408 Statutes, is amended to read:

409 288.005 Definitions.—As used in this chapter, the term:

410 (1) "Economic benefits" means the direct, indirect, and  
 411 induced gains in state revenues as a percentage of the state's  
 412 investment. The state's investment includes all state funds  
 413 spent or forwent to benefit a business, including, but not  
 414 limited to, state funds appropriated to public and private  
 415 entities, state grants, tax exemptions, tax refunds, tax  
 416 credits, and other state incentives.

417 Section 9. Section 288.061, Florida Statutes, is amended  
 418 to read:

419 288.061 Economic development incentive application  
 420 process.—

421 (1) Effective January 1, 2017, the department shall  
 422 prescribe the format in which an application for an incentive  
 423 shall be made. At a minimum, the incentive application must  
 424 include the following:

425 (a) The applicant's federal employee identification  
 426 number, reemployment assistance account number, and state sales  
 427 tax registration number. If such numbers are not available at  
 428 the time of application, the numbers must be submitted to the  
 429 department in writing before disbursement of any economic  
 430 incentive payments or the grant of any tax credits or refunds.

431 (b) The applicant's signature.

432 (c) The location of the project.

433 (d) The anticipated commencement date of the project.

434 (e) A description of the type of business activity,  
 435 product, or research and development undertaken by the  
 436 applicant, including the six-digit North American Industry  
 437 Classification System code or codes associated with the project.

438 (f) An attestation verifying that the information provided  
 439 on the application is true and correct.

440 (2)~~(1)~~ Upon receiving a submitted economic development  
 441 incentive application, the Division of Strategic Business  
 442 Development of the department ~~of Economic Opportunity and~~

443 designated staff of Enterprise Florida, Inc., shall review the  
 444 application to ensure that the application is complete, whether  
 445 and what type of state and local permits may be necessary for  
 446 the applicant's project, whether it is possible to waive such  
 447 permits, and what state incentives and amounts of such  
 448 incentives may be available to the applicant. The department  
 449 shall recommend to the executive director to approve or  
 450 disapprove an applicant business. If review of the application  
 451 demonstrates that the application is incomplete, the executive  
 452 director shall notify the applicant business within the first 5  
 453 business days after receiving the application.

454 (3) (a) (2) Beginning July 1, 2013, The department shall  
 455 review and evaluate each economic development incentive  
 456 application for the economic benefits of the proposed award of  
 457 state incentives proposed for the project. The review must occur  
 458 before the department approves an economic development incentive  
 459 application and before any approved incentive agreement or  
 460 contract is amended, modified, or extended by the department or  
 461 Enterprise Florida, Inc.

462 (b) An amendment, modification, or extension of an  
 463 executed contract under s. 288.1045, s. 288.106, s. 288.107, s.  
 464 288.108, s. 288.1088, or s. 288.1089 may not result in a 0.5-  
 465 point or greater reduction in the economic-benefit ratio of the  
 466 project, may not result in the waiver of any program  
 467 requirement, and is subject to a 14-day legislative  
 468 consultation. If the chair or vice chair of the Legislative

469 Budget Commission, the President of the Senate, or the Speaker  
 470 of the House of Representatives timely advises the Executive  
 471 Office of the Governor in writing that the amendment,  
 472 modification, or extension exceeds the delegated authority of  
 473 the Executive Office of the Governor or is contrary to  
 474 legislative policy or intent, the Executive Office of the  
 475 Governor must void the amendment, modification, or extension and  
 476 instruct the department to immediately change action or proposed  
 477 action. Except as otherwise provided in this chapter, the  
 478 department may not execute an amendment to an incentive  
 479 agreement or contract for a project for which the economic  
 480 benefits have been reduced unless the award of state incentives  
 481 outlined in the incentive agreement or contract have been  
 482 reduced by a proportionate amount. The department must include  
 483 in its annual report information pertaining to each incentive  
 484 contract extension and each contract amendment or modification  
 485 that alters a performance condition that a project must meet to  
 486 obtain incentive funds.

487 (c) As used in this subsection, the term "economic  
 488 benefits" has the same meaning as provided in s. 288.005. The  
 489 Office of Economic and Demographic Research shall establish the  
 490 methodology and model used to calculate the economic benefits,  
 491 including guidelines for the appropriate application of the  
 492 model. For purposes of this requirement, an amended definition  
 493 of "economic benefits" may be developed by the Office of  
 494 Economic and Demographic Research but must include all state

495 funds spent or forwent to benefit a business, including, but not  
 496 limited to, state funds appropriated to public and private  
 497 entities, state grants, tax exemptions, tax refunds, tax  
 498 credits, other state incentives, and any other source of state  
 499 funds which should reasonably be known to the department at the  
 500 time of approval.

501 (d) For the purpose of calculating the economic benefits  
 502 of a project, the department may not attribute to the business  
 503 any capital investment made by the business using state funds.

504 (e) For the purpose of evaluating economic development  
 505 incentive applications, the department shall consider the  
 506 cumulative capital investment, as defined in s. 220.191.

507 (4) The department's evaluation of the application must  
 508 also include the following:

509 (a) A financial analysis of the company, including  
 510 information regarding liens and pending or ongoing litigation,  
 511 credit ratings, and regulatory filings.

512 (b) A review of any independent evaluations of the  
 513 company.

514 (c) A review of the historical market performance of the  
 515 company.

516 (d) A review of the latest audit of the company's  
 517 financial statement and the related auditor management letter.

518 (e) A review of any other audits that are related to the  
 519 internal controls or management of the company.

520 (f) A review of performance in connection with any

521 | incentives previously awarded by state or local governments.  
 522 |       (g) Any other review deemed necessary by the department.  
 523 |       (5) (a) ~~(3)~~ Within 10 business days after the department  
 524 | receives a complete ~~the submitted~~ economic development incentive  
 525 | application, the executive director shall approve or disapprove  
 526 | the application and issue a letter of certification to the  
 527 | applicant which includes a justification of that decision,  
 528 | unless the business requests an extension of ~~that~~ time.  
 529 |       (b) Within 7 business days after the executive director  
 530 | approves or disapproves a complete economic development  
 531 | incentive application for a project, the department shall  
 532 | recommend to the Governor the approval or disapproval of the  
 533 | application. The recommendation must include a justification for  
 534 | the recommendation and the proposed performance conditions that  
 535 | the project must meet to obtain incentive funds.  
 536 |       (c) ~~(a)~~ The contract or agreement with the applicant must  
 537 | specify the total amount of the award, the performance  
 538 | conditions that must be met to obtain the award, the schedule  
 539 | for payment, and sanctions that would apply for failure to meet  
 540 | performance conditions. The contract or agreement with the  
 541 | applicant must require that the applicant use the state's job  
 542 | bank system to advertise job openings created as a result of the  
 543 | state incentive agreement. Any contract or agreement that  
 544 | requires capital investment to be made by the business must also  
 545 | require that such investment remain in this state for the  
 546 | duration of the agreement or contract, except an investment made

547 | in transportation-related assets specifically used for the  
 548 | purpose of transporting goods or employees. The department may  
 549 | enter into one agreement or contract covering all of the state  
 550 | incentives that are being provided to the applicant. The  
 551 | contract must provide that release of funds is contingent upon  
 552 | sufficient appropriation of funds by the Legislature. The state  
 553 | may not enter into a contract or agreement with a term of more  
 554 | than 10 years with any applicant. However, the department may  
 555 | enter into a successive agreement or contract for a specific  
 556 | project to extend the initial 10-year term, if each successive  
 557 | contract or agreement is contingent upon the successful  
 558 | completion of the previous contract or agreement and meets all  
 559 | requirements of the applicable economic development program  
 560 | being utilized as if it was a stand-alone project. The  
 561 | restriction on the term of the agreement or contract does not  
 562 | apply if the contract or agreement is for a project receiving an  
 563 | innovation incentive program award pursuant to s. 288.1089 or a  
 564 | capital investment tax credit pursuant to s. 220.191.

565 | ~~(d)(b)~~ The release of funds for the incentive or  
 566 | incentives awarded to the applicant depends upon the statutory  
 567 | requirements of the particular incentive program.

568 | ~~(6)(4)~~ The department shall validate contractor  
 569 | performance and report such validation in the annual incentives  
 570 | report required under s. 288.907.

571 | ~~(7)(5)(a)~~ The executive director may not approve an  
 572 | economic development incentive application unless the

573 application includes a signed written declaration by the  
 574 applicant which states that the applicant has read the  
 575 information in the application and that the information is true,  
 576 correct, and complete to the best of the applicant's knowledge  
 577 and belief.

578 (b) After an economic development incentive application is  
 579 approved, the awardee shall provide, in each year that the  
 580 department is required to validate contractor performance, a  
 581 signed written declaration. The written declaration must state  
 582 that the awardee has reviewed the information and that the  
 583 information is true, correct, and complete to the best of the  
 584 awardee's knowledge and belief.

585 ~~(8)(6)~~ The department is authorized to adopt rules to  
 586 implement this section.

587 Section 10. Paragraphs (c) and (e) of subsection (1) of  
 588 section 288.076, Florida Statutes, are amended to read:

589 288.076 Return on investment reporting for economic  
 590 development programs.—

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

592 (c) "Project" has the same meaning as provided in s.

593 288.106(2)(1) ~~288.106(2)(m)~~.

594 (e) "State investment" means all state funds spent or  
 595 forwent to benefit a business, including, but not limited to,  
 596 state funds appropriated to public and private entities, any  
 597 state grants, tax exemptions, tax refunds, tax credits, and any  
 598 other source of state funds which should reasonably be known to

599 ~~the department at the time of approval or other state incentives~~  
 600 ~~provided to a business under a program administered by the~~  
 601 ~~department,~~ including the capital investment tax credit under s.  
 602 220.191.

603 Section 11. Section 288.103, Florida Statutes, is created  
 604 to read:

605 288.103 Economic development programs; clawback of awards  
 606 for projects relocated out of state.-

607 (1) A business that receives an economic development  
 608 program award and, within 10 years after receipt of the final  
 609 program payment or tax credit, relocates the project for which  
 610 it received the award to outside of the state, must repay to the  
 611 state the full amount of the award received.

612 (2) This section applies to contracts executed on or after  
 613 July 1, 2016, for programs under ss. 220.191, 288.1045, 288.106,  
 614 288.107, 288.108, 288.1088, and 288.1089.

615 Section 12. Section 288.1031, Florida Statutes, is created  
 616 to read:

617 288.1031 Certification of economic development program  
 618 applicants; sunset.-Effective January 7, 2019, an applicant may  
 619 not be certified as qualified under s. 220.191, s. 288.1045, s.  
 620 288.106, s. 288.107, s. 288.108, s. 288.1088, or s. 288.1089.  
 621 Any agreement existing on that date remains in effect in  
 622 accordance with its terms.

623 Section 13. Paragraphs (b), (j), and (k) of subsection  
 624 (1), paragraphs (b), (c), (d), and (j) of subsection (3),

625 paragraph (b) of subsection (5), and subsection (7) of section  
 626 288.1045, Florida Statutes, are amended, and paragraph (i) is  
 627 added to subsection (5) of that section, to read:

628 288.1045 Qualified defense contractor and space flight  
 629 business tax refund program.—

630 (1) DEFINITIONS.—As used in this section:

631 (b) "Average private sector wage in the area" means the  
 632 average of all private sector wages and salaries in ~~the state,~~  
 633 ~~the county, or in the standard metropolitan area~~ in which the  
 634 project business unit is located.

635 (j) "Local financial support" means funding from local  
 636 sources, public or private, which is paid to the Economic  
 637 Development Trust Fund and which is equal to 20 percent of the  
 638 annual tax refund for a qualified applicant.

639 1. Local financial support may include excess payments  
 640 made to a utility company under a designated program to allow  
 641 decreases in service by the utility company under conditions,  
 642 regardless of when application is made.

643 2. A qualified applicant may not provide, directly or  
 644 indirectly, more than 5 percent of such funding in any fiscal  
 645 year. The sources of such funding may not include, directly or  
 646 indirectly, state funds appropriated from the General Revenue  
 647 Fund or any state trust fund, excluding tax revenues shared with  
 648 local governments pursuant to law.

649 3. A qualified applicant may not receive more than 80  
 650 percent of the total tax refund from state funds that are

651 authorized for the applicant under this section.

652 4. The department may grant a waiver that reduces the  
 653 required amount of local financial support for a project to 10  
 654 percent of the annual tax refund awarded to a qualified  
 655 applicant for a local government, or eliminates the required  
 656 amount of local financial support for a project for a local  
 657 government located in a rural area of opportunity, as designated  
 658 by the Governor pursuant to s. 288.0656. To be eligible to  
 659 receive a waiver that reduces or eliminates the required amount  
 660 of local financial support, a local government must provide the  
 661 department with:

662 a. A resolution adopted by the governing body of the  
 663 county or municipality in whose jurisdiction the project will be  
 664 located, requesting the applicant's project be waived from the  
 665 local financial support requirement.

666 b. A statement prepared by a Florida certified public  
 667 accountant, as defined in s. 473.302, that describes the  
 668 financial constraints preventing the local government from  
 669 providing the local financial support required by this section.  
 670 This sub-subparagraph does not apply to a county considered  
 671 fiscally constrained pursuant to s. 218.67(1).

672 ~~(k) "Local financial support exemption option" means the~~  
 673 ~~option to exercise an exemption from the local financial support~~  
 674 ~~requirement available to any applicant whose project is located~~  
 675 ~~in a county designated by the Rural Economic Development~~  
 676 ~~Initiative, if the county commissioners of the county in which~~

677 ~~the project will be located adopt a resolution requesting that~~  
 678 ~~the applicant's project be exempt from the local financial~~  
 679 ~~support requirement. Any applicant that exercises this option is~~  
 680 ~~not eligible for more than 80 percent of the total tax refunds~~  
 681 ~~allowed such applicant under this section.~~

682 (3) APPLICATION PROCESS; REQUIREMENTS; AGENCY  
 683 DETERMINATION.—

684 (b) Applications for certification based on the  
 685 consolidation of a Department of Defense contract or a new  
 686 Department of Defense contract must be submitted to the  
 687 department as prescribed by the department and must include, but  
 688 are not limited to, the following information:

689 1. The applicant's federal employer identification number,  
 690 the applicant's Florida sales tax registration number, and a  
 691 signature of an officer of the applicant.

692 2. The permanent location of the manufacturing,  
 693 assembling, fabricating, research, development, or design  
 694 facility in this state at which the project is or is to be  
 695 located.

696 3. The Department of Defense contract numbers of the  
 697 contract to be consolidated, the new Department of Defense  
 698 contract number, or the "RFP" number of a proposed Department of  
 699 Defense contract.

700 4. The date the contract was executed or is expected to be  
 701 executed, and the date the contract is due to expire or is  
 702 expected to expire.

703 5. The commencement date for project operations under the  
704 contract in this state.

705 6. The number of net new full-time equivalent Florida jobs  
706 included in the project as of December 31 of each year and the  
707 average wage of such jobs.

708 7. The total number of full-time equivalent employees  
709 employed by the applicant in this state.

710 8. The percentage of the applicant's gross receipts  
711 derived from Department of Defense contracts during the 5  
712 taxable years immediately preceding the date the application is  
713 submitted.

714 9. The number of full-time equivalent jobs in this state  
715 to be retained by the project.

716 10. A brief statement concerning the applicant's need for  
717 tax refunds, and the proposed uses of such refunds by the  
718 applicant.

719 11. A resolution adopted by the governing board of the  
720 county or municipality in which the project will be located,  
721 which recommends the applicant be approved as a qualified  
722 applicant, and which indicates that the necessary commitments of  
723 local financial support for the applicant exist. ~~Prior to the~~  
724 ~~adoption of the resolution, the county commission may review the~~  
725 ~~proposed public or private sources of such support and determine~~  
726 ~~whether the proposed sources of local financial support can be~~  
727 ~~provided or, for any applicant whose project is located in a~~  
728 ~~county designated by the Rural Economic Development Initiative,~~

729 ~~a resolution adopted by the county commissioners of such county~~  
 730 ~~requesting that the applicant's project be exempt from the local~~  
 731 ~~financial support requirement.~~

732 12. Any additional information requested by the  
 733 department.

734 (c) Applications for certification based on the conversion  
 735 of defense production jobs to nondefense production jobs must be  
 736 submitted to the department as prescribed by the department and  
 737 must include, but are not limited to, the following information:

738 1. The applicant's federal employer identification number,  
 739 the applicant's Florida sales tax registration number, and a  
 740 signature of an officer of the applicant.

741 2. The permanent location of the manufacturing,  
 742 assembling, fabricating, research, development, or design  
 743 facility in this state at which the project is or is to be  
 744 located.

745 3. The Department of Defense contract numbers of the  
 746 contract under which the defense production jobs will be  
 747 converted to nondefense production jobs.

748 4. The date the contract was executed, and the date the  
 749 contract is due to expire or is expected to expire, or was  
 750 canceled.

751 5. The commencement date for the nondefense production  
 752 operations in this state.

753 6. The number of net new full-time equivalent Florida jobs  
 754 included in the nondefense production project as of December 31

755 of each year and the average wage of such jobs.

756 7. The total number of full-time equivalent employees  
757 employed by the applicant in this state.

758 8. The percentage of the applicant's gross receipts  
759 derived from Department of Defense contracts during the 5  
760 taxable years immediately preceding the date the application is  
761 submitted.

762 9. The number of full-time equivalent jobs in this state  
763 to be retained by the project.

764 10. A brief statement concerning the applicant's need for  
765 tax refunds, and the proposed uses of such refunds by the  
766 applicant.

767 11. A resolution adopted by the governing board of the  
768 county or municipality in which the project will be located,  
769 which recommends the applicant be approved as a qualified  
770 applicant, and which indicates that the necessary commitments of  
771 local financial support for the applicant exist. ~~Prior to the~~  
772 ~~adoption of the resolution, the county commission may review the~~  
773 ~~proposed public or private sources of such support and determine~~  
774 ~~whether the proposed sources of local financial support can be~~  
775 ~~provided or, for any applicant whose project is located in a~~  
776 ~~county designated by the Rural Economic Development Initiative,~~  
777 ~~a resolution adopted by the county commissioners of such county~~  
778 ~~requesting that the applicant's project be exempt from the local~~  
779 ~~financial support requirement.~~

780 12. Any additional information requested by the

781 | department.

782 |         (d) Applications for certification based on a contract for  
 783 | reuse of a defense-related facility must be submitted to the  
 784 | department as prescribed by the department and must include, but  
 785 | are not limited to, the following information:

786 |             1. The applicant's Florida sales tax registration number  
 787 | and a signature of an officer of the applicant.

788 |             2. The permanent location of the manufacturing,  
 789 | assembling, fabricating, research, development, or design  
 790 | facility in this state at which the project is or is to be  
 791 | located.

792 |             3. The business entity holding a valid Department of  
 793 | Defense contract or branch of the Armed Forces of the United  
 794 | States that previously occupied the facility, and the date such  
 795 | entity last occupied the facility.

796 |             4. A copy of the contract to reuse the facility, or such  
 797 | alternative proof as may be prescribed by the department that  
 798 | the applicant is seeking to contract for the reuse of such  
 799 | facility.

800 |             5. The date the contract to reuse the facility was  
 801 | executed or is expected to be executed, and the date the  
 802 | contract is due to expire or is expected to expire.

803 |             6. The commencement date for project operations under the  
 804 | contract in this state.

805 |             7. The number of net new full-time equivalent Florida jobs  
 806 | included in the project as of December 31 of each year and the

807 average wage of such jobs.

808 8. The total number of full-time equivalent employees  
809 employed by the applicant in this state.

810 9. The number of full-time equivalent jobs in this state  
811 to be retained by the project.

812 10. A brief statement concerning the applicant's need for  
813 tax refunds, and the proposed uses of such refunds by the  
814 applicant.

815 11. A resolution adopted by the governing board of the  
816 county or municipality in which the project will be located,  
817 which recommends the applicant be approved as a qualified  
818 applicant, and which indicates that the necessary commitments of  
819 local financial support for the applicant exist. ~~Before the~~  
820 ~~adoption of the resolution, the county commission may review the~~  
821 ~~proposed public or private sources of such support and determine~~  
822 ~~whether the proposed sources of local financial support can be~~  
823 ~~provided or, for any applicant whose project is located in a~~  
824 ~~county designated by the Rural Economic Development Initiative,~~  
825 ~~a resolution adopted by the county commissioners of such county~~  
826 ~~requesting that the applicant's project be exempt from the local~~  
827 ~~financial support requirement.~~

828 12. Any additional information requested by the  
829 department.

830 (j) Applications for certification based upon a new space  
831 flight business contract or the consolidation of a space flight  
832 business contract must be submitted to the department as

833 prescribed by the department and must include, but are not  
 834 limited to, the following information:

835 1. The applicant's federal employer identification number,  
 836 the applicant's Florida sales tax registration number, and a  
 837 signature of an officer of the applicant.

838 2. The permanent location of the space flight business  
 839 facility in this state where the project is or will be located.

840 3. The new space flight business contract number, the  
 841 space flight business contract numbers of the contract to be  
 842 consolidated, or the request-for-proposal number of a proposed  
 843 space flight business contract.

844 4. The date the contract was executed and the date the  
 845 contract is due to expire, is expected to expire, or was  
 846 canceled.

847 5. The commencement date for project operations under the  
 848 contract in this state.

849 6. The number of net new full-time equivalent Florida jobs  
 850 included in the project as of December 31 of each year and the  
 851 average wage of such jobs.

852 7. The total number of full-time equivalent employees  
 853 employed by the applicant in this state.

854 8. The percentage of the applicant's gross receipts  
 855 derived from space flight business contracts during the 5  
 856 taxable years immediately preceding the date the application is  
 857 submitted.

858 9. The number of full-time equivalent jobs in this state

859 | to be retained by the project.

860 |       10. A brief statement concerning the applicant's need for  
861 | tax refunds and the proposed uses of such refunds by the  
862 | applicant.

863 |       11. A resolution adopted by the governing board of the  
864 | county or municipality in which the project will be located  
865 | which recommends the applicant be approved as a qualified  
866 | applicant and indicates that the necessary commitments of local  
867 | financial support for the applicant exist. ~~Prior to the adoption~~  
868 | ~~of the resolution, the county commission may review the proposed~~  
869 | ~~public or private sources of such support and determine whether~~  
870 | ~~the proposed sources of local financial support can be provided~~  
871 | ~~or, for any applicant whose project is located in a county~~  
872 | ~~designated by the Rural Economic Development Initiative, a~~  
873 | ~~resolution adopted by the county commissioners of such county~~  
874 | ~~requesting that the applicant's project be exempt from the local~~  
875 | ~~financial support requirement.~~

876 |       12. Any additional information requested by the  
877 | department.

878 |       (5) ANNUAL CLAIM FOR REFUND.—

879 |       (b) The department shall verify ~~claim for refund by the~~  
880 | ~~qualified applicant must include a copy of all receipts~~  
881 | ~~pertaining to~~ the payment of taxes for which a refund is sought,  
882 | and data related to achieving each performance item contained in  
883 | the tax refund agreement pursuant to subsection (4). The amount  
884 | requested as a tax refund may not exceed the amount for the

885 relevant fiscal year in the written agreement entered pursuant  
 886 to subsection (4).

887 (i) A business that fails to timely submit documentation  
 888 requested by the department, as required by the agreement  
 889 between the business and the department, which results in the  
 890 department's withholding an otherwise approved refund may  
 891 receive the approved refund if:

892 1. The business submits the requested documentation to the  
 893 department.

894 2. The business provides a written statement to the  
 895 department explaining the circumstances that resulted in the  
 896 business' failure to timely submit the documentation.

897 3. Funds appropriated for this section are available.

898 4. The business was scheduled, by the terms of the  
 899 agreement, to submit information to the department between  
 900 January 1, 2014, and December 31, 2014.

901 5. The business has satisfied all other requirements of  
 902 the agreement.

903 (7) EXPIRATION.—An applicant may not be certified as  
 904 qualified under this section after June 30, 2018 ~~2014~~. A tax  
 905 refund agreement existing on that date shall continue in effect  
 906 in accordance with its terms.

907 Section 14. Paragraphs (c), (j), and (k) of subsection  
 908 (2), paragraph (b) of subsection (4), paragraph (b) of  
 909 subsection (5), and subsection (8) of section 288.106, Florida  
 910 Statutes, are amended to read:

911 288.106 Tax refund program for qualified target industry  
 912 businesses.-

913 (2) DEFINITIONS.-As used in this section, the term:

914 (c) "Average private sector wage in the area" means ~~the~~  
 915 ~~statewide private sector average wage or~~ the average of all  
 916 private sector wages and salaries in the county ~~or in the~~  
 917 ~~standard metropolitan area~~ in which the project business is  
 918 located or will be located.

919 (j) "Local financial support" means funding from local  
 920 sources, public or private, that is paid to the Economic  
 921 Development Trust Fund and that is equal to 20 percent of the  
 922 annual tax refund for a qualified target industry business.

923 1. A qualified target industry business may not provide,  
 924 directly or indirectly, more than 5 percent of such funding in  
 925 any fiscal year. The sources of such funding may not include,  
 926 directly or indirectly, state funds appropriated from the  
 927 General Revenue Fund or any state trust fund, excluding tax  
 928 revenues shared with local governments pursuant to law.

929 2. A qualified target industry business may not receive  
 930 more than 80 percent of the total tax refund from state funds  
 931 authorized for the business under this section.

932 3. The department may grant a waiver that reduces the  
 933 required amount of local financial support for a project to 10  
 934 percent of the annual tax refund awarded to a qualified target  
 935 industry business for a local government, or eliminates the  
 936 required amount of local financial support for a project for a

937 local government located in a rural area of opportunity, as  
 938 designated by the Governor pursuant to s. 288.0656. To be  
 939 eligible for a waiver that reduces or eliminates the required  
 940 amount of local financial support, a local government must  
 941 provide the department with:

942 a. A resolution adopted by the governing body of the  
 943 county or municipality in whose jurisdiction the project will be  
 944 located, requesting that the local financial support requirement  
 945 be waived for the applicant's project.

946 b. A statement prepared by a Florida certified public  
 947 accountant, as defined in s. 473.302, which describes the  
 948 financial constraints preventing the local government from  
 949 providing the local financial support required by this section.  
 950 This sub-subparagraph does not apply to a county considered  
 951 fiscally constrained pursuant to s. 218.67(1).

952 ~~(k) "Local financial support exemption option" means the~~  
 953 ~~option to exercise an exemption from the local financial support~~  
 954 ~~requirement available to any applicant whose project is located~~  
 955 ~~in a brownfield area, a rural city, or a rural community. Any~~  
 956 ~~applicant that exercises this option is not eligible for more~~  
 957 ~~than 80 percent of the total tax refunds allowed such applicant~~  
 958 ~~under this section.~~

959 (4) APPLICATION AND APPROVAL PROCESS.—

960 (b) To qualify for review by the department, the  
 961 application of a target industry business must, at a minimum,  
 962 establish the following to the satisfaction of the department:

963           1.a. The jobs proposed to be created under the  
 964 application, pursuant to subparagraph (a)4., must pay an  
 965 estimated annual average wage equaling at least 115 percent of  
 966 the average of all private sector wages and salaries in the  
 967 county ~~wage in the area~~ where the business is to be located ~~or~~  
 968 ~~the statewide private sector average wage. The governing board~~  
 969 ~~of the local governmental entity providing the local financial~~  
 970 ~~support of the jurisdiction where the qualified target industry~~  
 971 ~~business is to be located shall notify the department and~~  
 972 ~~Enterprise Florida, Inc., which calculation of the average~~  
 973 ~~private sector wage in the area must be used as the basis for~~  
 974 ~~the business's wage commitment.~~ In determining the average  
 975 annual wage, the department shall include only new proposed  
 976 jobs, and wages for existing jobs shall be excluded from this  
 977 calculation.

978           b. The department may waive the average wage requirement  
 979 at the request of the local governing body recommending the  
 980 project and Enterprise Florida, Inc. The department may waive  
 981 the wage requirement for a project located in a brownfield area  
 982 designated under s. 376.80, in a rural city, in a rural  
 983 community, in an enterprise zone, or for a manufacturing project  
 984 at any location in the state if the jobs proposed to be created  
 985 pay an estimated annual average wage equaling at least 100  
 986 percent of the average of all private sector wages and salaries  
 987 in the county ~~wage in the area~~ where the business is to be  
 988 located, only if the merits of the individual project or the

989 specific circumstances in the community in relationship to the  
 990 project warrant such action. If the local governing body and  
 991 Enterprise Florida, Inc., make such a recommendation, it must be  
 992 transmitted in writing, and the specific justification for the  
 993 waiver recommendation must be explained. If the department  
 994 elects to waive the wage requirement, the waiver must be stated  
 995 in writing, and the reasons for granting the waiver must be  
 996 explained.

997         2. The target industry business's project must result in  
 998 the creation of at least 10 jobs at the project and, in the case  
 999 of an expansion of an existing business, must result in a net  
 1000 increase in employment of at least 10 percent at the business.  
 1001 At the request of the local governing body recommending the  
 1002 project and Enterprise Florida, Inc., the department may waive  
 1003 this requirement for a business in a rural community or  
 1004 enterprise zone if the merits of the individual project or the  
 1005 specific circumstances in the community in relationship to the  
 1006 project warrant such action. If the local governing body and  
 1007 Enterprise Florida, Inc., make such a request, the request must  
 1008 be transmitted in writing, and the specific justification for  
 1009 the request must be explained. If the department elects to grant  
 1010 the request, the grant must be stated in writing, and the reason  
 1011 for granting the request must be explained.

1012         3. The business activity or product for the applicant's  
 1013 project must be within an industry identified by the department  
 1014 as a target industry business that contributes to the economic

1015 growth of the state and the area in which the business is  
 1016 located, that produces a higher standard of living for residents  
 1017 of this state in the new global economy, or that can be shown to  
 1018 make an equivalent contribution to the area's and state's  
 1019 economic progress.

1020 (5) TAX REFUND AGREEMENT.—

1021 (b) Compliance with the terms and conditions of the  
 1022 agreement is a condition precedent for the receipt of a tax  
 1023 refund each year. The failure to comply with the terms and  
 1024 conditions of the tax refund agreement results in the loss of  
 1025 eligibility for receipt of all tax refunds previously authorized  
 1026 under this section and the revocation by the department of the  
 1027 certification of the business entity as a qualified target  
 1028 industry business, unless the business is eligible to receive  
 1029 and elects to accept a prorated refund under paragraph (6) (e) ~~or~~  
 1030 ~~the department grants the business an economic recovery~~  
 1031 ~~extension.~~

1032 ~~1. A qualified target industry business may submit a~~  
 1033 ~~request to the department for an economic recovery extension.~~  
 1034 ~~The request must provide quantitative evidence demonstrating how~~  
 1035 ~~negative economic conditions in the business's industry, the~~  
 1036 ~~effects of a named hurricane or tropical storm, or specific acts~~  
 1037 ~~of terrorism affecting the qualified target industry business~~  
 1038 ~~have prevented the business from complying with the terms and~~  
 1039 ~~conditions of its tax refund agreement.~~

1040 ~~2. Upon receipt of a request under subparagraph 1., the~~

1041 ~~department has 45 days to notify the requesting business, in~~  
 1042 ~~writing, whether its extension has been granted or denied. In~~  
 1043 ~~determining whether an extension should be granted, the~~  
 1044 ~~department shall consider the extent to which negative economic~~  
 1045 ~~conditions in the requesting business's industry have occurred~~  
 1046 ~~in the state or the effects of a named hurricane or tropical~~  
 1047 ~~storm or specific acts of terrorism affecting the qualified~~  
 1048 ~~target industry business have prevented the business from~~  
 1049 ~~complying with the terms and conditions of its tax refund~~  
 1050 ~~agreement. The department shall consider current employment~~  
 1051 ~~statistics for this state by industry, including whether the~~  
 1052 ~~business's industry had substantial job loss during the prior~~  
 1053 ~~year, when determining whether an extension shall be granted.~~

1054 ~~3. As a condition for receiving a prorated refund under~~  
 1055 ~~paragraph (6) (e) or an economic recovery extension under this~~  
 1056 ~~paragraph, a qualified target industry business must agree to~~  
 1057 ~~renegotiate its tax refund agreement with the department to, at~~  
 1058 ~~a minimum, ensure that the terms of the agreement comply with~~  
 1059 ~~current law and the department's procedures governing~~  
 1060 ~~application for and award of tax refunds. Upon approving the~~  
 1061 ~~award of a prorated refund or granting an economic recovery~~  
 1062 ~~extension, the department shall renegotiate the tax refund~~  
 1063 ~~agreement with the business as required by this subparagraph.~~  
 1064 ~~When amending the agreement of a business receiving an economic~~  
 1065 ~~recovery extension, the department may extend the duration of~~  
 1066 ~~the agreement for a period not to exceed 2 years.~~

1067 ~~4. A qualified target industry business may submit a~~  
 1068 ~~request for an economic recovery extension to the department in~~  
 1069 ~~lieu of any tax refund claim scheduled to be submitted after~~  
 1070 ~~January 1, 2009, but before July 1, 2012.~~

1071 ~~5. A qualified target industry business that receives an~~  
 1072 ~~economic recovery extension may not receive a tax refund for the~~  
 1073 ~~period covered by the extension.~~

1074 ~~(8) SPECIAL INCENTIVES. If the department determines it is~~  
 1075 ~~in the best interest of the public for reasons of facilitating~~  
 1076 ~~economic development, growth, or new employment opportunities~~  
 1077 ~~within a Disproportionally Affected County, the department may,~~  
 1078 ~~between July 1, 2011, and June 30, 2014, waive any or all wage~~  
 1079 ~~or local financial support eligibility requirements and allow a~~  
 1080 ~~qualified target industry business from another state which~~  
 1081 ~~relocates all or a portion of its business to a~~  
 1082 ~~Disproportionally Affected County to receive a tax refund~~  
 1083 ~~payment of up to \$6,000 multiplied by the number of jobs~~  
 1084 ~~specified in the tax refund agreement under subparagraph~~  
 1085 ~~(5)(a)1. over the term of the agreement. Prior to granting such~~  
 1086 ~~waiver, the executive director of the department shall file with~~  
 1087 ~~the Governor a written statement of the conditions and~~  
 1088 ~~circumstances constituting the reason for the waiver. Such~~  
 1089 ~~business shall be eligible for the additional tax refund~~  
 1090 ~~payments specified in subparagraph (3)(b)4. if it meets the~~  
 1091 ~~criteria. As used in this section, the term "Disproportionally~~  
 1092 ~~Affected County" means Bay County, Escambia County, Franklin~~

1093 ~~County, Gulf County, Okaloosa County, Santa Rosa County, Walton~~  
 1094 ~~County, or Wakulla County.~~

1095 Section 15. Paragraphs (f) and (g) of subsection (2) of  
 1096 section 288.108, Florida Statutes, are redesignated as  
 1097 paragraphs (g) and (h), respectively, paragraph (b) of  
 1098 subsection (2) and subsection (5) are amended, and a new  
 1099 paragraph (f) is added to subsection (2) of that section, to  
 1100 read:

1101 288.108 High-impact business.—

1102 (2) DEFINITIONS.—As used in this section, the term:

1103 (b) "Cumulative investment" means the total investment in  
 1104 buildings and equipment made by a qualified high-impact business  
 1105 since the beginning of construction of such facility. The term  
 1106 does not include funds granted to or spent on behalf of the  
 1107 business by the state, a local government, or another  
 1108 governmental entity; funds appropriated in the General  
 1109 Appropriations Act; or funds otherwise provided to the business  
 1110 by a state agency or local government.

1111 (f) "Local financial support" means financial, in-kind, or  
 1112 other quantifiable contributions from local sources that,  
 1113 combined, equal 20 percent or more of the total investment in  
 1114 the project by state and local sources.

1115 1. The department may grant a waiver that reduces the  
 1116 required amount of local financial support for a project to 10  
 1117 percent of the award granted to a business pursuant to this  
 1118 section for a local government, or eliminates the local

1119 financial support for a local government located in a rural area  
 1120 of opportunity, as designated by the Governor pursuant to s.  
 1121 288.0656.

1122 2. A local government requesting a waiver that reduces or  
 1123 eliminates the local financial support requirement must provide  
 1124 the department with a statement prepared by a Florida certified  
 1125 public accountant, as defined in s. 473.302, which describes the  
 1126 financial constraints preventing the local government from  
 1127 providing the local financial support required by this section.  
 1128 This subparagraph does not apply to a county considered fiscally  
 1129 constrained pursuant to s. 218.67(1).

1130 (5) APPLICATIONS; CERTIFICATION PROCESS; GRANT AGREEMENT.—

1131 (a) The department shall review an application pursuant to  
 1132 s. 288.061 which is received from any eligible business, as  
 1133 defined in subsection (2), for consideration as a qualified  
 1134 high-impact business before the business has made a decision to  
 1135 locate or expand a facility in this state. The business must  
 1136 provide the following information:

1137 1. A complete description of the type of facility,  
 1138 business operations, and product or service associated with the  
 1139 project.

1140 2. The number of full-time equivalent jobs that will be  
 1141 created by the project and the average annual wage of those  
 1142 jobs.

1143 3. The cumulative amount of investment to be dedicated to  
 1144 this project within 3 years.

1145 4. A statement concerning any special impacts the facility  
 1146 is expected to stimulate in the sector, the state, or regional  
 1147 economy and in state universities and community colleges.

1148 5. A statement concerning the role the grant will play in  
 1149 the decision of the applicant business to locate or expand in  
 1150 this state.

1151 6. Any additional information requested by the department.

1152 (b) Within 7 business days after the executive director  
 1153 approves or disapproves an application, the department shall  
 1154 recommend to the Governor the approval or disapproval of an  
 1155 eligible high-impact business for receipt of funds.  
 1156 Recommendations to the Governor must include the total amount of  
 1157 the qualified high-impact business facility performance grant  
 1158 award; the anticipated project performance conditions,  
 1159 including, but not limited to, net new employment in the state,  
 1160 average salary, and total capital investment incurred by the  
 1161 business; a baseline of current service and a measure of  
 1162 enhanced capability; the methodology for validating performance;  
 1163 the schedule of performance grant payments; and sanctions for  
 1164 failure to meet performance conditions ~~Applications shall be~~  
 1165 ~~reviewed and certified pursuant to s. 288.061.~~

1166 (c) The Governor may approve a high-impact business  
 1167 performance grant of less than \$2 million without consulting the  
 1168 Legislature. For such grants, the Governor shall provide a  
 1169 written description and evaluation of the approved project to  
 1170 the chair and vice chair of the Legislative Budget Commission,

1171 the President of the Senate, and the Speaker of the House of  
 1172 Representatives, within 1 business day after approval ~~The~~  
 1173 ~~department and the qualified high impact business shall enter~~  
 1174 ~~into a performance grant agreement setting forth the conditions~~  
 1175 ~~for payment of the qualified high impact business performance~~  
 1176 ~~grant. The agreement shall include the total amount of the~~  
 1177 ~~qualified high impact business facility performance grant award,~~  
 1178 ~~the performance conditions that must be met to obtain the award,~~  
 1179 ~~including the employment, average salary, investment, the~~  
 1180 ~~methodology for determining if the conditions have been met, and~~  
 1181 ~~the schedule of performance grant payments.~~

1182 (d) The Governor shall provide a written description and  
 1183 evaluation of each eligible high-impact business recommended for  
 1184 approval for a high-impact business performance grant of at  
 1185 least \$2 million, but not more than \$7.5 million, to the chair  
 1186 and vice chair of the Legislative Budget Commission, the  
 1187 President of the Senate, and the Speaker of the House of  
 1188 Representatives at least 10 days before approving a qualified  
 1189 high-impact business performance grant. If the chair or vice  
 1190 chair of the Legislative Budget Commission, the President of the  
 1191 Senate, or the Speaker of the House of Representatives timely  
 1192 advises the Executive Office of the Governor in writing that the  
 1193 award of funds exceeds the delegated authority of the Executive  
 1194 Office of the Governor or is contrary to legislative policy or  
 1195 intent, the Executive Office of the Governor shall void the  
 1196 release of funds and instruct the department to immediately

1197 change action or proposed action.

1198 (e) The Governor shall provide the Legislative Budget  
 1199 Commission with a written description and evaluation of each  
 1200 eligible high-impact business recommended for approval of a  
 1201 high-impact business performance grant that exceeds \$7.5 million  
 1202 or that provides a waiver of program requirements and is at  
 1203 least \$5 million. The Legislative Budget Commission must approve  
 1204 such an award before final approval by the Governor.

1205 (f) Any contract or agreement executed by the department  
 1206 must embody the performance criteria and timelines submitted to  
 1207 the Legislature, whether during the legislative consultation  
 1208 period or in the provided written description and evaluation for  
 1209 those projects that do not require legislative consultation. If  
 1210 the executed contract or agreement fails to embody the  
 1211 performance criteria and timelines submitted to the legislature,  
 1212 whether during the legislative consultation period or in the  
 1213 provided written description and evaluation for those projects  
 1214 that do not require legislative consultation, the department may  
 1215 not expend any funds on the contract and the Chief Financial  
 1216 Officer is not authorized to release payment of funds.

1217 (g) An amendment, modification, or extension of an  
 1218 executed contract may not result in a 0.5-point or greater  
 1219 reduction in the economic-benefit ratio of the project, may not  
 1220 result in waiver of any program requirement, and is subject to a  
 1221 14-day legislative consultation. If the chair or vice chair of  
 1222 the Legislative Budget Commission, or the President of the

1223 Senate, or the Speaker of the House of Representatives timely  
 1224 advises the Executive Office of the Governor in writing that the  
 1225 amendment, modification, or extension exceeds the delegated  
 1226 authority of the Executive Office of the Governor or is contrary  
 1227 to legislative policy or intent, the Executive Office of the  
 1228 Governor shall void the amendment, modification, or extension  
 1229 and instruct the department to immediately change action or  
 1230 proposed action.

1231 (h) The department shall validate contractor performance  
 1232 and report such validation in the annual incentives report  
 1233 required by s. 288.907.

1234 Section 16. Subsections (2) and (3) of section 288.1088,  
 1235 Florida Statutes, are amended to read:

1236 288.1088 Quick Action Closing Fund.—

1237 (2) There is created within the department the Quick  
 1238 Action Closing Fund. Except as provided in subsection (3),  
 1239 projects eligible for receipt of funds from the Quick Action  
 1240 Closing Fund shall:

1241 (a) Be in an industry as referenced in s. 288.106.

1242 (b) Have a positive economic benefit ratio of at least 3.5  
 1243 to 1, or 350 percent.

1244 (c) Be an inducement to the project's location or  
 1245 expansion in the state.

1246 (d) Pay an average annual wage of at least 125 percent of  
 1247 the average private sector wage in the county in which the  
 1248 project is located or will be located, as defined in s. 288.106

1249 ~~areawide or statewide private sector average wage.~~

1250 (e) Be supported by the local community in which the  
1251 project is to be located.

1252 1. Financial support by the local community must include  
1253 financial, in-kind, or other quantifiable contributions from  
1254 local sources that, combined, equal 20 percent or more of the  
1255 total investment in the project by state and local sources.

1256 2. The department may grant a waiver that reduces the  
1257 required amount of local financial support for a project to 10  
1258 percent of the award granted to a business pursuant to this  
1259 section for a local government, or eliminates the required  
1260 amount of local financial support for a project for a local  
1261 government located in a rural area of opportunity as designated  
1262 by the Governor pursuant to s. 288.0656.

1263 3. A local government requesting a waiver that reduces or  
1264 eliminates the local financial support requirement must provide  
1265 the department with a statement prepared by a Florida certified  
1266 public accountant, as defined in s. 473.302, which describes the  
1267 financial constraints preventing the local government from  
1268 providing the local financial support required by this section.  
1269 This subparagraph does not apply to a county considered fiscally  
1270 constrained pursuant to s. 218.67(1).

1271 (f) For a new business, create at least 10 new jobs, or,  
1272 for an expanding business, increase the number of jobs by at  
1273 least 10 percent.

1274 (3) (a) The department and Enterprise Florida, Inc., shall

1275 jointly review applications pursuant to s. 288.061 and determine  
 1276 the eligibility of each project consistent with the criteria in  
 1277 subsection (2). ~~Waiver of these criteria may be considered under~~  
 1278 ~~the following criteria:~~

- 1279 ~~1. Based on extraordinary circumstances;~~
- 1280 ~~2. In order to mitigate the impact of the conclusion of~~  
 1281 ~~the space shuttle program; or~~
- 1282 ~~3. In rural areas of opportunity if the project would~~  
 1283 ~~significantly benefit the local or regional economy.~~

1284 (b) Notwithstanding paragraph (2)(d), the department, at  
 1285 the written request of a local governing body and Enterprise  
 1286 Florida, Inc., may use the statewide average wage in place of  
 1287 the county average wage for a project that will be located in an  
 1288 incorporated rural city having a population of 25,000 or less  
 1289 within a county having a population greater than 1 million.  
 1290 Population shall be based on the most recent United States  
 1291 Census Bureau population estimates.

1292 (c) ~~(b)~~ The department shall evaluate individual proposals  
 1293 for high-impact business facilities. Such evaluation must  
 1294 include, but need not be limited to:

- 1295 1. A description of the type of facility or  
 1296 infrastructure, its operations, and the associated product or  
 1297 service associated with the facility.
- 1298 2. The number of full-time-equivalent jobs that will be  
 1299 created by the facility and the total estimated average annual  
 1300 wages of those jobs or, in the case of privately developed rural

1301 infrastructure, the types of business activities and jobs  
 1302 stimulated by the investment.

1303 3. The cumulative amount of investment to be dedicated to  
 1304 the facility within a specified period.

1305 4. A statement of any special impacts the facility is  
 1306 expected to stimulate in a particular business sector in the  
 1307 state or regional economy or in the state's universities and  
 1308 community colleges.

1309 5. A statement of the role the incentive is expected to  
 1310 play in the decision of the applicant business to locate or  
 1311 expand in this state or for the private investor to provide  
 1312 critical rural infrastructure.

1313 6. A report evaluating the quality and value of the  
 1314 company submitting a proposal. The report must include:

1315 a. A financial analysis of the company, including an  
 1316 evaluation of the company's short-term liquidity ratio as  
 1317 measured by its assets to liability, the company's profitability  
 1318 ratio, and the company's long-term solvency as measured by its  
 1319 debt-to-equity ratio;

1320 b. The historical market performance of the company;

1321 c. A review of any independent evaluations of the company;

1322 d. A review of the latest audit of the company's financial  
 1323 statement and the related auditor's management letter; and

1324 e. A review of any other types of audits that are related  
 1325 to the internal and management controls of the company.

1326 (d)~~(e)~~1. Within 7 business days after the executive

1327 director approves or disapproves an application evaluating a  
 1328 ~~project~~, the department shall recommend to the Governor the  
 1329 approval or disapproval of a project for receipt of funds from  
 1330 the Quick Action Closing Fund. In recommending a project, the  
 1331 department shall include the total amount of recommended funds  
 1332 to be awarded; the anticipated project performance conditions,  
 1333 including, but not limited to, net new employment in the state,  
 1334 average salary, and total capital investment incurred by the  
 1335 business; a baseline of current service and a measure of  
 1336 enhanced capability; the methodology for validating performance;  
 1337 the schedule of payments from the fund; and sanctions for  
 1338 failure to meet performance conditions, including any clawback  
 1339 provisions ~~proposed performance conditions that the project must~~  
 1340 ~~meet to obtain incentive funds.~~

1341 2. The Governor may approve a Quick Action Closing Fund  
 1342 project award requiring less than \$2 million in funding ~~projects~~  
 1343 without consulting the Legislature ~~for projects requiring less~~  
 1344 ~~than \$2 million in funding.~~ For such projects, the Governor  
 1345 shall provide a written description and evaluation of the  
 1346 approved project to the chair and vice chair of the Legislative  
 1347 Budget Commission, the President of the Senate, and the Speaker  
 1348 of the House of Representatives within 1 business day after  
 1349 approval.

1350 3. ~~For projects requiring funding in the amount of \$2~~  
 1351 ~~million to \$5 million,~~ The Governor shall provide a written  
 1352 description and evaluation of each Quick Action Closing Fund æ

1353 | project award recommended for approval, which requires funding  
 1354 | of \$2 million or more, to the chair and vice chair of the  
 1355 | Legislative Budget Commission, the President of the Senate, and  
 1356 | the Speaker of the House of Representatives at least 14 ~~10~~ days  
 1357 | before ~~prior to~~ giving final approval for a project. The  
 1358 | recommendation must include the proposed performance conditions  
 1359 | that the project must meet in order to obtain funds.

1360 | 4. If the chair or vice chair of the Legislative Budget  
 1361 | Commission, ~~or~~ the President of the Senate, or the Speaker of  
 1362 | the House of Representatives timely advises the Executive Office  
 1363 | of the Governor, in writing, that such action or proposed action  
 1364 | exceeds the delegated authority of the Executive Office of the  
 1365 | Governor or is contrary to legislative policy or intent, the  
 1366 | Executive Office of the Governor shall void the release of funds  
 1367 | and instruct the department to immediately change such action or  
 1368 | proposed action ~~until the Legislative Budget Commission or the~~  
 1369 | ~~Legislature addresses the issue. Notwithstanding such~~  
 1370 | ~~requirement, any project exceeding \$5 million must be approved~~  
 1371 | ~~by the Legislative Budget Commission prior to the funds being~~  
 1372 | ~~released.~~

1373 | ~~(e)(d)~~ Upon the approval of the Governor in accordance  
 1374 | with subparagraph (d)2., or upon expiration of the 14-day  
 1375 | legislative consultation period provided in subparagraph (d)3.,  
 1376 | unless advisement of objection is provided pursuant to  
 1377 | subparagraph (d)4., the department and the business shall enter  
 1378 | into a contract that sets forth the conditions for payment of

1379 | moneys from the fund. Such payment may not be made to the  
 1380 | business until the scheduled goals are achieved. The contract  
 1381 | must include the total amount of funds awarded; the minimum and  
 1382 | maximum amount of funds that may be awarded; the performance  
 1383 | conditions that must be met to obtain the award, including, but  
 1384 | not limited to, net new employment in the state, average salary,  
 1385 | ~~and~~ total capital investment incurred by the business, and the  
 1386 | minimum and maximum number of jobs that will be created, if  
 1387 | applicable; demonstrate a baseline of current service and a  
 1388 | measure of enhanced capability; the methodology for validating  
 1389 | performance; the schedule of payments from the fund; and  
 1390 | sanctions for failure to meet performance conditions. The  
 1391 | contract must provide that payment of moneys from the fund is  
 1392 | contingent upon sufficient appropriation of funds by the  
 1393 | Legislature.

1394 |       (f) Any contract or agreement executed by the department  
 1395 | shall embody the performance criteria and timelines submitted to  
 1396 | the Legislature, whether during the legislative consultation  
 1397 | period or in the provided written description and evaluation for  
 1398 | those projects that do not require legislative consultation. If  
 1399 | the executed contract or agreement fails to embody the  
 1400 | performance criteria and timelines submitted to the legislature,  
 1401 | whether during the legislative consultation period or in the  
 1402 | provided written description and evaluation for those projects  
 1403 | that do not require legislative consultation, the department may  
 1404 | not expend any funds on the contract and the Chief Financial

1405 Officer is not authorized to release payment of funds.  
 1406 (g) An amendment, modification, or extension of an  
 1407 executed contract may not result in a 0.5-point or greater  
 1408 reduction in the economic-benefit ratio of the project, may not  
 1409 result in the waiver of any program requirement, and is subject  
 1410 to a 14-day legislative consultation. If the chair or vice chair  
 1411 of the Legislative Budget Commission, the President of the  
 1412 Senate, or the Speaker of the House of Representatives timely  
 1413 advises the Executive Office of the Governor in writing that the  
 1414 amendment, modification, or extension exceeds the delegated  
 1415 authority of the Executive Office of the Governor or is contrary  
 1416 to legislative policy or intent, the Executive Office of the  
 1417 Governor must void the amendment, modification, or extension and  
 1418 instruct the department to immediately change action or proposed  
 1419 action.

1420 (h)(e) The department shall validate contractor  
 1421 performance and report such validation in the annual incentives  
 1422 report required under s. 288.907.

1423 Section 17. Paragraph (b) of subsection (2) and  
 1424 subsections (4), (7), and (8) of section 288.1089, Florida  
 1425 Statutes, are amended to read:

1426 288.1089 Innovation Incentive Program.—

1427 (2) As used in this section, the term:

1428 (b) "Average private sector wage in the area" means ~~the~~  
 1429 ~~statewide average wage in the private sector or~~ the average of  
 1430 all private sector wages and salaries in the county ~~or in the~~

1431 ~~standard metropolitan area~~ in which the project is located ~~as~~  
 1432 ~~determined by the department.~~

1433 (4) To qualify for review by the department, the applicant  
 1434 must, at a minimum, establish the following to the satisfaction  
 1435 of the department:

1436 (a) The jobs created by the project must pay an estimated  
 1437 annual average wage equaling at least 130 percent of the average  
 1438 private sector wage in the area. The department may waive this  
 1439 average wage requirement at the request of Enterprise Florida,  
 1440 Inc., for a project located in a rural area, a brownfield area,  
 1441 or an enterprise zone, when the merits of the individual project  
 1442 or the specific circumstances in the community in relationship  
 1443 to the project warrant such action. A recommendation for waiver  
 1444 by Enterprise Florida, Inc., must include a specific  
 1445 justification for the waiver and be transmitted to the  
 1446 department in writing. If the department elects to waive the  
 1447 wage requirement, the waiver must be stated in writing and the  
 1448 reasons for granting the waiver must be explained.

1449 (b) A research and development project must:

1450 1. Serve as a catalyst for an emerging or evolving  
 1451 technology cluster.

1452 2. Demonstrate a plan for significant higher education  
 1453 collaboration.

1454 3. Provide the state, at a minimum, a cumulative break-  
 1455 even economic benefit within a 20-year period.

1456 4. Be provided with a one-to-one match from the local

1457 community. The match requirement may be reduced or waived in  
 1458 rural areas of opportunity or reduced in rural areas, brownfield  
 1459 areas, and enterprise zones. A local government requesting a  
 1460 waiver that reduces or eliminates the one-to-one match must  
 1461 provide the department with a statement prepared by a Florida  
 1462 certified public accountant, as defined in s. 473.302, which  
 1463 describes the financial constraints preventing the local  
 1464 government from meeting the local financial support requirement  
 1465 of this section. This subparagraph does not apply to a county  
 1466 considered fiscally constrained pursuant to s. 218.67(1).

1467 (c) An innovation business project in this state, other  
 1468 than a research and development project, must:

1469 1.a. Result in the creation of at least 1,000 direct, new  
 1470 jobs at the business; or

1471 b. Result in the creation of at least 500 direct, new jobs  
 1472 if the project is located in a rural area, a brownfield area, or  
 1473 an enterprise zone.

1474 2. Have an activity or product that is within an industry  
 1475 that is designated as a target industry business under s.  
 1476 288.106 or a designated sector under s. 288.108.

1477 3.a. Have a cumulative investment of at least \$500 million  
 1478 within a 5-year period; or

1479 b. Have a cumulative investment that exceeds \$250 million  
 1480 within a 10-year period if the project is located in a rural  
 1481 area, brownfield area, or an enterprise zone.

1482 4. Be provided with a one-to-one match from the local

1483 community. The match requirement may be reduced or waived in  
 1484 rural areas of opportunity or reduced in rural areas, brownfield  
 1485 areas, and enterprise zones. A local government requesting a  
 1486 waiver that reduces or eliminates the one-to-one match must  
 1487 provide the department with a statement prepared by a Florida  
 1488 certified public accountant, as defined in s. 473.302, which  
 1489 describes the financial constraints preventing the local  
 1490 government from meeting the local financial support requirement  
 1491 of this section. This subparagraph does not apply to a county  
 1492 considered fiscally constrained pursuant to s. 218.67(1).

1493 (d) For an alternative and renewable energy project in  
 1494 this state, the project must:

1495 1. Demonstrate a plan for significant collaboration with  
 1496 an institution of higher education.†

1497 2. Provide the state, at a minimum, a cumulative break-  
 1498 even economic benefit within a 20-year period.†

1499 3. Include matching funds provided by the applicant or  
 1500 other available sources. The match requirement may be reduced or  
 1501 waived in rural areas of opportunity or reduced in rural areas,  
 1502 brownfield areas, and enterprise zones. A local government  
 1503 requesting a waiver that reduces or eliminates the one-to-one  
 1504 match must provide the department with a statement prepared by a  
 1505 Florida certified public accountant, as defined in s. 473.302,  
 1506 which describes the financial constraints preventing the local  
 1507 government from meeting the one-to-one match requirement of this  
 1508 section. This subparagraph does not apply to a county considered

1509 fiscally constrained pursuant to s. 218.67(1).~~†~~  
 1510 4. Be located in this state.~~† and~~  
 1511 5. Provide at least 35 direct~~†~~ new jobs that pay an  
 1512 estimated annual average wage that equals at least 130 percent  
 1513 of the average private sector wage in the area.  
 1514 (7) (a) Within 7 business days after the executive director  
 1515 approves or disapproves an application for an innovation  
 1516 incentive award proposal, the department shall recommend to the  
 1517 Governor the approval or disapproval of an innovation incentive  
 1518 award. In recommending an award, the department shall include  
 1519 the total amount of the innovation incentive award; the  
 1520 anticipated performance conditions that must be met to obtain  
 1521 the award, including, but not limited to, net new employment in  
 1522 the state, average salary, and total capital investment incurred  
 1523 by the business; a baseline of current service and a measure of  
 1524 enhanced capability; the methodology for validating performance;  
 1525 the schedule of payments; and sanctions for failure to meet  
 1526 performance conditions, including any clawback provisions ~~Upon~~  
 1527 ~~receipt of the evaluation and recommendation from the~~  
 1528 ~~department, the Governor shall approve or deny an award. In~~  
 1529 ~~recommending approval of an award, the department shall include~~  
 1530 ~~proposed performance conditions that the applicant must meet in~~  
 1531 ~~order to obtain incentive funds and any other conditions that~~  
 1532 ~~must be met before the receipt of any incentive funds. The~~  
 1533 ~~Governor shall consult with the President of the Senate and the~~  
 1534 ~~Speaker of the House of Representatives before giving approval~~

1535 ~~for an award. Upon review and approval of an award by the~~  
 1536 ~~Legislative Budget Commission, the Executive Office of the~~  
 1537 ~~Governor shall release the funds.~~

1538 (b) The Governor may approve an innovation incentive award  
 1539 of less than \$2 million without consulting the Legislature. For  
 1540 such awards, the Governor shall provide a written description  
 1541 and evaluation of the approved project to the chair and vice  
 1542 chair of the Legislative Budget Commission, the President of the  
 1543 Senate, and the Speaker of the House of Representatives within 1  
 1544 business day after approval.

1545 (c) The Governor shall provide a written description and  
 1546 evaluation of each innovation incentive award proposal  
 1547 recommended for approval for an innovation incentive award of at  
 1548 least \$2 million, but not more than \$7.5 million, to the chair  
 1549 and vice chair of the Legislative Budget Commission, the  
 1550 President of the Senate, and the Speaker of the House of  
 1551 Representatives at least 14 days before giving final approval  
 1552 for an award. If the chair or vice chair of the Legislative  
 1553 Budget Commission, the President of the Senate, or the Speaker  
 1554 of the House of Representatives timely advises the Executive  
 1555 Office of the Governor in writing that the award of incentive  
 1556 funds exceeds the delegated authority of the Executive Office of  
 1557 the Governor or is contrary to legislative policy or intent, the  
 1558 Executive Office of the Governor shall void the release of funds  
 1559 and instruct the department to immediately change action or  
 1560 proposed action.

1561       (d) The Governor shall provide the Legislative Budget  
 1562 Commission a written description and evaluation of each eligible  
 1563 business recommended for approval of an innovation incentive  
 1564 award that exceeds \$7.5 million or that provides a waiver of  
 1565 program requirements and is at least \$5 million. The Legislative  
 1566 Budget Commission must approve such an award before final  
 1567 approval by the Governor.

1568       (e) Any contract or agreement executed by the department  
 1569 shall embody the performance criteria and timelines submitted to  
 1570 the Legislature, whether during the legislative consultation  
 1571 period or in the provided written description and evaluation for  
 1572 those projects that do not require legislative consultation. If  
 1573 the executed contract or agreement fails to embody the  
 1574 performance criteria and timelines submitted to the Legislature,  
 1575 whether during the legislative consultation period or in the  
 1576 provided written description and evaluation for those projects  
 1577 that do not require legislative consultation, the department may  
 1578 not expend any funds on the contract and the Chief Financial  
 1579 Officer is not authorized to release payment of funds.

1580       (f) An amendment, modification, or extension of an  
 1581 executed contract may not result in a 0.5-point or greater  
 1582 reduction in the economic-benefit ratio of the project, may not  
 1583 result in the waiver of any program requirement, and is subject  
 1584 to a 14-day legislative consultation. If the chair or vice chair  
 1585 of the Legislative Budget Commission, the President of the  
 1586 Senate, or the Speaker of the House of Representatives timely

1587 advises the Executive Office of the Governor in writing that the  
 1588 amendment, modification, or extension exceeds the delegated  
 1589 authority of the Executive Office of the Governor or is contrary  
 1590 to legislative policy or intent, the Executive Office of the  
 1591 Governor shall void the amendment, modification, or extension  
 1592 and instruct the department to immediately change action or  
 1593 proposed action.

1594 ~~(8)(a)~~ In addition to the requirements provided in  
 1595 paragraph (7)(a), a contract between the department and an award  
 1596 recipient ~~After the conditions set forth in subsection (7) have~~  
 1597 ~~been met, the department shall issue a letter certifying the~~  
 1598 ~~applicant as qualified for an award. The department and the~~  
 1599 ~~award recipient shall enter into an agreement that sets forth~~  
 1600 ~~the conditions for payment of the incentive funds. The agreement~~  
 1601 ~~must include, at a minimum:~~

- 1602 ~~1. The total amount of funds awarded.~~
- 1603 ~~2. The performance conditions that must be met in order to~~  
 1604 ~~obtain the award or portions of the award, including, but not~~  
 1605 ~~limited to, net new employment in the state, average wage, and~~  
 1606 ~~total cumulative investment.~~
- 1607 ~~3. Demonstration of a baseline of current service and a~~  
 1608 ~~measure of enhanced capability.~~
- 1609 ~~4. The methodology for validating performance.~~
- 1610 ~~5. The schedule of payments.~~
- 1611 ~~6. Sanctions for failure to meet performance conditions,~~  
 1612 ~~including any clawback provisions.~~

1613 ~~(b) Additionally, agreements signed on or after July 1,~~  
 1614 ~~2009,~~ must include the following provisions:

1615 1. Notwithstanding subsection (4), a requirement that the  
 1616 jobs created by the recipient of the incentive funds pay an  
 1617 annual average wage at least equal to the relevant industry's  
 1618 annual average wage or at least 130 percent of the average  
 1619 private sector wage in the area, whichever is greater.

1620 2. A reinvestment requirement. Each recipient of an award  
 1621 shall reinvest up to 15 percent of net royalty revenues,  
 1622 including revenues from spin-off companies and the revenues from  
 1623 the sale of stock it receives from the licensing or transfer of  
 1624 inventions, methods, processes, and other patentable discoveries  
 1625 conceived or reduced to practice using its facilities in Florida  
 1626 or its Florida-based employees, in whole or in part, and to  
 1627 which the recipient of the grant becomes entitled during the 20  
 1628 years following the effective date of its agreement with the  
 1629 department. Each recipient of an award also shall reinvest up to  
 1630 15 percent of the gross revenues it receives from naming  
 1631 opportunities associated with any facility it builds in this  
 1632 state. Reinvestment payments shall commence no later than 6  
 1633 months after the recipient of the grant has received the final  
 1634 disbursement under the contract and shall continue until the  
 1635 maximum reinvestment, as specified in the contract, has been  
 1636 paid. Reinvestment payments shall be remitted to the department  
 1637 for deposit in the Biomedical Research Trust Fund for companies  
 1638 specializing in biomedicine or life sciences, or in the Economic

1639 Development Trust Fund for companies specializing in fields  
 1640 other than biomedicine or the life sciences. If these trust  
 1641 funds no longer exist at the time of the reinvestment, the  
 1642 state's share of reinvestment shall be deposited in their  
 1643 successor trust funds as determined by law. Each recipient of an  
 1644 award shall annually submit a schedule of the shares of stock  
 1645 held by it as payment of the royalty required by this paragraph  
 1646 and report on any trades or activity concerning such stock. Each  
 1647 recipient's reinvestment obligations survive the expiration or  
 1648 termination of its agreement with the state.

1649 3. Requirements for the establishment of internship  
 1650 programs or other learning opportunities for educators and  
 1651 secondary, postsecondary, graduate, and doctoral students.

1652 4. A requirement that the recipient submit quarterly  
 1653 reports and annual reports related to activities and performance  
 1654 to the department, according to standardized reporting periods.

1655 5. A requirement for an annual accounting to the  
 1656 department of the expenditure of funds disbursed under this  
 1657 section.

1658 6. A process for amending the agreement.

1659 Section 18. Section 288.1169, Florida Statutes, is  
 1660 repealed.

1661 Section 19. Subsection (2) and paragraph (b) of subsection  
 1662 (5) of section 288.901, Florida Statutes, are amended to read:

1663 288.901 Enterprise Florida, Inc.—

1664 (2) PURPOSES.—Enterprise Florida, Inc., shall act as the

1665 economic development organization for the state, using ~~utilizing~~  
 1666 private sector and public sector expertise in collaboration with  
 1667 the department to:

1668 (a) Increase private investment in Florida.+

1669 (b) Advance international and domestic trade  
 1670 opportunities.+

1671 (c) Market the state both as a probusiness location for  
 1672 new investment and as an unparalleled tourist destination.+

1673 (d) Revitalize Florida's space and aerospace industries,  
 1674 and promote emerging complementary industries.+

1675 (e) Promote opportunities for minority-owned businesses.+

1676 (f) Assist and market professional and amateur sport teams  
 1677 and sporting events in Florida.+~~and~~

1678 (g) Assist, promote, and enhance economic opportunities in  
 1679 this state's rural and urban communities.

1680 (h) Foster and encourage high-technology startup and  
 1681 second-stage business development within the state.

1682 (5) APPOINTED MEMBERS OF THE BOARD OF DIRECTORS.—

1683 (b) In making their appointments, the Governor, the  
 1684 President of the Senate, and the Speaker of the House of  
 1685 Representatives shall ensure that the composition of the board  
 1686 of directors reflects the diversity of Florida's business  
 1687 community and is representative of the economic development  
 1688 goals in subsection (2). The board must include at least one  
 1689 director for each of the following areas of expertise:  
 1690 international business, tourism marketing, the space or

1691 aerospace industry, managing or financing a minority-owned  
 1692 business, manufacturing, finance and accounting, rural economic  
 1693 development, and sports marketing.

1694 Section 20. Section 288.913, Florida Statutes, is created  
 1695 to read:

1696 288.913 Innovation Florida Initiative.-

1697 (1) LEGISLATIVE FINDINGS AND DECLARATIONS.-The Legislature  
 1698 finds that successful high-technology startup and second-stage  
 1699 businesses are critical to the state's overall economic growth  
 1700 and such businesses play an outsized role in job creation. The  
 1701 Legislature also finds that Enterprise Florida, Inc., the  
 1702 state's economic development organization, is uniquely suited to  
 1703 foster and encourage more high-technology startup and second-  
 1704 stage business development within the state. Therefore, the  
 1705 Legislature declares that it is the policy of the state to  
 1706 prioritize high-technology startup and second-stage business  
 1707 development within the state and directs Enterprise Florida,  
 1708 Inc., to develop the Innovation Florida Initiative to further  
 1709 such policy.

1710 (2) DEFINITIONS.-As used in this section, the term:

1711 (a) "Advanced technology products" means high-technology  
 1712 products produced by a business that employs a high proportion  
 1713 of scientists, engineers, and technicians. Such products may be  
 1714 classified within, but not be limited to, the following fields:

1715 1. Biotechnology products related to advanced scientific  
 1716 discoveries in genetics.

1717        2. Life science products related to the application of  
 1718 nonbiological scientific advances to medical science.

1719        3. Optoelectronic products related to the emission or  
 1720 detection of light.

1721        4. Information and communications products related to the  
 1722 processing of increased volumes of information in shorter  
 1723 periods of time.

1724        5. Electronics products related to design advances in  
 1725 electronic components that result in improved performance and  
 1726 capacity, or reduced size.

1727        6. Flexible manufacturing products related to robotics,  
 1728 numerically-controlled machine tools, and similar products  
 1729 involving industrial automation that allows for greater  
 1730 flexibility in the manufacturing process and reduction in the  
 1731 amount of human intervention.

1732        7. Advanced materials products related to advances in the  
 1733 development of materials that allow for further development and  
 1734 application of other advanced technologies.

1735        8. Aerospace products related to military and civil  
 1736 helicopters, airplanes, and spacecraft.

1737        9. Weapons products related to products with military  
 1738 application.

1739        10. Nuclear technology products related to nuclear power  
 1740 production apparatus.

1741        (b) "High-technology startup" means a business unit that  
 1742 has been in operation for less than 5 years, and employs fewer

1743 than 10 employees, which produces a high proportion of advanced  
 1744 technology products.

1745 (c) "Second-stage business" means a business unit that  
 1746 employs at least 10 but not more than 50 employees, generates at  
 1747 least \$1 million but not more than \$25 million in annual  
 1748 revenue, and produces a high proportion of advanced technology  
 1749 products.

1750 (3) STATEWIDE STRATEGIC PLAN.—

1751 (a) The department shall develop a statewide strategic  
 1752 plan for high-technology startup and second-stage business  
 1753 growth and development in consultation with Enterprise Florida,  
 1754 Inc., the Institute for the Commercialization of Public  
 1755 Research, the Florida Economic Gardening Institute, the state's  
 1756 local and regional economic development organizations, and other  
 1757 stakeholders, public and private, that have experience and  
 1758 expertise in high-technology startup and second-stage business  
 1759 growth and development activities.

1760 (b) In developing the strategic plan, the department shall  
 1761 evaluate best practices; examine the startup, entrepreneurship,  
 1762 and second-stage business programs of other states; and survey  
 1763 high-technology startups and second-stage businesses and support  
 1764 organizations, both within and outside the state.

1765 (c) The strategic plan must include:

1766 1. Actionable steps to provide technical support to local  
 1767 and regional economic development organizations to enhance high-  
 1768 technology startup and second-stage business growth at local and

1769 regional levels.

1770 2. An evaluation of the accessibility of the state's  
 1771 economic development incentive and loan programs to high-  
 1772 technology startups and second-stage businesses.

1773 (d) By January 1, 2017, the department shall deliver the  
 1774 strategic plan to the Governor, the President of the Senate, and  
 1775 the Speaker of the House of Representatives.

1776 (e) Upon completion of the strategic plan, the plan shall  
 1777 become part of the 5-year statewide strategic plan developed by  
 1778 the Division of Strategic Business Development required by s.  
 1779 20.60.

1780 (4) MARKETING.—Enterprise Florida, Inc., shall market the  
 1781 state's economic development activities related to the growth  
 1782 and development of high-technology startups and second-stage  
 1783 businesses both inside and outside the state.

1784 (5) ANNUAL REPORT.—Enterprise Florida, Inc., shall provide  
 1785 information regarding its activities related to the growth and  
 1786 development of high-technology startups and second-stage  
 1787 businesses in its annual report required by s. 288.906.

1788 Section 21. Paragraph (b) of subsection (3) of section  
 1789 288.9604, Florida Statutes, is amended to read:

1790 288.9604 Creation of the authority.—

1791 (3)

1792 (b)1. The powers of the corporation shall be exercised by  
 1793 the directors thereof. A majority of the directors constitutes a  
 1794 quorum for the purposes of conducting business and exercising

1795 | the powers of the corporation and for all other purposes. Action  
 1796 | may be taken by the corporation upon a vote of a majority of the  
 1797 | directors present, unless in any case the bylaws require a  
 1798 | larger number. Any person may be appointed as director if he or  
 1799 | she resides, or is engaged in business, which means owning a  
 1800 | business, practicing a profession, or performing a service for  
 1801 | compensation or serving as an officer or director of a  
 1802 | corporation or other business entity so engaged, within the  
 1803 | state.

1804 | 2. Any action taken by the full board of directors of the  
 1805 | corporation on or before March 31, 2015, to ratify or reject  
 1806 | actions taken by a previous board while such previous board was  
 1807 | incomplete due to director vacancies, has the same effect as if  
 1808 | the ratifying or rejecting board took the original action.

1809 | Section 22. Section 288.9937, Florida Statutes, is amended  
 1810 | to read:

1811 | 288.9937 Evaluation of programs.—The Office of Economic  
 1812 | and Demographic Research and the Office of Program Policy  
 1813 | Analysis and Government Accountability shall analyze and  
 1814 | ~~evaluate, and determine the economic benefits, as defined in s.~~  
 1815 | ~~288.005,~~ of the first 3 years of the Microfinance Loan Program  
 1816 | and the Microfinance Guarantee Program. The analysis by the  
 1817 | Office of Economic and Demographic Research must ~~also~~ evaluate  
 1818 | the number of jobs created, the increase or decrease in personal  
 1819 | income, and the impact on state gross domestic product from the  
 1820 | direct, indirect, and induced effects of the state's investment.

1821 The analysis by the Office of Program Policy Analysis and  
 1822 Government Accountability must ~~also~~ identify any inefficiencies  
 1823 in the programs and provide recommendations for changes to the  
 1824 programs. Each ~~The~~ office shall submit a report to the President  
 1825 of the Senate and the Speaker of the House of Representatives by  
 1826 January 15 ~~4~~, 2018. This section expires January 31, 2018.

1827 Section 23. Section 189.033, Florida Statutes, is amended  
 1828 to read:

1829 189.033 Independent special district services in  
 1830 disproportionately affected county; rate reduction for providers  
 1831 providing economic benefits.—If the governing body of an  
 1832 independent special district that provides water, wastewater,  
 1833 and sanitation services in a disproportionately affected county,  
 1834 as defined in s. 220.191(1)(g)1. ~~288.106(8)~~, determines that a  
 1835 new user or the expansion of an existing user of one or more of  
 1836 its utility systems will provide a significant benefit to the  
 1837 community in terms of increased job opportunities, economies of  
 1838 scale, or economic development in the area, the governing body  
 1839 may authorize a reduction of its rates, fees, or charges for  
 1840 that user for a specified period of time. A governing body that  
 1841 exercises this power must do so by resolution that states the  
 1842 anticipated economic benefit justifying the reduction as well as  
 1843 the period of time that the reduction will remain in place.

1844 Section 24. Paragraph (a) of subsection (14) of section  
 1845 196.012, Florida Statutes, is amended to read:

1846 196.012 Definitions.—For the purpose of this chapter, the

1847 following terms are defined as follows, except where the context  
 1848 clearly indicates otherwise:

1849 (14) "New business" means:

1850 (a)1. A business or organization establishing 10 or more  
 1851 new jobs to employ 10 or more full-time employees in this state,  
 1852 paying an average wage for such new jobs that is above the  
 1853 average wage in the area, which principally engages in any one  
 1854 or more of the following operations:

1855 a. Manufactures, processes, compounds, fabricates, or  
 1856 produces for sale items of tangible personal property at a fixed  
 1857 location and which comprises an industrial or manufacturing  
 1858 plant; or

1859 b. Is a target industry business as defined in s.  
 1860 288.106(2)(p) ~~288.106(2)(q)~~;

1861 2. A business or organization establishing 25 or more new  
 1862 jobs to employ 25 or more full-time employees in this state, the  
 1863 sales factor of which, as defined by s. 220.15(5), for the  
 1864 facility with respect to which it requests an economic  
 1865 development ad valorem tax exemption is less than 0.50 for each  
 1866 year the exemption is claimed; or

1867 3. An office space in this state owned and used by a  
 1868 business or organization newly domiciled in this state; provided  
 1869 such office space houses 50 or more full-time employees of such  
 1870 business or organization; provided that such business or  
 1871 organization office first begins operation on a site clearly  
 1872 separate from any other commercial or industrial operation owned

1873 | by the same business or organization.

1874 |       Section 25. Subsections (1) and (3), paragraph (a) of  
1875 | subsection (5), and paragraph (e) of subsection (7) of section  
1876 | 288.11625, Florida Statutes, are amended to read:

1877 |       288.11625 Sports development.—

1878 |       (1) ADMINISTRATION.—The department shall serve as the  
1879 | state agency responsible for screening applicants for state  
1880 | funding under s. 212.20(6)(d)6.e. ~~212.20(6)(d)6.f.~~

1881 |       (3) PURPOSE.—The purpose of this section is to provide  
1882 | applicants state funding under s. 212.20(6)(d)6.e.  
1883 | ~~212.20(6)(d)6.f.~~ for the public purpose of constructing,  
1884 | reconstructing, renovating, or improving a facility.

1885 |       (5) EVALUATION PROCESS.—

1886 |       (a) Before recommending an applicant to receive a state  
1887 | distribution under s. 212.20(6)(d)6.e. ~~212.20(6)(d)6.f.~~, the  
1888 | department must verify that:

1889 |       1. The applicant or beneficiary is responsible for the  
1890 | construction, reconstruction, renovation, or improvement of a  
1891 | facility and obtained at least three bids for the project.

1892 |       2. If the applicant is not a unit of local government, a  
1893 | unit of local government holds title to the property on which  
1894 | the facility and project are, or will be, located.

1895 |       3. If the applicant is a unit of local government in whose  
1896 | jurisdiction the facility is, or will be, located, the unit of  
1897 | local government has an exclusive intent agreement to negotiate  
1898 | in this state with the beneficiary.

1899           4. A unit of local government in whose jurisdiction the  
 1900 facility is, or will be, located supports the application for  
 1901 state funds. Such support must be verified by the adoption of a  
 1902 resolution, after a public hearing, that the project serves a  
 1903 public purpose.

1904           5. The applicant or beneficiary has not previously  
 1905 defaulted or failed to meet any statutory requirements of a  
 1906 previous state-administered sports-related program under s.  
 1907 288.1162, s. 288.11621, s. 288.11631, or this section.  
 1908 Additionally, the applicant or beneficiary is not currently  
 1909 receiving state distributions under s. 212.20 for the facility  
 1910 that is the subject of the application, unless the applicant  
 1911 demonstrates that the franchise that applied for a distribution  
 1912 under s. 212.20 no longer plays at the facility that is the  
 1913 subject of the application.

1914           6. The applicant or beneficiary has sufficiently  
 1915 demonstrated a commitment to employ residents of this state,  
 1916 contract with Florida-based firms, and purchase locally  
 1917 available building materials to the greatest extent possible.

1918           7. If the applicant is a unit of local government, the  
 1919 applicant has a certified copy of a signed agreement with a  
 1920 beneficiary for the use of the facility. If the applicant is a  
 1921 beneficiary, the beneficiary must enter into an agreement with  
 1922 the department. The applicant's or beneficiary's agreement must  
 1923 also require the following:

1924           a. The beneficiary must reimburse the state for state

1925 funds that will be distributed if the beneficiary relocates or  
 1926 no longer occupies or uses the facility as the facility's  
 1927 primary tenant before the agreement expires. Reimbursements must  
 1928 be sent to the Department of Revenue for deposit into the  
 1929 General Revenue Fund.

1930 b. The beneficiary must pay for signage or advertising  
 1931 within the facility. The signage or advertising must be placed  
 1932 in a prominent location as close to the field of play or  
 1933 competition as is practicable, must be displayed consistent with  
 1934 signage or advertising in the same location and of like value,  
 1935 and must feature Florida advertising approved by the Florida  
 1936 Tourism Industry Marketing Corporation.

1937 8. The project will commence within 12 months after  
 1938 receiving state funds or did not commence before January 1,  
 1939 2013.

1940 (7) CONTRACT.—An applicant approved by the Legislature and  
 1941 certified by the department must enter into a contract with the  
 1942 department which:

1943 (e) Requires the applicant to reimburse the state by  
 1944 electing to do one of the following:

1945 1. After all distributions have been made, reimburse at  
 1946 the end of the contract term any amount by which the total  
 1947 distributions made under s. 212.20(6)(d)6.e. ~~212.20(6)(d)6.f.~~  
 1948 exceed actual new incremental state sales taxes generated by  
 1949 sales at the facility during the contract, plus a 5 percent  
 1950 penalty on that amount.

1951           2. After the applicant begins to submit the independent  
 1952 analysis under paragraph (c), reimburse each year any amount by  
 1953 which the previous year's annual distribution exceeds 75 percent  
 1954 of the actual new incremental state sales taxes generated by  
 1955 sales at the facility.

1956  
 1957 Any reimbursement due to the state must be made within 90 days  
 1958 after the applicable distribution under this paragraph. If the  
 1959 applicant is unable or unwilling to reimburse the state for such  
 1960 amount, the department may place a lien on the applicant's  
 1961 facility. If the applicant is a municipality or county, it may  
 1962 reimburse the state from its half-cent sales tax allocation, as  
 1963 provided in s. 218.64(3). Reimbursements must be sent to the  
 1964 Department of Revenue for deposit into the General Revenue Fund.

1965           Section 26. Paragraph (c) of subsection (2) and paragraphs  
 1966 (a), (c), and (d) of subsection (3) of section 288.11631,  
 1967 Florida Statutes, are amended to read:

1968           288.11631 Retention of Major League Baseball spring  
 1969 training baseball franchises.—

1970           (2) CERTIFICATION PROCESS.—

1971           (c) Each applicant certified on or after July 1, 2013,  
 1972 shall enter into an agreement with the department which:

1973           1. Specifies the amount of the state incentive funding to  
 1974 be distributed. The amount of state incentive funding per  
 1975 certified applicant may not exceed \$20 million. However, if a  
 1976 certified applicant's facility is used by more than one spring

1977 training franchise, the maximum amount may not exceed \$50  
 1978 million, and the Department of Revenue shall make distributions  
 1979 to the applicant pursuant to s. 212.20(6)(d)6.d.

1980 ~~212.20(6)(d)6.e.~~

1981 2. States the criteria that the certified applicant must  
 1982 meet in order to remain certified. These criteria must include a  
 1983 provision stating that the spring training franchise must  
 1984 reimburse the state for any funds received if the franchise does  
 1985 not comply with the terms of the contract. If bonds were issued  
 1986 to construct or renovate a facility for a spring training  
 1987 franchise, the required reimbursement must be equal to the total  
 1988 amount of state distributions expected to be paid from the date  
 1989 the franchise violates the agreement with the applicant through  
 1990 the final maturity of the bonds.

1991 3. States that the certified applicant is subject to  
 1992 decertification if the certified applicant fails to comply with  
 1993 this section or the agreement.

1994 4. States that the department may recover state incentive  
 1995 funds if the certified applicant is decertified.

1996 5. Specifies the information that the certified applicant  
 1997 must report to the department.

1998 6. Includes any provision deemed prudent by the  
 1999 department.

2000 (3) USE OF FUNDS.—

2001 (a) A certified applicant may use funds provided under s.  
 2002 212.20(6)(d)6.d. ~~212.20(6)(d)6.e.~~ only to:

2003 1. Serve the public purpose of constructing or renovating  
 2004 a facility for a spring training franchise.

2005 2. Pay or pledge for the payment of debt service on, or to  
 2006 fund debt service reserve funds, arbitrage rebate obligations,  
 2007 or other amounts payable with respect thereto, bonds issued for  
 2008 the construction or renovation of such facility, or for the  
 2009 reimbursement of such costs or the refinancing of bonds issued  
 2010 for such purposes.

2011 (c) The Department of Revenue may not distribute funds  
 2012 under s. 212.20(6)(d)6.d. ~~212.20(6)(d)6.e.~~ until July 1, 2016.  
 2013 Further, the Department of Revenue may not distribute funds to  
 2014 an applicant certified on or after July 1, 2013, until it  
 2015 receives notice from the department that:

2016 1. The certified applicant has encumbered funds under  
 2017 either subparagraph (a)1. or subparagraph (a)2.; and

2018 2. If applicable, any existing agreement with a spring  
 2019 training franchise for the use of a facility has expired.

2020 (d)1. All certified applicants shall place unexpended  
 2021 state funds received pursuant to s. 212.20(6)(d)6.d.  
 2022 ~~212.20(6)(d)6.e.~~ in a trust fund or separate account for use  
 2023 only as authorized in this section.

2024 2. A certified applicant may request that the department  
 2025 notify the Department of Revenue to suspend further  
 2026 distributions of state funds made available under s.  
 2027 212.20(6)(d)6.d. ~~212.20(6)(d)6.e.~~ for 12 months after expiration  
 2028 of an existing agreement with a spring training franchise to

2029 provide the certified applicant with an opportunity to enter  
 2030 into a new agreement with a spring training franchise, at which  
 2031 time the distributions shall resume.

2032 3. The expenditure of state funds distributed to an  
 2033 applicant certified after July 1, 2013, must begin within 48  
 2034 months after the initial receipt of the state funds. In  
 2035 addition, the construction or renovation of a spring training  
 2036 facility must be completed within 24 months after the project's  
 2037 commencement.

2038 Section 27. For the purpose of incorporating the amendment  
 2039 made by this act to section 288.106, Florida Statutes, in a  
 2040 reference thereto, subsection (11) of section 159.803, Florida  
 2041 Statutes, is reenacted to read:

2042 159.803 Definitions.—As used in this part, the term:  
 2043 (11) "Florida First Business project" means any project  
 2044 which is certified by the Department of Economic Opportunity as  
 2045 eligible to receive an allocation from the Florida First  
 2046 Business allocation pool established pursuant to s. 159.8083.  
 2047 The Department of Economic Opportunity may certify those  
 2048 projects meeting the criteria set forth in s. 288.106(4)(b) or  
 2049 any project providing a substantial economic benefit to this  
 2050 state.

2051 Section 28. This act shall take effect July 1, 2016.

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COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
 ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
 ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
 FAILED TO ADOPT \_\_\_\_\_ (Y/N)  
 WITHDRAWN \_\_\_\_\_ (Y/N)  
 OTHER \_\_\_\_\_

1 Committee/Subcommittee hearing bill: Transportation & Economic  
 2 Development Appropriations Subcommittee  
 3 Representative Boyd offered the following:  
 4

**Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:  
 6 Section 1. Subsection (7) of section 163.3175, Florida  
 7 Statutes, is amended to read:  
 8

9 163.3175 Legislative findings on compatibility of  
 10 development with military installations; exchange of information  
 11 between local governments and military installations.-

12 (7) To facilitate the exchange of information provided for  
 13 in this section, a representative of a military installation  
 14 acting on behalf of all military installations within that  
 15 jurisdiction shall serve ~~be included as an~~ ex officio as a  
 16 nonvoting member of the county's or affected local government's  
 17 land planning or zoning board. The representative is not

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18 required to file a statement of financial interest pursuant to  
19 s. 112.3145 solely due to his or her service on the county's or  
20 affected local government's land planning or zoning board.

21 Section 2. Subsection (7) is added to section 163.3180,  
22 Florida Statutes, to read:

23 163.3180 Concurrency.—

24 (7) (a) Notwithstanding any other provision of law,  
25 ordinance, or resolution, a local government may not apply  
26 transportation concurrency within its jurisdiction and may not  
27 require a proportionate-share contribution or construction for a  
28 new business development before July 1, 2019, unless authorized  
29 by the affirmative majority vote of the local government's  
30 governing authority. This paragraph does not apply to:

31 1. Proportionate-share contribution or construction  
32 assessed on an existing development before July 1, 2016.

33 2. A new business development that is larger than 6,000  
34 square feet.

35 3. A new business development that includes a business  
36 employing more than 12 full-time employees.

37 (b) To maintain the exemption from transportation  
38 concurrency and proportionate-share contribution or construction  
39 pursuant to paragraph (a), a new business development must  
40 receive a certificate of occupancy on or before July 1, 2020. If  
41 the certificate of occupancy is not received by July 1, 2020,  
42 the local government may apply transportation concurrency and  
43 require the appropriate proportionate-share contribution or

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44 construction for the business development that would have been  
45 applied except for this subsection. Any outstanding obligation  
46 related to the proportionate-share contribution or construction  
47 runs with the land and is enforceable against any person  
48 claiming a fee interest in the land subject to that obligation.

49 (c) This subsection does not apply if it results in a  
50 reduction of previously pledged revenue of a local government  
51 authority for outstanding bonds or notes or to a local  
52 government with a mobility fee-based funding system in place on  
53 or before January 1, 2016.

54 (d) Upon written notification to the local government, a  
55 developer may elect to have the local government apply  
56 transportation concurrency and proportionate-share contribution  
57 or construction to a business development.

58 (e) This subsection expires July 1, 2020.

59 Section 3. Subsection (6) is added to section 163.31801,  
60 Florida Statutes, to read:

61 163.31801 Impact fees; short title; intent; definitions;  
62 ordinances levying impact fees.-

63 (6) (a) Notwithstanding any other provision of law,  
64 ordinance, or resolution, a county, municipality, or special  
65 district may not impose any new or existing impact fee or any  
66 new or existing fee associated with the mitigation of  
67 transportation impacts on new business development before July  
68 1, 2019, unless authorized by the affirmative majority vote of

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69 the governing authority of the county, municipality, or special  
70 district. This paragraph does not apply to:

71 1. An impact fee or fee associated with the mitigation of  
72 transportation impacts previously enacted by law, ordinance, or  
73 resolution assessed on an existing business development before  
74 July 1, 2016.

75 2. A new business development larger than 6,000 square  
76 feet.

77 3. A new business development that includes a business  
78 employing more than 12 full-time employees.

79 (b) Any governing authority of a local government imposing  
80 an impact fee in existence on July 1, 2016, must reauthorize the  
81 imposition of the fee pursuant to this subsection.

82 (c) To maintain the exemption from impact fees and fees  
83 associated with the mitigation of transportation impacts  
84 pursuant to paragraph (a), a new business development must  
85 receive a certificate of occupancy on or before July 1, 2020. If  
86 the certificate of occupancy is not received by July 1, 2020,  
87 the county, municipality, or special district may impose the  
88 appropriate impact fees and fees associated with the mitigation  
89 of transportation impacts on the development that would have  
90 been applied except for this subsection. Any outstanding  
91 obligation related to impact fees, and fees associated with the  
92 mitigation of transportation impacts on the development, runs  
93 with the land and is enforceable against any person claiming a  
94 fee interest in the land subject to that obligation.

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95        (d) This subsection does not apply if it results in a  
96 reduction of previously pledged revenue of a local government  
97 authority for currently outstanding bonds or notes or to a local  
98 government with a mobility fee-based funding system in place on  
99 or before January 1, 2016.

100       (e) Upon notification to the county, municipality, or  
101 special district, a developer may elect to have impact fees and  
102 fees associated with the mitigation of transportation impacts  
103 imposed on a development.

104       (f) This subsection expires July 1, 2020.

105       Section 4. Section 189.033, Florida Statutes, is amended  
106 to read:

107       189.033 Independent special district services in  
108 disproportionately affected county; rate reduction for providers  
109 providing economic benefits.—If the governing body of an  
110 independent special district that provides water, wastewater,  
111 and sanitation services in a disproportionately affected county,  
112 as defined in s. 220.191(1)(g)1. ~~288.106(8)~~, determines that a  
113 new user or the expansion of an existing user of one or more of  
114 its utility systems will provide a significant benefit to the  
115 community in terms of increased job opportunities, economies of  
116 scale, or economic development in the area, the governing body  
117 may authorize a reduction of its rates, fees, or charges for  
118 that user for a specified period of time. A governing body that  
119 exercises this power must do so by resolution that states the

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120 anticipated economic benefit justifying the reduction as well as  
121 the period of time that the reduction will remain in place.

122 Section 5. Paragraph (a) of subsection (14) of section  
123 196.012, Florida Statutes, is amended to read:

124 196.012 Definitions.—For the purpose of this chapter, the  
125 following terms are defined as follows, except where the context  
126 clearly indicates otherwise:

127 (14) "New business" means:

128 (a)1. A business or organization establishing 10 or more  
129 new jobs to employ 10 or more full-time employees in this state  
130 which pays, ~~paying~~ an average wage for such new jobs which that  
131 is above the average wage in the area and, ~~which~~ principally  
132 engages in any one or more of the following operations:

133 a. Manufactures, processes, compounds, fabricates, or  
134 produces for sale items of tangible personal property at a fixed  
135 location and which comprises an industrial or manufacturing  
136 plant; or

137 b. Is a target industry business as defined in s.  
138 288.106(2) ~~s. 288.106(2)(g)~~;

139 2. A business or organization establishing 25 or more new  
140 jobs to employ 25 or more full-time employees in this state, the  
141 sales factor of which, as defined by s. 220.15(5), for the  
142 facility with respect to which it requests an economic  
143 development ad valorem tax exemption is less than 0.50 for each  
144 year the exemption is claimed; or

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145           3. An office space in this state owned and used by a  
146 business or organization newly domiciled in this state if  
147 ~~provided~~ such office space houses 50 or more full-time employees  
148 of such business or organization and, ~~provided that such~~  
149 ~~business or organization office~~ first begins operation on a site  
150 clearly separate from any other commercial or industrial  
151 operation owned by the same business or organization.

152           Section 6. Paragraph (d) of subsection (6) of section  
153 212.20, Florida Statutes, is amended to read:

154           212.20 Funds collected, disposition; additional powers of  
155 department; operational expense; refund of taxes adjudicated  
156 unconstitutionally collected.-

157           (6) Distribution of all proceeds under this chapter and  
158 ss. 202.18(1)(b) and (2)(b) and 203.01(1)(a)3. is as follows:

159           (d) The proceeds of all other taxes and fees imposed  
160 pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)  
161 and (2)(b) shall be distributed as follows:

162           1. In any fiscal year, the greater of \$500 million, minus  
163 an amount equal to 4.6 percent of the proceeds of the taxes  
164 collected pursuant to chapter 201, or 5.2 percent of all other  
165 taxes and fees imposed pursuant to this chapter or remitted  
166 pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in  
167 monthly installments into the General Revenue Fund.

168           2. After the distribution under subparagraph 1., 8.9744  
169 percent of the amount remitted by a sales tax dealer located  
170 within a participating county pursuant to s. 218.61 shall be

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171 transferred into the Local Government Half-cent Sales Tax  
172 Clearing Trust Fund. Beginning July 1, 2003, the amount to be  
173 transferred shall be reduced by 0.1 percent, and the department  
174 shall distribute this amount to the Public Employees Relations  
175 Commission Trust Fund less \$5,000 each month, which shall be  
176 added to the amount calculated in subparagraph 3. and  
177 distributed accordingly.

178 3. After the distribution under subparagraphs 1. and 2.,  
179 0.0966 percent shall be transferred to the Local Government  
180 Half-cent Sales Tax Clearing Trust Fund and distributed pursuant  
181 to s. 218.65.

182 4. After the distributions under subparagraphs 1., 2., and  
183 3., 2.0810 percent of the available proceeds shall be  
184 transferred monthly to the Revenue Sharing Trust Fund for  
185 Counties pursuant to s. 218.215.

186 5. After the distributions under subparagraphs 1., 2., and  
187 3., 1.3653 percent of the available proceeds shall be  
188 transferred monthly to the Revenue Sharing Trust Fund for  
189 Municipalities pursuant to s. 218.215. If the total revenue to  
190 be distributed pursuant to this subparagraph is at least as  
191 great as the amount due from the Revenue Sharing Trust Fund for  
192 Municipalities and the former Municipal Financial Assistance  
193 Trust Fund in state fiscal year 1999-2000, no municipality shall  
194 receive less than the amount due from the Revenue Sharing Trust  
195 Fund for Municipalities and the former Municipal Financial  
196 Assistance Trust Fund in state fiscal year 1999-2000. If the

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197 total proceeds to be distributed are less than the amount  
198 received in combination from the Revenue Sharing Trust Fund for  
199 Municipalities and the former Municipal Financial Assistance  
200 Trust Fund in state fiscal year 1999-2000, each municipality  
201 shall receive an amount proportionate to the amount it was due  
202 in state fiscal year 1999-2000.

203 6. Of the remaining proceeds:

204 a. In each fiscal year, the sum of \$29,915,500 shall be  
205 divided into as many equal parts as there are counties in the  
206 state, and one part shall be distributed to each county. The  
207 distribution among the several counties must begin each fiscal  
208 year on or before January 5th and continue monthly for a total  
209 of 4 months. If a local or special law required that any moneys  
210 accruing to a county in fiscal year 1999-2000 under the then-  
211 existing provisions of s. 550.135 be paid directly to the  
212 district school board, special district, or a municipal  
213 government, such payment must continue until the local or  
214 special law is amended or repealed. The state covenants with  
215 holders of bonds or other instruments of indebtedness issued by  
216 local governments, special districts, or district school boards  
217 before July 1, 2000, that it is not the intent of this  
218 subparagraph to adversely affect the rights of those holders or  
219 relieve local governments, special districts, or district school  
220 boards of the duty to meet their obligations as a result of  
221 previous pledges or assignments or trusts entered into which  
222 obligated funds received from the distribution to county

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223 governments under then-existing s. 550.135. This distribution  
224 specifically is in lieu of funds distributed under s. 550.135  
225 before July 1, 2000.

226 b. The department shall distribute \$166,667 monthly to  
227 each applicant certified as a facility for a new or retained  
228 professional sports franchise pursuant to s. 288.1162. Up to  
229 \$41,667 shall be distributed monthly by the department to each  
230 certified applicant as defined in s. 288.11621 for a facility  
231 for a spring training franchise. However, not more than \$416,670  
232 may be distributed monthly in the aggregate to all certified  
233 applicants for facilities for spring training franchises.  
234 Distributions begin 60 days after such certification and  
235 continue for not more than 30 years, except as otherwise  
236 provided in s. 288.11621. A certified applicant identified in  
237 this sub-subparagraph may not receive more in distributions than  
238 expended by the applicant for the public purposes provided in s.  
239 288.1162(5) or s. 288.11621(3).

240 c. Beginning 30 days after notice by the Department of  
241 Economic Opportunity to the Department of Revenue that an  
242 applicant has been certified as the professional golf hall of  
243 fame pursuant to s. 288.1168 and is open to the public, \$166,667  
244 shall be distributed monthly, for up to 300 months, to the  
245 applicant.

246 ~~d. Beginning 30 days after notice by the Department of~~  
247 ~~Economic Opportunity to the Department of Revenue that the~~  
248 ~~applicant has been certified as the International Game Fish~~

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249 ~~Association World Center facility pursuant to s. 288.1169, and~~  
250 ~~the facility is open to the public, \$83,333 shall be distributed~~  
251 ~~monthly, for up to 168 months, to the applicant. This~~  
252 ~~distribution is subject to reduction pursuant to s. 288.1169. A~~  
253 ~~lump sum payment of \$999,996 shall be made after certification~~  
254 ~~and before July 1, 2000.~~

255 d.e. The department shall distribute up to \$83,333 monthly  
256 to each certified applicant as defined in s. 288.11631 for a  
257 facility used by a single spring training franchise, or up to  
258 \$166,667 monthly to each certified applicant as defined in s.  
259 288.11631 for a facility used by more than one spring training  
260 franchise. Monthly distributions begin 60 days after such  
261 certification or July 1, 2016, whichever is later, and continue  
262 for not more than 20 years to each certified applicant as  
263 defined in s. 288.11631 for a facility used by a single spring  
264 training franchise or not more than 25 years to each certified  
265 applicant as defined in s. 288.11631 for a facility used by more  
266 than one spring training franchise. A certified applicant  
267 identified in this sub-subparagraph may not receive more in  
268 distributions than expended by the applicant for the public  
269 purposes provided in s. 288.11631(3).

270 e.f. Beginning 45 days after notice by the Department of  
271 Economic Opportunity to the Department of Revenue that an  
272 applicant has been approved by the Legislature and certified by  
273 the Department of Economic Opportunity under s. 288.11625 or  
274 upon a date specified by the Department of Economic Opportunity

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275 as provided under s. 288.11625(6)(d), the department shall  
276 distribute each month an amount equal to one-twelfth of the  
277 annual distribution amount certified by the Department of  
278 Economic Opportunity for the applicant. The department may not  
279 distribute more than \$7 million in the 2014-2015 fiscal year or  
280 more than \$13 million annually thereafter under this sub-  
281 subparagraph.

282 ~~f.g.~~ Beginning December 1, 2015, and ending June 30, 2016,  
283 the department shall distribute \$26,286 monthly to the State  
284 Transportation Trust Fund. Beginning July 1, 2016, the  
285 department shall distribute \$15,333 monthly to the State  
286 Transportation Trust Fund.

287 7. All other proceeds must remain in the General Revenue  
288 Fund.

289 Section 7. Paragraph (b) of subsection (1) of section  
290 220.191, Florida Statutes, is amended to read:

291 220.191 Capital investment tax credit.—

292 (1) DEFINITIONS.—For purposes of this section:

293 (b) "Cumulative capital investment" means the total  
294 capital investment in land, buildings, and equipment made by or  
295 on behalf of a qualifying business in connection with a  
296 qualifying project during the period from the beginning of  
297 construction of the project to the commencement of operations.  
298 The term does not include funds granted to or spent on behalf of  
299 a qualifying business by the state, a local government, or  
300 another governmental entity; funds appropriated in the General

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301 Appropriations Act; or funds otherwise provided to a qualifying  
302 business by a state agency, a local government, or another  
303 governmental entity.

304 Section 8. Paragraph (a) of subsection (2) of section  
305 220.196, Florida Statutes, is amended to read:

306 220.196 Research and development tax credit.—

307 (2) TAX CREDIT.—

308 (a) As provided in this section, a business enterprise is  
309 eligible for a credit against the tax imposed by this chapter if  
310 it:

311 1. Has qualified research expenses in this state in the  
312 taxable year exceeding the base amount;

313 2. Claims and is allowed a research credit for such  
314 qualified research expenses under 26 U.S.C. s. 41 for the same  
315 taxable year as subparagraph 1.; and

316 3. Is a qualified target industry business as defined in  
317 s. 288.106(2)(m) ~~288.106(2)(n)~~. Only qualified target industry  
318 businesses in the manufacturing, life sciences, information  
319 technology, aviation and aerospace, homeland security and  
320 defense, cloud information technology, marine sciences,  
321 materials science, and nanotechnology industries may qualify for  
322 a tax credit under this section. A business applying for a  
323 credit pursuant to this section shall include a letter from the  
324 Department of Economic Opportunity certifying whether the  
325 business meets the requirements of this subparagraph with its

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326 application for credit. The Department of Economic Opportunity  
327 shall provide such a letter upon receiving a request.

328 Section 9. Paragraphs (b) and (e) of subsection (2) of  
329 section 288.0001, Florida Statutes, are amended to read:

330 288.0001 Economic Development Programs Evaluation.—The  
331 Office of Economic and Demographic Research and the Office of  
332 Program Policy Analysis and Government Accountability (OPPAGA)  
333 shall develop and present to the Governor, the President of the  
334 Senate, the Speaker of the House of Representatives, and the  
335 chairs of the legislative appropriations committees the Economic  
336 Development Programs Evaluation.

337 (2) The Office of Economic and Demographic Research and  
338 OPPAGA shall provide a detailed analysis of economic development  
339 programs as provided in the following schedule:

340 (b) By January 1, 2015, and every 3 years thereafter, an  
341 analysis of the following:

342 1. The entertainment industry financial incentive program  
343 established under s. 288.1254.

344 2. The entertainment industry sales tax exemption program  
345 established under s. 288.1258.

346 3. The Florida Tourism Industry Marketing Corporation  
347 ~~VISIT Florida~~ and its programs established or funded under ss.  
348 288.122, 288.1226, 288.12265, and 288.124.

349 4. The Florida Sports Foundation and related programs  
350 established under ss. 288.1162, 288.11621, 288.1166, 288.1167,  
351 288.1168, ~~288.1169~~, and 288.1171.

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352 (e) Beginning January 1, 2018, and every 3 years  
353 thereafter, an analysis of the Sports Development Program  
354 established under s. 288.11625 and the retention of Major League  
355 Baseball spring training baseball franchises under s. 288.11631.

356 Section 10. Present subsection (1) of section 288.005,  
357 Florida Statutes, is amended, and present subsections (3)  
358 through (6) of that section are redesignated as subsections (4)  
359 through (7), respectively, and a new subsection (1) is added to  
360 that section, to read:

361 288.005 Definitions.—As used in this chapter, the term:

362 (1) "Average private sector wage in the area" means the  
363 statewide average wage in the private sector or the average of  
364 all private sector wages in the county or in the standard  
365 metropolitan area in which the project is located, as determined  
366 by the department.

367 ~~(3)~~ (1) "Economic benefits" means the direct, indirect, and  
368 induced gains in state revenues as a percentage of the state's  
369 investment. The state's investment includes all state funds  
370 spent or forwent to benefit a business, including, but not  
371 limited to, state funds appropriated to public and private  
372 entities, state grants, tax exemptions, tax refunds, tax  
373 credits, and other state incentives.

374 Section 11. Section 288.061, Florida Statutes, is amended  
375 to read:

376 288.061 Economic development incentive application  
377 process.—

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378 (1) Effective January 1, 2017, the department shall  
379 prescribe the format in which an application for an incentive  
380 shall be made. At a minimum, the incentive application must  
381 include the following:

382 (a) The applicant's federal employee identification  
383 number, reemployment assistance account number, and state sales  
384 tax registration number. If such numbers are not available at  
385 the time of application, the numbers must be submitted to the  
386 department in writing before disbursement of any economic  
387 incentive payments or the grant of any tax credits or refunds.

388 (b) The applicant's signature.

389 (c) The location of the project.

390 (d) The anticipated commencement date of the project.

391 (e) A description of the type of business activity,  
392 product, or research and development undertaken by the  
393 applicant, including the six-digit North American Industry  
394 Classification System code or codes associated with the project.

395 (f) An attestation verifying that the information provided  
396 on the application is true and correct.

397 (2)-(1) Upon receiving a submitted economic development  
398 incentive application, the Division of Strategic Business  
399 Development of the department of ~~Economic Opportunity~~ and  
400 designated staff of Enterprise Florida, Inc., shall review the  
401 application to ensure that the application is complete, whether  
402 and what type of state and local permits may be necessary for  
403 the applicant's project, whether it is possible to waive such

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404 permits, and what state incentives and amounts of such  
405 incentives may be available to the applicant. The department  
406 shall recommend to the executive director to approve or  
407 disapprove an applicant business. If review of the application  
408 demonstrates that the application is incomplete, the executive  
409 director shall notify the applicant business within the first 5  
410 business days after receiving the application.

411 (3) (a) (2) — Beginning July 1, 2013, The department shall  
412 review and evaluate each economic development incentive  
413 application for the economic benefits of the proposed award of  
414 state incentives proposed for the project. The review must occur  
415 before the department approves an economic development incentive  
416 application and before any approved incentive agreement or  
417 contract is amended, modified, or extended by the department or  
418 Enterprise Florida, Inc.

419 (b) An amendment, modification, or extension of an  
420 executed contract under s. 288.1045, s. 288.106, s. 288.107, s.  
421 288.108, s. 288.1088, or s. 288.1089 may not result in a 0.5-  
422 point or greater reduction in the economic-benefit ratio of the  
423 project, may not result in the waiver of any program  
424 requirement, and is subject to a 14-day legislative  
425 consultation. If the President of the Senate or the Speaker of  
426 the House of Representatives timely advises the Executive Office  
427 of the Governor in writing that the amendment, modification, or  
428 extension exceeds the delegated authority of the Executive  
429 Office of the Governor or is contrary to legislative policy or

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430 intent, the Executive Office of the Governor must void the  
431 amendment, modification, or extension and instruct the  
432 department to immediately change action or proposed action.  
433 Except as otherwise provided in this chapter, the department may  
434 not execute an amendment to an incentive agreement or contract  
435 for a project for which the economic benefits have been reduced  
436 unless the award of state incentives outlined in the incentive  
437 agreement or contract have been reduced by a proportionate  
438 amount. The department must include in its annual report  
439 information pertaining to each incentive contract extension and  
440 each contract amendment or modification that alters a  
441 performance condition that a project must meet to obtain  
442 incentive funds.

443 (c) As used in this subsection, the term "economic  
444 benefits" has the same meaning as provided in s. 288.005. The  
445 Office of Economic and Demographic Research shall establish the  
446 methodology and model used to calculate the economic benefits,  
447 including guidelines for the appropriate application of the  
448 model. For purposes of this requirement, an amended definition  
449 of "economic benefits" may be developed by the Office of  
450 Economic and Demographic Research but must include all state  
451 funds spent or forwent to benefit a business, including, but not  
452 limited to, state funds appropriated to public and private  
453 entities, state grants, tax exemptions, tax refunds, tax  
454 credits, other state incentives, and any other source of state

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455 funds which should reasonably be known to the department at the  
456 time of approval.

457 (d) For the purpose of calculating the economic benefits  
458 of a project, the department may not attribute to the business  
459 any capital investment made by the business using state funds.

460 (e) For the purpose of evaluating economic development  
461 incentive applications, the department shall consider the  
462 cumulative capital investment, as defined in s. 220.191.

463 (4) The department's evaluation of the application must  
464 also include the following:

465 (a) A financial analysis of the company, including  
466 information regarding liens and pending or ongoing litigation,  
467 credit ratings, and regulatory filings.

468 (b) A review of any independent evaluations of the  
469 company.

470 (c) A review of the historical market performance of the  
471 company.

472 (d) A review of the latest audit of the company's  
473 financial statement and the related auditor management letter.

474 (e) A review of any other audits that are related to the  
475 internal controls or management of the company.

476 (f) A review of performance in connection with any  
477 incentives previously awarded by state or local governments.

478 (g) Any other review deemed necessary by the department.

479 (5) (a) ~~(3)~~ Within 10 business days after the department  
480 receives a complete ~~the submitted~~ economic development incentive

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481 application, the executive director shall approve or disapprove  
482 the application and issue a letter of certification to the  
483 applicant which includes a justification of that decision,  
484 unless the business requests an extension of ~~that~~ time.

485 (b) Within 7 business days after the executive director  
486 approves or disapproves a complete economic development  
487 incentive application for a project, the department shall  
488 recommend to the Governor the approval or disapproval of the  
489 application. The recommendation must include a justification for  
490 the recommendation and the proposed performance conditions that  
491 the project must meet to obtain incentive funds.

492 (c) ~~(a)~~ The contract or agreement with the applicant must  
493 specify the total amount of the award, the performance  
494 conditions that must be met to obtain the award, the schedule  
495 for payment, and sanctions that would apply for failure to meet  
496 performance conditions. The contract or agreement with the  
497 applicant must require that the applicant use the state's job  
498 bank system to advertise job openings created as a result of the  
499 state incentive agreement. Any contract or agreement that  
500 requires capital investment to be made by the business must also  
501 require that such investment remain in this state for the  
502 duration of the agreement or contract, except an investment made  
503 in transportation-related assets specifically used for the  
504 purpose of transporting goods or employees. The department may  
505 enter into one agreement or contract covering all of the state  
506 incentives that are being provided to the applicant. The

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507 contract must provide that release of funds is contingent upon  
508 sufficient appropriation of funds by the Legislature. The state  
509 may not enter into a contract or agreement with a term of more  
510 than 10 years with any applicant. However, the department may  
511 enter into a successive agreement or contract for a specific  
512 project to extend the initial 10-year term, if each successive  
513 contract or agreement is contingent upon the successful  
514 completion of the previous contract or agreement and meets all  
515 requirements of the applicable economic development program  
516 being utilized as if it was a stand-alone project. The  
517 restriction on the term of the agreement or contract does not  
518 apply if the contract or agreement is for a project receiving an  
519 innovation incentive program award pursuant to s. 288.1089 or a  
520 capital investment tax credit pursuant to s. 220.191.

521 (d)(b) The release of funds for the incentive or  
522 incentives awarded to the applicant depends upon the statutory  
523 requirements of the particular incentive program.

524 (6)(4) The department shall validate contractor  
525 performance and report such validation in the annual incentives  
526 report required under s. 288.907.

527 (7)(5)(a) The executive director may not approve an  
528 economic development incentive application unless the  
529 application includes a signed written declaration by the  
530 applicant which states that the applicant has read the  
531 information in the application and that the information is true,

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532 correct, and complete to the best of the applicant's knowledge  
533 and belief.

534 (b) After an economic development incentive application is  
535 approved, the awardee shall provide, in each year that the  
536 department is required to validate contractor performance, a  
537 signed written declaration. The written declaration must state  
538 that the awardee has reviewed the information and that the  
539 information is true, correct, and complete to the best of the  
540 awardee's knowledge and belief.

541 ~~(8)-(6)~~ The department is authorized to adopt rules to  
542 implement this section.

543 Section 12. Paragraphs (c) and (e) of subsection (1) of  
544 section 288.076, Florida Statutes, are amended to read:

545 288.076 Return on investment reporting for economic  
546 development programs.—

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

548 (c) "Project" has the same meaning as provided in s.  
549 288.106(2)(1) ~~288.106(2)(m)~~.

550 (e) "State investment" means all state funds spent or  
551 forwent to benefit a business, including, but not limited to,  
552 state funds appropriated to public and private entities, any  
553 state grants, tax exemptions, tax refunds, tax credits, and any  
554 other source of state funds which should reasonably be known to  
555 the department at the time of approval ~~or other state incentives~~  
556 ~~provided to a business under a program administered by the~~

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557 ~~department~~, including the capital investment tax credit under s.  
558 220.191.

559 Section 13. Section 288.103, Florida Statutes, is created  
560 to read:

561 288.103 Economic development programs; minimum residency  
562 period for awards for projects.-

563 (1) The department shall include requirements to be met  
564 for a minimum three year residency period in each incentive  
565 contract at the time incentives are awarded. Each contractual  
566 residency period must include a provision for the project to  
567 remain in this state. Each residency period shall begin on the  
568 date the project last receives a program benefit or payment, or  
569 at the end of a project's maintenance period, whichever occurs  
570 last. The department shall also include in each incentive  
571 contract specific financial sanctions for businesses that fail  
572 to meet specified contract residency period requirements.

573 (2) This section applies to contracts executed on or after  
574 July 1, 2016, for programs under ss. 220.191, 288.1045, 288.106,  
575 288.107, 288.108, 288.1088, and 288.1089.

576 Section 14. Paragraphs (b), (j), and (k) of subsection  
577 (1), paragraphs (b), (c), (d), and (j) of subsection (3),  
578 paragraph (b) of subsection (5), and subsection (7) of section  
579 288.1045, Florida Statutes, are amended, and paragraph (i) is  
580 added to subsection (5) of that section, to read:

581 288.1045 Qualified defense contractor and space flight  
582 business tax refund program.-

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583 (1) DEFINITIONS.—As used in this section:

584 ~~(b) "Average wage in the area" means the average of all~~  
585 ~~wages and salaries in the state, the county, or in the standard~~  
586 ~~metropolitan area in which the business unit is located.~~

587 (j) "Local financial support" means funding from local  
588 sources, public or private, which is paid to the Economic  
589 Development Trust Fund and which is equal to 20 percent of the  
590 annual tax refund for a qualified applicant.

591 1. Local financial support may include excess payments  
592 made to a utility company under a designated program to allow  
593 decreases in service by the utility company under conditions,  
594 regardless of when application is made.

595 2. A qualified applicant may not provide, directly or  
596 indirectly, more than 5 percent of such funding in any fiscal  
597 year. The sources of such funding may not include, directly or  
598 indirectly, state funds appropriated from the General Revenue  
599 Fund or any state trust fund, excluding tax revenues shared with  
600 local governments pursuant to law.

601 3. A qualified applicant may not receive more than 80  
602 percent of the total tax refund from state funds that are  
603 authorized for the applicant under this section.

604 4. The department may grant a waiver that reduces the  
605 required amount of local financial support for a project to 10  
606 percent of the annual tax refund awarded to a qualified  
607 applicant for a local government, or eliminates the required  
608 amount of local financial support for a project for a local

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609 government located in a rural area of opportunity, as designated  
610 by the Governor pursuant to s. 288.0656. To be eligible to  
611 receive a waiver that reduces or eliminates the required amount  
612 of local financial support, a local government must provide the  
613 department with:

614 a. A resolution adopted by the governing body of the  
615 county or municipality in whose jurisdiction the project will be  
616 located, requesting the applicant's project be waived from the  
617 local financial support requirement.

618 b. A statement prepared by a Florida certified public  
619 accountant, as defined in s. 473.302, that describes the  
620 financial constraints preventing the local government from  
621 providing the local financial support required by this section.  
622 This sub-subparagraph does not apply to a county considered  
623 fiscally constrained pursuant to s. 218.67(1).

624 ~~(k) "Local financial support exemption option" means the~~  
625 ~~option to exercise an exemption from the local financial support~~  
626 ~~requirement available to any applicant whose project is located~~  
627 ~~in a county designated by the Rural Economic Development~~  
628 ~~Initiative, if the county commissioners of the county in which~~  
629 ~~the project will be located adopt a resolution requesting that~~  
630 ~~the applicant's project be exempt from the local financial~~  
631 ~~support requirement. Any applicant that exercises this option is~~  
632 ~~not eligible for more than 80 percent of the total tax refunds~~  
633 ~~allowed such applicant under this section.~~

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634 (3) APPLICATION PROCESS; REQUIREMENTS; AGENCY  
635 DETERMINATION.—

636 (b) Applications for certification based on the  
637 consolidation of a Department of Defense contract or a new  
638 Department of Defense contract must be submitted to the  
639 department as prescribed by the department and must include, but  
640 are not limited to, the following information:

641 1. The applicant's federal employer identification number,  
642 the applicant's Florida sales tax registration number, and a  
643 signature of an officer of the applicant.

644 2. The permanent location of the manufacturing,  
645 assembling, fabricating, research, development, or design  
646 facility in this state at which the project is or is to be  
647 located.

648 3. The Department of Defense contract numbers of the  
649 contract to be consolidated, the new Department of Defense  
650 contract number, or the "RFP" number of a proposed Department of  
651 Defense contract.

652 4. The date the contract was executed or is expected to be  
653 executed, and the date the contract is due to expire or is  
654 expected to expire.

655 5. The commencement date for project operations under the  
656 contract in this state.

657 6. The number of net new full-time equivalent Florida jobs  
658 included in the project as of December 31 of each year and the  
659 average wage of such jobs.

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660 7. The total number of full-time equivalent employees  
661 employed by the applicant in this state.

662 8. The percentage of the applicant's gross receipts  
663 derived from Department of Defense contracts during the 5  
664 taxable years immediately preceding the date the application is  
665 submitted.

666 9. The number of full-time equivalent jobs in this state  
667 to be retained by the project.

668 10. A brief statement concerning the applicant's need for  
669 tax refunds, and the proposed uses of such refunds by the  
670 applicant.

671 11. A resolution adopted by the governing board of the  
672 county or municipality in which the project will be located,  
673 which recommends the applicant be approved as a qualified  
674 applicant, and which indicates that the necessary commitments of  
675 local financial support for the applicant exist. ~~Prior to the~~  
676 ~~adoption of the resolution, the county commission may review the~~  
677 ~~proposed public or private sources of such support and determine~~  
678 ~~whether the proposed sources of local financial support can be~~  
679 ~~provided or, for any applicant whose project is located in a~~  
680 ~~county designated by the Rural Economic Development Initiative,~~  
681 ~~a resolution adopted by the county commissioners of such county~~  
682 ~~requesting that the applicant's project be exempt from the local~~  
683 ~~financial support requirement.~~

684 12. Any additional information requested by the  
685 department.

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686 (c) Applications for certification based on the conversion  
687 of defense production jobs to nondefense production jobs must be  
688 submitted to the department as prescribed by the department and  
689 must include, but are not limited to, the following information:

690 1. The applicant's federal employer identification number,  
691 the applicant's Florida sales tax registration number, and a  
692 signature of an officer of the applicant.

693 2. The permanent location of the manufacturing,  
694 assembling, fabricating, research, development, or design  
695 facility in this state at which the project is or is to be  
696 located.

697 3. The Department of Defense contract numbers of the  
698 contract under which the defense production jobs will be  
699 converted to nondefense production jobs.

700 4. The date the contract was executed, and the date the  
701 contract is due to expire or is expected to expire, or was  
702 canceled.

703 5. The commencement date for the nondefense production  
704 operations in this state.

705 6. The number of net new full-time equivalent Florida jobs  
706 included in the nondefense production project as of December 31  
707 of each year and the average wage of such jobs.

708 7. The total number of full-time equivalent employees  
709 employed by the applicant in this state.

710 8. The percentage of the applicant's gross receipts  
711 derived from Department of Defense contracts during the 5

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712 taxable years immediately preceding the date the application is  
713 submitted.

714 9. The number of full-time equivalent jobs in this state  
715 to be retained by the project.

716 10. A brief statement concerning the applicant's need for  
717 tax refunds, and the proposed uses of such refunds by the  
718 applicant.

719 11. A resolution adopted by the governing board of the  
720 county or municipality in which the project will be located,  
721 which recommends the applicant be approved as a qualified  
722 applicant, and which indicates that the necessary commitments of  
723 local financial support for the applicant exist. ~~Prior to the~~  
724 ~~adoption of the resolution, the county commission may review the~~  
725 ~~proposed public or private sources of such support and determine~~  
726 ~~whether the proposed sources of local financial support can be~~  
727 ~~provided or, for any applicant whose project is located in a~~  
728 ~~county designated by the Rural Economic Development Initiative,~~  
729 ~~a resolution adopted by the county commissioners of such county~~  
730 ~~requesting that the applicant's project be exempt from the local~~  
731 ~~financial support requirement.~~

732 12. Any additional information requested by the  
733 department.

734 (d) Applications for certification based on a contract for  
735 reuse of a defense-related facility must be submitted to the  
736 department as prescribed by the department and must include, but  
737 are not limited to, the following information:

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- 738           1. The applicant's Florida sales tax registration number  
739 and a signature of an officer of the applicant.
- 740           2. The permanent location of the manufacturing,  
741 assembling, fabricating, research, development, or design  
742 facility in this state at which the project is or is to be  
743 located.
- 744           3. The business entity holding a valid Department of  
745 Defense contract or branch of the Armed Forces of the United  
746 States that previously occupied the facility, and the date such  
747 entity last occupied the facility.
- 748           4. A copy of the contract to reuse the facility, or such  
749 alternative proof as may be prescribed by the department that  
750 the applicant is seeking to contract for the reuse of such  
751 facility.
- 752           5. The date the contract to reuse the facility was  
753 executed or is expected to be executed, and the date the  
754 contract is due to expire or is expected to expire.
- 755           6. The commencement date for project operations under the  
756 contract in this state.
- 757           7. The number of net new full-time equivalent Florida jobs  
758 included in the project as of December 31 of each year and the  
759 average wage of such jobs.
- 760           8. The total number of full-time equivalent employees  
761 employed by the applicant in this state.
- 762           9. The number of full-time equivalent jobs in this state  
763 to be retained by the project.

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764 10. A brief statement concerning the applicant's need for  
765 tax refunds, and the proposed uses of such refunds by the  
766 applicant.

767 11. A resolution adopted by the governing board of the  
768 county or municipality in which the project will be located,  
769 which recommends the applicant be approved as a qualified  
770 applicant, and which indicates that the necessary commitments of  
771 local financial support for the applicant exist. ~~Before the  
772 adoption of the resolution, the county commission may review the  
773 proposed public or private sources of such support and determine  
774 whether the proposed sources of local financial support can be  
775 provided or, for any applicant whose project is located in a  
776 county designated by the Rural Economic Development Initiative,  
777 a resolution adopted by the county commissioners of such county  
778 requesting that the applicant's project be exempt from the local  
779 financial support requirement.~~

780 12. Any additional information requested by the  
781 department.

782 (j) Applications for certification based upon a new space  
783 flight business contract or the consolidation of a space flight  
784 business contract must be submitted to the department as  
785 prescribed by the department and must include, but are not  
786 limited to, the following information:

787 1. The applicant's federal employer identification number,  
788 the applicant's Florida sales tax registration number, and a  
789 signature of an officer of the applicant.

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790           2. The permanent location of the space flight business  
791 facility in this state where the project is or will be located.

792           3. The new space flight business contract number, the  
793 space flight business contract numbers of the contract to be  
794 consolidated, or the request-for-proposal number of a proposed  
795 space flight business contract.

796           4. The date the contract was executed and the date the  
797 contract is due to expire, is expected to expire, or was  
798 canceled.

799           5. The commencement date for project operations under the  
800 contract in this state.

801           6. The number of net new full-time equivalent Florida jobs  
802 included in the project as of December 31 of each year and the  
803 average wage of such jobs.

804           7. The total number of full-time equivalent employees  
805 employed by the applicant in this state.

806           8. The percentage of the applicant's gross receipts  
807 derived from space flight business contracts during the 5  
808 taxable years immediately preceding the date the application is  
809 submitted.

810           9. The number of full-time equivalent jobs in this state  
811 to be retained by the project.

812           10. A brief statement concerning the applicant's need for  
813 tax refunds and the proposed uses of such refunds by the  
814 applicant.

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815 11. A resolution adopted by the governing board of the  
816 county or municipality in which the project will be located  
817 which recommends the applicant be approved as a qualified  
818 applicant and indicates that the necessary commitments of local  
819 financial support for the applicant exist. ~~Prior to the adoption~~  
820 ~~of the resolution, the county commission may review the proposed~~  
821 ~~public or private sources of such support and determine whether~~  
822 ~~the proposed sources of local financial support can be provided~~  
823 ~~or, for any applicant whose project is located in a county~~  
824 ~~designated by the Rural Economic Development Initiative, a~~  
825 ~~resolution adopted by the county commissioners of such county~~  
826 ~~requesting that the applicant's project be exempt from the local~~  
827 ~~financial support requirement.~~

828 12. Any additional information requested by the  
829 department.

830 (5) ANNUAL CLAIM FOR REFUND.—

831 (b) ~~The department shall verify claim for refund by the~~  
832 ~~qualified applicant must include a copy of all receipts~~  
833 ~~pertaining to the payment of taxes for which a refund is sought,~~  
834 and data related to achieving each performance item contained in  
835 the tax refund agreement pursuant to subsection (4). The amount  
836 requested as a tax refund may not exceed the amount for the  
837 relevant fiscal year in the written agreement entered pursuant  
838 to subsection (4).

839 (i) A business that fails to timely submit documentation  
840 requested by the department, as required by the agreement

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841 between the business and the department, which results in the  
842 department's withholding an otherwise approved refund may  
843 receive the approved refund if:

844 1. The business submits the requested documentation to the  
845 department.

846 2. The business provides a written statement to the  
847 department explaining the circumstances that resulted in the  
848 business' failure to timely submit the documentation.

849 3. Funds appropriated for this section are available.

850 4. The business was scheduled, by the terms of the  
851 agreement, to submit information to the department between  
852 January 1, 2014, and December 31, 2014.

853 5. The business has satisfied all other requirements of  
854 the agreement.

855 (7) EXPIRATION.—An applicant may not be certified as  
856 qualified under this section after June 30, 2018 ~~2014~~. A tax  
857 refund agreement existing on that date shall continue in effect  
858 in accordance with its terms.

859 Section 15. Paragraphs (c), (j), and (k) of subsection  
860 (2), paragraph (b) of subsection (4), paragraph (b) of  
861 subsection (5), and subsection (8) of section 288.106, Florida  
862 Statutes, are amended, present subsection (9) is redesignated as  
863 subsection (10), and a new subsection (9) is added to that  
864 section, to read:

865 288.106 Tax refund program for qualified target industry  
866 businesses.—

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867 (2) DEFINITIONS.—As used in this section, the term:

868 ~~(e) "Average private sector wage in the area" means the~~  
869 ~~statewide private sector average wage or the average of all~~  
870 ~~private sector wages and salaries in the county or in the~~  
871 ~~standard metropolitan area in which the business is located.~~

872 (j) "Local financial support" means funding from local  
873 sources, public or private, that is paid to the Economic  
874 Development Trust Fund and that is equal to 20 percent of the  
875 annual tax refund for a qualified target industry business.

876 1. A qualified target industry business may not provide,  
877 directly or indirectly, more than 5 percent of such funding in  
878 any fiscal year. The sources of such funding may not include,  
879 directly or indirectly, state funds appropriated from the  
880 General Revenue Fund or any state trust fund, excluding tax  
881 revenues shared with local governments pursuant to law.

882 2. A qualified target industry business may not receive  
883 more than 80 percent of the total tax refund from state funds  
884 authorized for the business under this section.

885 3. The department may grant a waiver that reduces the  
886 required amount of local financial support for a project to 10  
887 percent of the annual tax refund awarded to a qualified target  
888 industry business for a local government, or eliminates the  
889 required amount of local financial support for a project for a  
890 local government located in a rural area of opportunity, as  
891 designated by the Governor pursuant to s. 288.0656. To be  
892 eligible for a waiver that reduces or eliminates the required

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893 amount of local financial support, a local government must  
894 provide the department with:

895 a. A resolution adopted by the governing body of the  
896 county or municipality in whose jurisdiction the project will be  
897 located, requesting that the local financial support requirement  
898 be waived for the applicant's project.

899 b. A statement prepared by a Florida certified public  
900 accountant, as defined in s. 473.302, which describes the  
901 financial constraints preventing the local government from  
902 providing the local financial support required by this section.  
903 This sub-subparagraph does not apply to a county considered  
904 fiscally constrained pursuant to s. 218.67(1).

905 ~~(k) "Local financial support exemption option" means the~~  
906 ~~option to exercise an exemption from the local financial support~~  
907 ~~requirement available to any applicant whose project is located~~  
908 ~~in a brownfield area, a rural city, or a rural community. Any~~  
909 ~~applicant that exercises this option is not eligible for more~~  
910 ~~than 80 percent of the total tax refunds allowed such applicant~~  
911 ~~under this section.~~

912 (4) APPLICATION AND APPROVAL PROCESS.—

913 (b) To qualify for review by the department, the  
914 application of a target industry business must, at a minimum,  
915 establish the following to the satisfaction of the department:

916 1.a. The jobs proposed to be created under the  
917 application, pursuant to subparagraph (a)4., must pay an  
918 estimated annual average wage equaling at least 115 percent of

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919 the average private sector wage in the area ~~where the business~~  
920 ~~is to be located or the statewide private sector average wage.~~  
921 ~~The governing board of the local governmental entity providing~~  
922 ~~the local financial support of the jurisdiction where the~~  
923 ~~qualified target industry business is to be located shall notify~~  
924 ~~the department and Enterprise Florida, Inc., which calculation~~  
925 ~~of the average private sector wage in the area must be used as~~  
926 ~~the basis for the business's wage commitment.~~ In determining the  
927 average annual wage, the department shall include only new  
928 proposed jobs, and wages for existing jobs shall be excluded  
929 from this calculation.

930 b. The department may waive the average wage requirement  
931 at the request of the local governing body recommending the  
932 project and Enterprise Florida, Inc. The department may waive  
933 the wage requirement for a project located in a brownfield area  
934 designated under s. 376.80, in a rural city, in a rural  
935 community, in an enterprise zone, or for a manufacturing project  
936 at any location in the state if the jobs proposed to be created  
937 pay an estimated annual average wage equaling at least 100  
938 percent of the average private sector wage in the area ~~where the~~  
939 ~~business is to be located~~, only if the merits of the individual  
940 project or the specific circumstances in the community in  
941 relationship to the project warrant such action. If the local  
942 governing body and Enterprise Florida, Inc., make such a  
943 recommendation, it must be transmitted in writing, and the  
944 specific justification for the waiver recommendation must be

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945 explained. If the department elects to waive the wage  
946 requirement, the waiver must be stated in writing, and the  
947 reasons for granting the waiver must be explained.

948 2. The target industry business's project must result in  
949 the creation of at least 10 jobs at the project and, in the case  
950 of an expansion of an existing business, must result in a net  
951 increase in employment of at least 10 percent at the business.  
952 At the request of the local governing body recommending the  
953 project and Enterprise Florida, Inc., the department may waive  
954 this requirement for a business in a rural community or  
955 enterprise zone if the merits of the individual project or the  
956 specific circumstances in the community in relationship to the  
957 project warrant such action. If the local governing body and  
958 Enterprise Florida, Inc., make such a request, the request must  
959 be transmitted in writing, and the specific justification for  
960 the request must be explained. If the department elects to grant  
961 the request, the grant must be stated in writing, and the reason  
962 for granting the request must be explained.

963 3. The business activity or product for the applicant's  
964 project must be within an industry identified by the department  
965 as a target industry business that contributes to the economic  
966 growth of the state and the area in which the business is  
967 located, that produces a higher standard of living for residents  
968 of this state in the new global economy, or that can be shown to  
969 make an equivalent contribution to the area's and state's  
970 economic progress.

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971 (5) TAX REFUND AGREEMENT.—

972 (b) Compliance with the terms and conditions of the  
973 agreement is a condition precedent for the receipt of a tax  
974 refund each year. The failure to comply with the terms and  
975 conditions of the tax refund agreement results in the loss of  
976 eligibility for receipt of all tax refunds previously authorized  
977 under this section and the revocation by the department of the  
978 certification of the business entity as a qualified target  
979 industry business, unless the business is eligible to receive  
980 and elects to accept a prorated refund under paragraph (6) (e) ~~or~~  
981 ~~the department grants the business an economic recovery~~  
982 ~~extension.~~

983 ~~1. A qualified target industry business may submit a~~  
984 ~~request to the department for an economic recovery extension.~~  
985 ~~The request must provide quantitative evidence demonstrating how~~  
986 ~~negative economic conditions in the business's industry, the~~  
987 ~~effects of a named hurricane or tropical storm, or specific acts~~  
988 ~~of terrorism affecting the qualified target industry business~~  
989 ~~have prevented the business from complying with the terms and~~  
990 ~~conditions of its tax refund agreement.~~

991 ~~2. Upon receipt of a request under subparagraph 1., the~~  
992 ~~department has 45 days to notify the requesting business, in~~  
993 ~~writing, whether its extension has been granted or denied. In~~  
994 ~~determining whether an extension should be granted, the~~  
995 ~~department shall consider the extent to which negative economic~~  
996 ~~conditions in the requesting business's industry have occurred~~

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997 ~~in the state or the effects of a named hurricane or tropical~~  
998 ~~storm or specific acts of terrorism affecting the qualified~~  
999 ~~target industry business have prevented the business from~~  
1000 ~~complying with the terms and conditions of its tax refund~~  
1001 ~~agreement. The department shall consider current employment~~  
1002 ~~statistics for this state by industry, including whether the~~  
1003 ~~business's industry had substantial job loss during the prior~~  
1004 ~~year, when determining whether an extension shall be granted.~~

1005 ~~3. As a condition for receiving a prorated refund under~~  
1006 ~~paragraph (6) (c) or an economic recovery extension under this~~  
1007 ~~paragraph, a qualified target industry business must agree to~~  
1008 ~~renegotiate its tax refund agreement with the department to, at~~  
1009 ~~a minimum, ensure that the terms of the agreement comply with~~  
1010 ~~current law and the department's procedures governing~~  
1011 ~~application for and award of tax refunds. Upon approving the~~  
1012 ~~award of a prorated refund or granting an economic recovery~~  
1013 ~~extension, the department shall renegotiate the tax refund~~  
1014 ~~agreement with the business as required by this subparagraph.~~  
1015 ~~When amending the agreement of a business receiving an economic~~  
1016 ~~recovery extension, the department may extend the duration of~~  
1017 ~~the agreement for a period not to exceed 2 years.~~

1018 ~~4. A qualified target industry business may submit a~~  
1019 ~~request for an economic recovery extension to the department in~~  
1020 ~~lieu of any tax refund claim scheduled to be submitted after~~  
1021 ~~January 1, 2009, but before July 1, 2012.~~

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1022 ~~5. A qualified target industry business that receives an~~  
1023 ~~economic recovery extension may not receive a tax refund for the~~  
1024 ~~period covered by the extension.~~

1025 ~~(8) SPECIAL INCENTIVES. If the department determines it is~~  
1026 ~~in the best interest of the public for reasons of facilitating~~  
1027 ~~economic development, growth, or new employment opportunities~~  
1028 ~~within a Disproportionally Affected County, the department may,~~  
1029 ~~between July 1, 2011, and June 30, 2014, waive any or all wage~~  
1030 ~~or local financial support eligibility requirements and allow a~~  
1031 ~~qualified target industry business from another state which~~  
1032 ~~relocates all or a portion of its business to a~~  
1033 ~~Disproportionally Affected County to receive a tax refund~~  
1034 ~~payment of up to \$6,000 multiplied by the number of jobs~~  
1035 ~~specified in the tax refund agreement under subparagraph~~  
1036 ~~(5) (a)1. over the term of the agreement. Prior to granting such~~  
1037 ~~waiver, the executive director of the department shall file with~~  
1038 ~~the Governor a written statement of the conditions and~~  
1039 ~~circumstances constituting the reason for the waiver. Such~~  
1040 ~~business shall be eligible for the additional tax refund~~  
1041 ~~payments specified in subparagraph (3) (b)4. if it meets the~~  
1042 ~~criteria. As used in this section, the term "Disproportionally~~  
1043 ~~Affected County" means Bay County, Escambia County, Franklin~~  
1044 ~~County, Gulf County, Okaloosa County, Santa Rosa County, Walton~~  
1045 ~~County, or Wakulla County.~~

1046 (9) INCENTIVE PAYMENTS.—The incentive payments made to a  
1047 business pursuant to this section are not repayments of the

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1048 actual taxes paid to the state or to a local government by the  
1049 business. The amount of state and local government taxes paid  
1050 under subparagraph (3)(d)1., by a business for which the  
1051 business has not and will not receive a credit, refund, or  
1052 exemption as indicated in subparagraph (3)(e), serves as a  
1053 limitation on the amount of incentive payments a business may  
1054 receive.

1055 Section 16. Paragraphs (f) and (g) of subsection (2) of  
1056 section 288.108, Florida Statutes, are redesignated as  
1057 paragraphs (g) and (h), respectively, paragraph (b) of  
1058 subsection (2) and subsection (5) are amended, and a new  
1059 paragraph (f) is added to subsection (2) of that section, to  
1060 read:

1061 288.108 High-impact business.—

1062 (2) DEFINITIONS.—As used in this section, the term:

1063 (b) "Cumulative investment" means the total investment in  
1064 buildings and equipment made by a qualified high-impact business  
1065 since the beginning of construction of such facility. The term  
1066 does not include funds granted to or spent on behalf of the  
1067 business by the state, a local government, or another  
1068 governmental entity; funds appropriated in the General  
1069 Appropriations Act; or funds otherwise provided to the business  
1070 by a state agency or local government.

1071 (f) "Local financial support" means financial, in-kind, or  
1072 other quantifiable contributions from local sources that,

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1073 combined, equal 20 percent or more of the total investment in  
1074 the project by state and local sources.

1075 1. The department may grant a waiver that reduces the  
1076 required amount of local financial support for a project to 10  
1077 percent of the award granted to a business pursuant to this  
1078 section for a local government, or eliminates the local  
1079 financial support for a local government located in a rural area  
1080 of opportunity, as designated by the Governor pursuant to s.  
1081 288.0656.

1082 2. A local government requesting a waiver that reduces or  
1083 eliminates the local financial support requirement must provide  
1084 the department with a statement prepared by a Florida certified  
1085 public accountant, as defined in s. 473.302, which describes the  
1086 financial constraints preventing the local government from  
1087 providing the local financial support required by this section.  
1088 This subparagraph does not apply to a county considered fiscally  
1089 constrained pursuant to s. 218.67(1).

1090 (5) APPLICATIONS; CERTIFICATION PROCESS; GRANT AGREEMENT.—

1091 (a) The department shall review an application pursuant to  
1092 s. 288.061 which is received from any eligible business, as  
1093 defined in subsection (2), for consideration as a qualified  
1094 high-impact business before the business has made a decision to  
1095 locate or expand a facility in this state. The business must  
1096 provide the following information:

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- 1097 1. A complete description of the type of facility,  
1098 business operations, and product or service associated with the  
1099 project.
- 1100 2. The number of full-time equivalent jobs that will be  
1101 created by the project and the average annual wage of those  
1102 jobs.
- 1103 3. The cumulative amount of investment to be dedicated to  
1104 this project within 3 years.
- 1105 4. A statement concerning any special impacts the facility  
1106 is expected to stimulate in the sector, the state, or regional  
1107 economy and in state universities and community colleges.
- 1108 5. A statement concerning the role the grant will play in  
1109 the decision of the applicant business to locate or expand in  
1110 this state.
- 1111 6. Any additional information requested by the department.
- 1112 (b) Within 7 business days after the executive director  
1113 approves or disapproves an application, the department shall  
1114 recommend to the Governor the approval or disapproval of an  
1115 eligible high-impact business for receipt of funds.  
1116 Recommendations to the Governor must include the total amount of  
1117 the qualified high-impact business facility performance grant  
1118 award; the anticipated project performance conditions,  
1119 including, but not limited to, net new employment in the state,  
1120 average salary, and total capital investment incurred by the  
1121 business; a baseline of current service and a measure of  
1122 enhanced capability; the methodology for validating performance;

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1123 the schedule of performance grant payments; and sanctions for  
1124 failure to meet performance conditions ~~Applications shall be~~  
1125 ~~reviewed and certified pursuant to s. 288.061.~~

1126 (c) The Governor may approve a high-impact business  
1127 performance grant of less than \$2 million without consulting the  
1128 Legislature. For such grants, the Governor shall provide a  
1129 written description and evaluation of the approved project to  
1130 the President of the Senate and the Speaker of the House of  
1131 Representatives, within 1 business day after approval ~~The~~  
1132 ~~department and the qualified high-impact business shall enter~~  
1133 ~~into a performance grant agreement setting forth the conditions~~  
1134 ~~for payment of the qualified high-impact business performance~~  
1135 ~~grant. The agreement shall include the total amount of the~~  
1136 ~~qualified high-impact business facility performance grant award,~~  
1137 ~~the performance conditions that must be met to obtain the award,~~  
1138 ~~including the employment, average salary, investment, the~~  
1139 ~~methodology for determining if the conditions have been met, and~~  
1140 ~~the schedule of performance grant payments.~~

1141 (d) The Governor shall provide a written description and  
1142 evaluation of each eligible high-impact business recommended for  
1143 approval for a high-impact business performance grant of at  
1144 least \$2 million, but not more than \$7.5 million, to the  
1145 President of the Senate and the Speaker of the House of  
1146 Representatives at least 14 days before approving a qualified  
1147 high-impact business performance grant. If the President of the  
1148 Senate or the Speaker of the House of Representatives timely

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1149 advises the Executive Office of the Governor in writing that the  
1150 award of funds exceeds the delegated authority of the Executive  
1151 Office of the Governor or is contrary to legislative policy or  
1152 intent, the Executive Office of the Governor shall void the  
1153 release of funds and instruct the department to immediately  
1154 change action or proposed action.

1155 (e) The Governor shall provide the Legislative Budget  
1156 Commission with a written description and evaluation of each  
1157 eligible high-impact business recommended for approval of a  
1158 high-impact business performance grant that exceeds \$7.5 million  
1159 or that provides a waiver of program requirements and is at  
1160 least \$5 million. The Legislative Budget Commission must approve  
1161 such an award before final approval by the Governor.

1162 (f) Any contract or agreement executed by the department  
1163 must embody the performance criteria and timelines submitted to  
1164 the Legislature, whether during the legislative consultation  
1165 period or in the provided written description and evaluation for  
1166 those projects that do not require legislative consultation. If  
1167 the executed contract or agreement fails to embody the  
1168 performance criteria and timelines submitted to the legislature,  
1169 whether during the legislative consultation period or in the  
1170 provided written description and evaluation for those projects  
1171 that do not require legislative consultation, the department may  
1172 not expend any funds on the contract and the Chief Financial  
1173 Officer is not authorized to release payment of funds.

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1174           (g) An amendment, modification, or extension of an  
1175 executed contract may not result in a 0.5-point or greater  
1176 reduction in the economic-benefit ratio of the project, may not  
1177 result in waiver of any program requirement, and is subject to a  
1178 14-day legislative consultation. If the President of the Senate  
1179 or the Speaker of the House of Representatives timely advises  
1180 the Executive Office of the Governor in writing that the  
1181 amendment, modification, or extension exceeds the delegated  
1182 authority of the Executive Office of the Governor or is contrary  
1183 to legislative policy or intent, the Executive Office of the  
1184 Governor shall void the amendment, modification, or extension  
1185 and instruct the department to immediately change action or  
1186 proposed action.

1187           (h) The department shall validate contractor performance  
1188 and report such validation in the annual incentives report  
1189 required by s. 288.907.

1190           Section 17. Subsections (2), (3), and (4) of section  
1191 288.1088, Florida Statutes, are amended to read:

1192           288.1088 Florida Enterprise Quick Action Closing Fund.—

1193           (2) There is created within the department the Florida  
1194 Enterprise Quick Action Closing Fund. Except as provided in  
1195 subsection (3), projects eligible for receipt of funds from the  
1196 Florida Enterprise Quick Action Closing Fund shall:

1197           (a) Be in an industry as referenced in s. 288.106.

1198           (b) Have a positive economic benefit ratio of at least 3 5  
1199 to 1.

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1200 (c) Be an inducement to the project's location or  
1201 expansion in the state.

1202 (d) Pay an average annual wage of at least 125 percent of  
1203 the average private sector wage in the area ~~areawide or~~  
1204 ~~statewide private sector average wage.~~

1205 (e) Be supported by the local community in which the  
1206 project is to be located.

1207 1. Financial support by the local community must include  
1208 financial, in-kind, or other quantifiable contributions from  
1209 local sources that, combined, equal 20 percent or more of the  
1210 total investment in the project by state and local sources.

1211 2. The department may grant a waiver that reduces the  
1212 required amount of local financial support for a project to 10  
1213 percent of the award granted to a business pursuant to this  
1214 section for a local government, or eliminates the required  
1215 amount of local financial support for a project for a local  
1216 government located in a rural area of opportunity as designated  
1217 by the Governor pursuant to s. 288.0656.

1218 3. A local government requesting a waiver that reduces or  
1219 eliminates the local financial support requirement must provide  
1220 the department with a statement prepared by a Florida certified  
1221 public accountant, as defined in s. 473.302, which describes the  
1222 financial constraints preventing the local government from  
1223 providing the local financial support required by this section.  
1224 This subparagraph does not apply to a county considered fiscally  
1225 constrained pursuant to s. 218.67(1).

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1226 (f) Create at least 10 new jobs.

1227 (3) (a) The department and Enterprise Florida, Inc., shall  
1228 jointly review applications pursuant to s. 288.061 and determine  
1229 the eligibility of each project consistent with the criteria in  
1230 subsection (2). ~~Waiver of these criteria may be considered under~~  
1231 ~~the following criteria:~~

1232 1. ~~Based on extraordinary circumstances,~~

1233 2. ~~In order to mitigate the impact of the conclusion of~~  
1234 ~~the space shuttle program; or~~

1235 3. ~~In rural areas of opportunity if the project would~~  
1236 ~~significantly benefit the local or regional economy.~~

1237 (b) The department shall evaluate individual proposals for  
1238 high-impact business facilities. Such evaluation must include,  
1239 but need not be limited to:

1240 1. A description of the type of facility or  
1241 infrastructure, its operations, and the associated product or  
1242 service associated with the facility.

1243 2. The number of full-time-equivalent jobs that will be  
1244 created by the facility and the total estimated average annual  
1245 wages of those jobs or, in the case of privately developed rural  
1246 infrastructure, the types of business activities and jobs  
1247 stimulated by the investment.

1248 3. The cumulative amount of investment to be dedicated to  
1249 the facility within a specified period.

1250 4. A statement of any special impacts the facility is  
1251 expected to stimulate in a particular business sector in the

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1252 state or regional economy or in the state's universities and  
1253 community colleges.

1254 5. A statement of the role the incentive is expected to  
1255 play in the decision of the applicant business to locate or  
1256 expand in this state or for the private investor to provide  
1257 critical rural infrastructure.

1258 6. A report evaluating the quality and value of the  
1259 company submitting a proposal. The report must include:

1260 a. A financial analysis of the company, including an  
1261 evaluation of the company's short-term liquidity ratio as  
1262 measured by its assets to liability, the company's profitability  
1263 ratio, and the company's long-term solvency as measured by its  
1264 debt-to-equity ratio;

1265 b. The historical market performance of the company;

1266 c. A review of any independent evaluations of the company;

1267 d. A review of the latest audit of the company's financial  
1268 statement and the related auditor's management letter; and

1269 e. A review of any other types of audits that are related  
1270 to the internal and management controls of the company.

1271 (c)1. Within 7 business days after the executive director  
1272 approves or disapproves an application evaluating a project, the  
1273 department shall recommend to the Governor the approval or  
1274 disapproval of a project for receipt of funds from the Florida  
1275 Enterprise Quick Action Closing Fund. In recommending a project,  
1276 the department shall include the total amount of recommended  
1277 funds to be awarded; the anticipated project performance

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1278 conditions, including, but not limited to, net new employment in  
1279 the state, average salary, and total capital investment incurred  
1280 by the business; a baseline of current service and a measure of  
1281 enhanced capability; the methodology for validating performance;  
1282 the schedule of payments from the fund; and sanctions for  
1283 failure to meet performance conditions, including any clawback  
1284 provisions ~~proposed performance conditions that the project must~~  
1285 ~~meet to obtain incentive funds.~~

1286         2. The Governor may approve a Florida Enterprise Fund  
1287 project award requiring less than \$2 million in funding projects  
1288 without consulting the Legislature ~~for projects requiring less~~  
1289 ~~than \$2 million in funding.~~ For such projects, the Governor  
1290 shall provide a written description and evaluation of the  
1291 approved project to the President of the Senate and the Speaker  
1292 of the House of Representatives within 1 business day after  
1293 approval.

1294         3. ~~For projects requiring funding in the amount of \$2~~  
1295 ~~million to \$5 million,~~ The Governor shall provide a written  
1296 description and evaluation of each Florida Enterprise Fund a  
1297 project award recommended for approval, which requires funding  
1298 of \$2 million or more, ~~to the chair and vice chair of the~~  
1299 ~~Legislative Budget Commission,~~ to the President of the Senate  
1300 and the Speaker of the House of Representatives at least 14 ~~10~~  
1301 days before ~~prior to~~ giving final approval for a project. The  
1302 recommendation must include the proposed performance conditions  
1303 that the project must meet in order to obtain funds.

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1304 4. ~~If the chair or vice chair of the Legislative Budget~~  
1305 ~~Commission or~~ the President of the Senate or the Speaker of the  
1306 House of Representatives timely advises the Executive Office of  
1307 the Governor, in writing, that such action or proposed action  
1308 exceeds the delegated authority of the Executive Office of the  
1309 Governor or is contrary to legislative policy or intent, the  
1310 Executive Office of the Governor shall void the release of funds  
1311 and instruct the department to immediately change such action or  
1312 proposed action ~~until the Legislative Budget Commission or the~~  
1313 ~~Legislature addresses the issue. Notwithstanding such~~  
1314 ~~requirement, any project exceeding \$5 million must be approved~~  
1315 ~~by the Legislative Budget Commission prior to the funds being~~  
1316 ~~released.~~

1317 (e) (d) Upon the approval of the Governor in accordance  
1318 with subparagraph (d)2., or upon expiration of the 14-day  
1319 legislative consultation period provided in subparagraph (d)3.,  
1320 unless advisement of objection is provided pursuant to  
1321 subparagraph (d)4., the department and the business shall enter  
1322 into a contract that sets forth the conditions for payment of  
1323 moneys from the fund. Such payment may not be made to the  
1324 business until the scheduled goals are achieved. The contract  
1325 must include the total amount of funds awarded; the minimum and  
1326 maximum amount of funds that may be awarded; the performance  
1327 conditions that must be met to obtain the award, including, but  
1328 not limited to, net new employment in the state, average salary,  
1329 and total capital investment incurred by the business, and the

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1330 minimum and maximum number of jobs that will be created, if  
1331 applicable; demonstrate a baseline of current service and a  
1332 measure of enhanced capability; the methodology for validating  
1333 performance; the schedule of payments from the fund; and  
1334 sanctions for failure to meet performance conditions. The  
1335 contract must provide that payment of moneys from the fund is  
1336 contingent upon sufficient appropriation of funds by the  
1337 Legislature.

1338 (f) Any contract or agreement executed by the department  
1339 shall embody the performance criteria and timelines submitted to  
1340 the Legislature, whether during the legislative consultation  
1341 period or in the provided written description and evaluation for  
1342 those projects that do not require legislative consultation. If  
1343 the executed contract or agreement fails to embody the  
1344 performance criteria and timelines submitted to the legislature,  
1345 whether during the legislative consultation period or in the  
1346 provided written description and evaluation for those projects  
1347 that do not require legislative consultation, the department may  
1348 not expend any funds on the contract and the Chief Financial  
1349 Officer is not authorized to release payment of funds.

1350 (g) An amendment, modification, or extension of an  
1351 executed contract may not result in a 0.5-point or greater  
1352 reduction in the economic-benefit ratio of the project, may not  
1353 result in the waiver of any program requirement, and is subject  
1354 to a 14-day legislative consultation. If the President of the  
1355 Senate or the Speaker of the House of Representatives timely

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1356 advises the Executive Office of the Governor in writing that the  
1357 amendment, modification, or extension exceeds the delegated  
1358 authority of the Executive Office of the Governor or is contrary  
1359 to legislative policy or intent, the Executive Office of the  
1360 Governor must void the amendment, modification, or extension and  
1361 instruct the department to immediately change action or proposed  
1362 action.

1363 (h) (e) The department shall validate contractor  
1364 performance and report such validation in the annual incentives  
1365 report required under s. 288.907.

1366 (4) Funds appropriated by the Legislature for purposes of  
1367 implementing this section shall be placed in reserve and may  
1368 only be released pursuant to the legislative consultation and  
1369 review requirements set forth in this section. Notwithstanding  
1370 s. 216.301 and pursuant to s. 216.351, the department may carry  
1371 forward the balance of any unexpected state appropriations into  
1372 succeeding fiscal years. Such funds will remain in reserve and  
1373 may only be released pursuant to the legislative consultation  
1374 and review requirements set forth in this section.

1375 Section 18. Paragraph (b) of subsection (2) and  
1376 subsections (4), (7), and (8) of section 288.1089, Florida  
1377 Statutes, are amended to read:

1378 288.1089 Innovation Incentive Program.—

1379 (2) As used in this section, the term:

1380 ~~(b) "Average private sector wage" means the statewide~~  
1381 ~~average wage in the private sector or the average of all private~~

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1382 ~~sector wages in the county or in the standard metropolitan area~~  
1383 ~~in which the project is located as determined by the department.~~

1384 (4) To qualify for review by the department, the applicant  
1385 must, at a minimum, establish the following to the satisfaction  
1386 of the department:

1387 (a) The jobs created by the project must pay an estimated  
1388 annual average wage equaling at least 130 percent of the average  
1389 private sector wage in the area. The department may waive this  
1390 average wage requirement at the request of Enterprise Florida,  
1391 Inc., for a project located in a rural area, a brownfield area,  
1392 or an enterprise zone, when the merits of the individual project  
1393 or the specific circumstances in the community in relationship  
1394 to the project warrant such action. A recommendation for waiver  
1395 by Enterprise Florida, Inc., must include a specific  
1396 justification for the waiver and be transmitted to the  
1397 department in writing. If the department elects to waive the  
1398 wage requirement, the waiver must be stated in writing and the  
1399 reasons for granting the waiver must be explained.

1400 (b) A research and development project must:

1401 1. Serve as a catalyst for an emerging or evolving  
1402 technology cluster.

1403 2. Demonstrate a plan for significant higher education  
1404 collaboration.

1405 3. Provide the state, at a minimum, a cumulative break-  
1406 even economic benefit within a 20-year period.

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1407 4. Be provided with a one-to-one match from the local  
1408 community. The match requirement may be reduced or waived in  
1409 rural areas of opportunity or reduced in rural areas, brownfield  
1410 areas, and enterprise zones. A local government requesting a  
1411 waiver that reduces or eliminates the one-to-one match must  
1412 provide the department with a statement prepared by a Florida  
1413 certified public accountant, as defined in s. 473.302, which  
1414 describes the financial constraints preventing the local  
1415 government from meeting the local financial support requirement  
1416 of this section. This subparagraph does not apply to a county  
1417 considered fiscally constrained pursuant to s. 218.67(1).

1418 (c) An innovation business project in this state, other  
1419 than a research and development project, must:

1420 1.a. Result in the creation of at least 1,000 direct, new  
1421 jobs at the business; or

1422 b. Result in the creation of at least 500 direct, new jobs  
1423 if the project is located in a rural area, a brownfield area, or  
1424 an enterprise zone.

1425 2. Have an activity or product that is within an industry  
1426 that is designated as a target industry business under s.  
1427 288.106 or a designated sector under s. 288.108.

1428 3.a. Have a cumulative investment of at least \$500 million  
1429 within a 5-year period; or

1430 b. Have a cumulative investment that exceeds \$250 million  
1431 within a 10-year period if the project is located in a rural  
1432 area, brownfield area, or an enterprise zone.

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1433 4. Be provided with a one-to-one match from the local  
1434 community. The match requirement may be reduced or waived in  
1435 rural areas of opportunity or reduced in rural areas, brownfield  
1436 areas, and enterprise zones. A local government requesting a  
1437 waiver that reduces or eliminates the one-to-one match must  
1438 provide the department with a statement prepared by a Florida  
1439 certified public accountant, as defined in s. 473.302, which  
1440 describes the financial constraints preventing the local  
1441 government from meeting the local financial support requirement  
1442 of this section. This subparagraph does not apply to a county  
1443 considered fiscally constrained pursuant to s. 218.67(1).

1444 (d) For an alternative and renewable energy project in  
1445 this state, the project must:

1446 1. Demonstrate a plan for significant collaboration with  
1447 an institution of higher education.†

1448 2. Provide the state, at a minimum, a cumulative break-  
1449 even economic benefit within a 20-year period.†

1450 3. Include matching funds provided by the applicant or  
1451 other available sources. The match requirement may be reduced or  
1452 waived in rural areas of opportunity or reduced in rural areas,  
1453 brownfield areas, and enterprise zones. A local government  
1454 requesting a waiver that reduces or eliminates the one-to-one  
1455 match must provide the department with a statement prepared by a  
1456 Florida certified public accountant, as defined in s. 473.302,  
1457 which describes the financial constraints preventing the local  
1458 government from meeting the one-to-one match requirement of this

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1459 section. This subparagraph does not apply to a county considered  
1460 fiscally constrained pursuant to s. 218.67(1).

1461 4. Be located in this state. ~~and~~

1462 5. Provide at least 35 direct, new jobs that pay an  
1463 estimated annual average wage that equals at least 130 percent  
1464 of the average private sector wage in the area.

1465 (7) (a) Within 7 business days after the executive director  
1466 approves or disapproves an application for an innovation  
1467 incentive award proposal, the department shall recommend to the  
1468 Governor the approval or disapproval of an innovation incentive  
1469 award. In recommending an award, the department shall include  
1470 the total amount of the innovation incentive award; the  
1471 anticipated performance conditions that must be met to obtain  
1472 the award, including, but not limited to, net new employment in  
1473 the state, average salary, and total capital investment incurred  
1474 by the business; a baseline of current service and a measure of  
1475 enhanced capability; the methodology for validating performance;  
1476 the schedule of payments; and sanctions for failure to meet  
1477 performance conditions, including any clawback provisions ~~Upon~~  
1478 ~~receipt of the evaluation and recommendation from the~~  
1479 ~~department, the Governor shall approve or deny an award. In~~  
1480 ~~recommending approval of an award, the department shall include~~  
1481 ~~proposed performance conditions that the applicant must meet in~~  
1482 ~~order to obtain incentive funds and any other conditions that~~  
1483 ~~must be met before the receipt of any incentive funds. The~~  
1484 ~~Governor shall consult with the President of the Senate and the~~

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1485 ~~Speaker of the House of Representatives before giving approval~~  
1486 ~~for an award. Upon review and approval of an award by the~~  
1487 ~~Legislative Budget Commission, the Executive Office of the~~  
1488 ~~Governor shall release the funds.~~

1489 (b) The Governor may approve an innovation incentive award  
1490 of less than \$2 million without consulting the Legislature. For  
1491 such awards, the Governor shall provide a written description  
1492 and evaluation of the approved project to the President of the  
1493 Senate and the Speaker of the House of Representatives within 1  
1494 business day after approval.

1495 (c) The Governor shall provide a written description and  
1496 evaluation of each innovation incentive award proposal  
1497 recommended for approval for an innovation incentive award of at  
1498 least \$2 million, but not more than \$7.5 million, to the  
1499 President of the Senate and the Speaker of the House of  
1500 Representatives at least 14 days before giving final approval  
1501 for an award. If the President of the Senate or the Speaker of  
1502 the House of Representatives timely advises the Executive Office  
1503 of the Governor in writing that the award of incentive funds  
1504 exceeds the delegated authority of the Executive Office of the  
1505 Governor or is contrary to legislative policy or intent, the  
1506 Executive Office of the Governor shall void the release of funds  
1507 and instruct the department to immediately change action or  
1508 proposed action.

1509 (d) The Governor shall provide the Legislative Budget  
1510 Commission a written description and evaluation of each eligible

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1511 business recommended for approval of an innovation incentive  
1512 award that exceeds \$7.5 million or that provides a waiver of  
1513 program requirements and is at least \$5 million. The Legislative  
1514 Budget Commission must approve such an award before final  
1515 approval by the Governor.

1516 (e) Any contract or agreement executed by the department  
1517 shall embody the performance criteria and timelines submitted to  
1518 the Legislature, whether during the legislative consultation  
1519 period or in the provided written description and evaluation for  
1520 those projects that do not require legislative consultation. If  
1521 the executed contract or agreement fails to embody the  
1522 performance criteria and timelines submitted to the Legislature,  
1523 whether during the legislative consultation period or in the  
1524 provided written description and evaluation for those projects  
1525 that do not require legislative consultation, the department may  
1526 not expend any funds on the contract and the Chief Financial  
1527 Officer is not authorized to release payment of funds.

1528 (f) An amendment, modification, or extension of an  
1529 executed contract may not result in a 0.5-point or greater  
1530 reduction in the economic-benefit ratio of the project, may not  
1531 result in the waiver of any program requirement, and is subject  
1532 to a 14-day legislative consultation. If the President of the  
1533 Senate or the Speaker of the House of Representatives timely  
1534 advises the Executive Office of the Governor in writing that the  
1535 amendment, modification, or extension exceeds the delegated  
1536 authority of the Executive Office of the Governor or is contrary

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1537 to legislative policy or intent, the Executive Office of the  
1538 Governor shall void the amendment, modification, or extension  
1539 and instruct the department to immediately change action or  
1540 proposed action.

1541 ~~(8)(a) In addition to the requirements provided in~~  
1542 ~~paragraph (7)(a), a contract between the department and an award~~  
1543 ~~recipient After the conditions set forth in subsection (7) have~~  
1544 ~~been met, the department shall issue a letter certifying the~~  
1545 ~~applicant as qualified for an award. The department and the~~  
1546 ~~award recipient shall enter into an agreement that sets forth~~  
1547 ~~the conditions for payment of the incentive funds. The agreement~~  
1548 ~~must include, at a minimum:~~

1549 ~~1. The total amount of funds awarded.~~

1550 ~~2. The performance conditions that must be met in order to~~  
1551 ~~obtain the award or portions of the award, including, but not~~  
1552 ~~limited to, net new employment in the state, average wage, and~~  
1553 ~~total cumulative investment.~~

1554 ~~3. Demonstration of a baseline of current service and a~~  
1555 ~~measure of enhanced capability.~~

1556 ~~4. The methodology for validating performance.~~

1557 ~~5. The schedule of payments.~~

1558 ~~6. Sanctions for failure to meet performance conditions,~~  
1559 ~~including any clawback provisions.~~

1560 ~~(b) Additionally, agreements signed on or after July 1,~~  
1561 ~~2009, must include the following provisions:~~

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1562 1. Notwithstanding subsection (4), a requirement that the  
1563 jobs created by the recipient of the incentive funds pay an  
1564 annual average wage at least equal to the relevant industry's  
1565 annual average wage or at least 130 percent of the average  
1566 private sector wage in the area, whichever is greater.

1567 2. A reinvestment requirement. Each recipient of an award  
1568 shall reinvest up to 15 percent of net royalty revenues,  
1569 including revenues from spin-off companies and the revenues from  
1570 the sale of stock it receives from the licensing or transfer of  
1571 inventions, methods, processes, and other patentable discoveries  
1572 conceived or reduced to practice using its facilities in Florida  
1573 or its Florida-based employees, in whole or in part, and to  
1574 which the recipient of the grant becomes entitled during the 20  
1575 years following the effective date of its agreement with the  
1576 department. Each recipient of an award also shall reinvest up to  
1577 15 percent of the gross revenues it receives from naming  
1578 opportunities associated with any facility it builds in this  
1579 state. Reinvestment payments shall commence no later than 6  
1580 months after the recipient of the grant has received the final  
1581 disbursement under the contract and shall continue until the  
1582 maximum reinvestment, as specified in the contract, has been  
1583 paid. Reinvestment payments shall be remitted to the department  
1584 for deposit in the Biomedical Research Trust Fund for companies  
1585 specializing in biomedicine or life sciences, or in the Economic  
1586 Development Trust Fund for companies specializing in fields  
1587 other than biomedicine or the life sciences. If these trust

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1588 funds no longer exist at the time of the reinvestment, the  
1589 state's share of reinvestment shall be deposited in their  
1590 successor trust funds as determined by law. Each recipient of an  
1591 award shall annually submit a schedule of the shares of stock  
1592 held by it as payment of the royalty required by this paragraph  
1593 and report on any trades or activity concerning such stock. Each  
1594 recipient's reinvestment obligations survive the expiration or  
1595 termination of its agreement with the state.

1596 3. Requirements for the establishment of internship  
1597 programs or other learning opportunities for educators and  
1598 secondary, postsecondary, graduate, and doctoral students.

1599 4. A requirement that the recipient submit quarterly  
1600 reports and annual reports related to activities and performance  
1601 to the department, according to standardized reporting periods.

1602 5. A requirement for an annual accounting to the  
1603 department of the expenditure of funds disbursed under this  
1604 section.

1605 6. A process for amending the agreement.

1606 Section 19. Subsection (7) of section 288.11621, Florida  
1607 Statutes, is amended to read:

1608 288.11621 Spring training baseball franchises.—

1609 (7) STRATEGIC PLANNING.—The department shall request  
1610 assistance from the Florida Sports Foundation Enterprise  
1611 ~~Florida, Inc.~~, and the Florida Grapefruit League Association to  
1612 develop a comprehensive strategic plan to:

1613 (a) Finance spring training facilities.

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1614 (b) Monitor and oversee the use of state funds awarded to  
1615 applicants.

1616 (c) Identify the financial impact that spring training has  
1617 on the state and ways in which to maintain or improve that  
1618 impact.

1619 (d) Identify opportunities to develop public-private  
1620 partnerships to engage in marketing activities and advertise  
1621 spring training baseball.

1622 (e) Identify efforts made by other states to maintain or  
1623 develop partnerships with baseball spring training teams.

1624 (f) Develop recommendations for the Legislature to sustain  
1625 or improve this state's spring training tradition.

1626 Section 20. Section 288.1169, Florida Statutes, is  
1627 repealed.

1628 Section 21. Effective July 1, 2016, notwithstanding the  
1629 repeal of section 288.1229, Florida Statutes, in s. 485, chapter  
1630 2011-142, Laws of Florida, section 288.1229, Florida Statutes,  
1631 is revived, reenacted, and amended to read:

1632 288.1229 Promotion and development of sports-related  
1633 industries and amateur athletics; direct-support organization  
1634 established; powers and duties.-

1635 (1) The Department of Economic Opportunity shall establish  
1636 a direct-support organization known as the Florida Sports  
1637 Foundation. The foundation shall ~~The Office of Tourism, Trade,~~  
1638 ~~and Economic Development may authorize a direct support~~  
1639 ~~organization to assist the~~ department office in:

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1640 (a) The promotion and development of the sports industry  
1641 and related industries for the purpose of improving the economic  
1642 presence of these industries in Florida.

1643 (b) The promotion of amateur athletic participation for  
1644 the citizens of Florida and the promotion of Florida as a host  
1645 for national and international amateur athletic competitions for  
1646 the purpose of encouraging and increasing the direct and  
1647 ancillary economic benefits of amateur athletic events and  
1648 competitions.

1649 (c) The retention of professional sports franchises,  
1650 including the spring training operations of Major League  
1651 Baseball.

1652 (2) The Florida Sports Foundation ~~To be authorized as a~~  
1653 ~~direct support organization, an organization~~ must:

1654 (a) Be incorporated as a corporation not for profit  
1655 pursuant to chapter 617.

1656 (b)1. Be governed by a board of directors, which must  
1657 consist of 20 up to 15 members appointed by the Governor, which  
1658 include:

1659 a. Ten members representing Florida major league  
1660 franchises of Major League Baseball, National Basketball  
1661 Association, National Football League, Arena Football League,  
1662 National Hockey League, and Major League Soccer teams domiciled  
1663 in this state.

1664 b. A member representing Florida Sports Commissions.

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- 1665        c. A member representing the boating and fishing  
1666 industries in Florida.
- 1667        d. A member representing the golf industry in Florida.
- 1668        e. A member representing Major League Baseball spring  
1669 training.
- 1670        f. A member representing the auto racing industry in  
1671 Florida.
- 1672        g. Five members at-large and up to 15 members appointed by  
1673 the existing board of directors. In making at-large  
1674 appointments, the governor board must consider a potential  
1675 member's background in community service and sports activism in,  
1676 and financial support of, the sports industry, professional  
1677 sports, or organized amateur athletics. Members must be  
1678 residents of the state and highly knowledgeable about or active  
1679 in professional or organized amateur sports.
- 1680        2. The board must contain representatives of all  
1681 geographical regions of the state and must represent ethnic and  
1682 gender diversity. The terms of office of the members shall be 4  
1683 years. No member may serve more than two consecutive terms. The  
1684 Governor may remove any member for cause and shall fill all  
1685 vacancies that occur.
- 1686        (c) Have as its purpose, as stated in its articles of  
1687 incorporation, to receive, hold, invest, and administer  
1688 property; to raise funds and receive gifts; and to promote and  
1689 develop the sports industry and related industries for the

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1690 purpose of increasing the economic presence of these industries  
1691 in Florida.

1692 (d) Have a prior determination by the department Office of  
1693 ~~Tourism, Trade, and Economic Development~~ that the organization  
1694 will benefit the department office and act in the best interests  
1695 of the state as a direct-support organization to the department  
1696 office.

1697 (3) The Florida Sports Foundation shall operate under  
1698 contract with the department. The department shall enter into a  
1699 contract with the foundation by July 1, 2016. The contract must  
1700 provide Office of Tourism, Trade, and Economic Development shall  
1701 ~~contract with the organization and shall include in the contract~~  
1702 that:

1703 (a) The department office may review the foundation's  
1704 ~~organization's~~ articles of incorporation.

1705 (b) The foundation organization shall submit an annual  
1706 budget proposal to the department office, on a form provided by  
1707 the department office, in accordance with department office  
1708 procedures for filing budget proposals based upon the  
1709 recommendation of the department office.

1710 (c) Any funds that the foundation organization holds in  
1711 trust will revert to the state upon the expiration or  
1712 cancellation of the contract.

1713 (d) The foundation organization is subject to an annual  
1714 financial and performance review by the department office to  
1715 determine whether the foundation organization is complying with

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1716 the terms of the contract and whether it is acting in a manner  
1717 consistent with the goals of the department office and in the  
1718 best interests of the state.

1719 (e) The fiscal year of the foundation begins ~~organization~~  
1720 ~~will begin~~ July 1 of each year and ends ~~end~~ June 30 of the next  
1721 ensuing year.

1722 (4) The department ~~Office of Tourism, Trade, and Economic~~  
1723 ~~Development~~ may allow the foundation ~~organization~~ to use the  
1724 property, facilities, personnel, and services of the department  
1725 ~~office~~ if the foundation ~~organization~~ provides equal employment  
1726 opportunities to all persons regardless of race, color,  
1727 religion, sex, age, or national origin, subject to the approval  
1728 of the executive director of the department ~~office~~.

1729 (5) The foundation ~~organization~~ shall provide for an  
1730 annual financial audit in accordance with s. 215.981.

1731 (6) The foundation ~~organization~~ is not granted any taxing  
1732 power.

1733 ~~(7) In exercising the power provided in this section, the~~  
1734 ~~Office of Tourism, Trade, and Economic Development may authorize~~  
1735 ~~and contract with the direct support organization existing on~~  
1736 ~~June 30, 1996, and authorized by the former Florida Department~~  
1737 ~~of Commerce to promote sports-related industries. An appointed~~  
1738 ~~member of the board of directors of such direct support~~  
1739 ~~organization as of June 30, 1996, may serve the remainder of his~~  
1740 ~~or her unexpired term.~~

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1741           (7)~~(8)~~ To promote amateur sports and physical fitness, the  
1742 foundation direct support organization shall:

1743           (a) Develop, foster, and coordinate services and programs  
1744 for amateur sports for the people of Florida.

1745           (b) Sponsor amateur sports workshops, clinics,  
1746 conferences, and other similar activities.

1747           (c) Give recognition to outstanding developments and  
1748 achievements in, and contributions to, amateur sports.

1749           (d) Encourage, support, and assist local governments and  
1750 communities in the development of or hosting of local amateur  
1751 athletic events and competitions.

1752           (e) Promote Florida as a host for national and  
1753 international amateur athletic competitions.

1754           (f) Develop a statewide programs ~~program~~ of amateur  
1755 athletic competition to be known as the "Florida Senior Games"  
1756 and the "Sunshine State Games."

1757           (g) Continue the successful amateur sports programs  
1758 previously conducted by the Florida Governor's Council on  
1759 Physical Fitness and Amateur Sports created under former s.  
1760 14.22.

1761           (h) Encourage and continue the use of volunteers in its  
1762 amateur sports programs to the maximum extent possible.

1763           (i) Develop, foster, and coordinate services and programs  
1764 designed to encourage the participation of Florida's youth in  
1765 Olympic sports activities and competitions.

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1766 (j) Foster and coordinate services and programs designed  
1767 to contribute to the physical fitness of the citizens of  
1768 Florida.

1769 ~~(8)-(9)~~(a) The Sunshine State Games and Florida Senior  
1770 Games shall both be patterned after the Summer Olympics with  
1771 variations as necessitated by availability of facilities,  
1772 equipment, and expertise. The games shall be designed to  
1773 encourage the participation of athletes representing a broad  
1774 range of age groups, skill levels, and Florida communities.  
1775 ~~Participants shall be residents of this state. Regional~~  
1776 ~~competitions shall be held throughout the state, and the top~~  
1777 ~~qualifiers in each sport shall proceed to the final competitions~~  
1778 ~~to be held at a site in the state with the necessary facilities~~  
1779 ~~and equipment for conducting the competitions.~~

1780 (b) The department ~~Executive Office of the Governor~~ is  
1781 authorized to permit the use of property, facilities, and  
1782 personal services of or at any State University System facility  
1783 or institution by the direct-support organization operating the  
1784 Sunshine State Games and Florida Senior Games. For the purposes  
1785 of this paragraph, personal services includes full-time or part-  
1786 time personnel as well as payroll processing.

1787 Section 22. Subsection (2) and paragraph (b) of subsection  
1788 (5) of section 288.901, Florida Statutes, are amended to read:

1789 288.901 Enterprise Florida, Inc.—

1790 (2) PURPOSES.—Enterprise Florida, Inc., shall act as the  
1791 economic development organization for the state, using ~~utilizing~~

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1792 private sector and public sector expertise in collaboration with  
1793 the department to:

1794 (a) Increase private investment in Florida.†

1795 (b) Advance international and domestic trade  
1796 opportunities.†

1797 (c) Market the state both as a probusiness location for  
1798 new investment and as an unparalleled tourist destination.†

1799 (d) Revitalize Florida's space and aerospace industries,  
1800 and promote emerging complementary industries.†

1801 (e) Promote opportunities for minority-owned businesses.†

1802 (f) Assist and market professional and amateur sport teams  
1803 and sporting events in Florida.†—and

1804 (g) Assist, promote, and enhance economic opportunities in  
1805 this state's rural and urban communities.

1806 (h) Foster and encourage high-technology startup and  
1807 second-stage business development within the state.

1808 (5) APPOINTED MEMBERS OF THE BOARD OF DIRECTORS.—

1809 (b) In making their appointments, the Governor, the  
1810 President of the Senate, and the Speaker of the House of  
1811 Representatives shall ensure that the composition of the board  
1812 of directors reflects the diversity of Florida's business  
1813 community and is representative of the economic development  
1814 goals in subsection (2). The board must include at least one  
1815 director for each of the following areas of expertise:  
1816 international business, tourism marketing, the space or  
1817 aerospace industry, managing or financing a minority-owned

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1818 business, manufacturing, finance and accounting, and rural  
1819 economic development. ~~and sports marketing.~~

1820 Section 23. Subsection (1) of section 288.9015, Florida  
1821 Statutes, is amended to read:

1822 288.9015 Powers of Enterprise Florida, Inc.; board of  
1823 directors.—

1824 (1) Enterprise Florida, Inc., shall integrate its efforts  
1825 in business recruitment and expansion, job creation, marketing  
1826 the state for tourism ~~and sports~~, and promoting economic  
1827 opportunities for minority-owned businesses and promoting  
1828 economic opportunities for rural and distressed urban  
1829 communities with those of the department, to create an  
1830 aggressive, agile, and collaborative effort to reinvigorate the  
1831 state's economy.

1832 Section 24. Section 288.913, Florida Statutes, is created  
1833 to read:

1834 288.913 Innovation Florida Initiative.—

1835 (1) LEGISLATIVE FINDINGS AND DECLARATIONS.—The Legislature  
1836 finds that successful high-technology startup and second-stage  
1837 businesses are critical to the state's overall economic growth  
1838 and such businesses play an outsized role in job creation. The  
1839 Legislature also finds that Enterprise Florida, Inc., the  
1840 state's economic development organization, is uniquely suited to  
1841 foster and encourage more high-technology startup and second-  
1842 stage business development within the state. Therefore, the  
1843 Legislature declares that it is the policy of the state to

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1844 prioritize high-technology startup and second-stage business  
1845 development within the state and directs Enterprise Florida,  
1846 Inc., to develop the Innovation Florida Initiative to further  
1847 such policy.

1848 (2) DEFINITIONS.—As used in this section, the term:

1849 (a) "Advanced technology products" means high-technology  
1850 products produced by a business that employs a high proportion  
1851 of scientists, engineers, and technicians. Such products may be  
1852 classified within, but not be limited to, the following fields:

1853 1. Biotechnology products related to advanced scientific  
1854 discoveries in genetics.

1855 2. Life science products related to the application of  
1856 nonbiological scientific advances to medical science.

1857 3. Optoelectronic products related to the emission or  
1858 detection of light.

1859 4. Information and communications products related to the  
1860 processing of increased volumes of information in shorter  
1861 periods of time.

1862 5. Electronics products related to design advances in  
1863 electronic components that result in improved performance and  
1864 capacity, or reduced size.

1865 6. Flexible manufacturing products related to robotics,  
1866 numerically-controlled machine tools, and similar products  
1867 involving industrial automation that allows for greater  
1868 flexibility in the manufacturing process and reduction in the  
1869 amount of human intervention.

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1870 7. Advanced materials products related to advances in the  
1871 development of materials that allow for further development and  
1872 application of other advanced technologies.

1873 8. Aerospace products related to military and civil  
1874 helicopters, airplanes, and spacecraft.

1875 9. Weapons products related to products with military  
1876 application.

1877 10. Nuclear technology products related to nuclear power  
1878 production apparatus.

1879 (b) "High-technology startup" means a business unit that  
1880 has been in operation for less than 5 years, and employs fewer  
1881 than 10 employees, which produces a high proportion of advanced  
1882 technology products.

1883 (c) "Second-stage business" means a business unit that  
1884 employs at least 10 but not more than 50 employees, generates at  
1885 least \$1 million but not more than \$25 million in annual  
1886 revenue, and produces a high proportion of advanced technology  
1887 products.

1888 (3) STATEWIDE STRATEGIC PLAN.—

1889 (a) The department shall develop a statewide strategic  
1890 plan for high-technology startup and second-stage business  
1891 growth and development in consultation with Enterprise Florida,  
1892 Inc., the Institute for the Commercialization of Public  
1893 Research, the Florida Economic Gardening Institute, the state's  
1894 local and regional economic development organizations, and other  
1895 stakeholders, public and private, that have experience and

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1896 expertise in high-technology startup and second-stage business  
1897 growth and development activities.

1898 (b) In developing the strategic plan, the department shall  
1899 evaluate best practices; examine the startup, entrepreneurship,  
1900 and second-stage business programs of other states; and survey  
1901 high-technology startups and second-stage businesses and support  
1902 organizations, both within and outside the state.

1903 (c) The strategic plan must include:

1904 1. Actionable steps to provide technical support to local  
1905 and regional economic development organizations to enhance high-  
1906 technology startup and second-stage business growth at local and  
1907 regional levels.

1908 2. An evaluation of the accessibility of the state's  
1909 economic development incentive and loan programs to high-  
1910 technology startups and second-stage businesses.

1911 (d) By January 1, 2017, the department shall deliver the  
1912 strategic plan to the Governor, the President of the Senate, and  
1913 the Speaker of the House of Representatives.

1914 (e) Upon completion of the strategic plan, the plan shall  
1915 become part of the 5-year statewide strategic plan developed by  
1916 the Division of Strategic Business Development required by s.  
1917 20.60.

1918 (4) MARKETING.—Enterprise Florida, Inc., shall market the  
1919 state's economic development activities related to the growth  
1920 and development of high-technology startups and second-stage  
1921 businesses both inside and outside the state.

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1922           (5) ANNUAL REPORT.—Enterprise Florida, Inc., shall provide  
1923 information regarding its activities related to the growth and  
1924 development of high-technology startups and second-stage  
1925 businesses in its annual report required by s. 288.906.

1926           Section 25. Subsection (1) of section 288.92, Florida  
1927 Statutes, is amended to read:

1928           288.92 Divisions of Enterprise Florida, Inc.—

1929           (1) Enterprise Florida, Inc., may create and dissolve  
1930 divisions as necessary to carry out its mission. Each division  
1931 shall have distinct responsibilities and complementary missions.  
1932 At a minimum, Enterprise Florida, Inc., shall have divisions  
1933 related to the following areas:

1934           (a) International Trade and Business Development;

1935           (b) Business Retention and Recruitment;

1936           (c) Tourism Marketing; and

1937           (d) Minority Business Development. ~~and~~

1938           ~~(e) Sports Industry Development.~~

1939           Section 26. Paragraph (b) of subsection (3) of section  
1940 288.9604, Florida Statutes, is amended to read:

1941           288.9604 Creation of the authority.—

1942           (3)

1943           (b)1. The powers of the corporation shall be exercised by  
1944 the directors thereof. A majority of the directors constitutes a  
1945 quorum for the purposes of conducting business and exercising  
1946 the powers of the corporation and for all other purposes. Action  
1947 may be taken by the corporation upon a vote of a majority of the

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1948 directors present, unless in any case the bylaws require a  
1949 larger number. Any person may be appointed as director if he or  
1950 she resides, or is engaged in business, which means owning a  
1951 business, practicing a profession, or performing a service for  
1952 compensation or serving as an officer or director of a  
1953 corporation or other business entity so engaged, within the  
1954 state.

1955 2. Meetings of the directors may be conducted remotely by  
1956 utilizing communications media technology. The board shall hold  
1957 a meeting in person if the board is aware of opposition to a  
1958 bond issuance on the agenda for such meeting or if the board  
1959 receives a request to hold the meeting in person prior to 72  
1960 hours before the scheduled meeting. "Communications media  
1961 technology" as used in this subparagraph means conference  
1962 telephone, video conference, or other communications technology  
1963 by which all persons attending a meeting may audibly  
1964 communicate.

1965 3. Any action taken by the full board of directors of the  
1966 corporation on or before March 31, 2015, to ratify or reject  
1967 actions taken by a previous board while such previous board was  
1968 incomplete due to director vacancies, has the same effect as if  
1969 the ratifying or rejecting board took the original action.

1970 Section 27. Paragraph (x) is added to subsection (2) of  
1971 section 288.9605, Florida Statutes, to read:

1972 288.9605 Corporation powers.—

1973 (2) The corporation is authorized and empowered to:

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1974           (x) Documents, agreements and instruments executed by the  
1975 corporation may be executed and delivered in accordance with and  
1976 to the extent permitted by the Electronic Signature Act of 1996,  
1977 Part I of chapter 688.

1978           Section 28. Paragraph (c) of subsection (3) and subsection  
1979 (4) of section 288.980, Florida Statutes, is amended to read:

1980           288.980 Military base retention; legislative intent;  
1981 grants program.—

1982           (3)

1983           (c) The department shall require that an applicant:

1984           1. Represent a local government with a military  
1985 installation or military installations that could be adversely  
1986 affected by federal actions.

1987           2. ~~Agree to match at least 30 percent of any grant~~  
1988 ~~awarded.~~

1989           3. ~~Prepare a coordinated program or plan of action~~  
1990 ~~delineating how the eligible project will be administered and~~  
1991 ~~accomplished.~~

1992           3.4. Provide documentation describing the potential for  
1993 changes to the mission of a military installation located in the  
1994 applicant's community and the potential impacts such changes  
1995 will have on the applicant's community.

1996           (4) The Florida Defense Reinvestment Grant Program is  
1997 established to respond to the need for this state to work in  
1998 conjunction with defense-dependent communities in developing and  
1999 implementing strategies and approaches that will help

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2000 communities support the missions of military installations, and  
2001 in developing and implementing alternative economic  
2002 diversification strategies to transition from a defense economy  
2003 to a nondefense economy. The department shall administer the  
2004 program.

2005 (a) Eligible applicants include defense-dependent counties  
2006 and cities, and local economic development councils located  
2007 within such communities. ~~The program shall be administered by~~  
2008 ~~the department and grant~~ Grant awards may be provided to support  
2009 community-based activities that:

2010 1.~~(a)~~ Protect existing military installations;

2011 2.~~(b)~~ Diversify the economy of a defense-dependent  
2012 community; or

2013 3.~~(c)~~ Develop plans for the reuse of closed or realigned  
2014 military installations, including any plans necessary for  
2015 infrastructure improvements needed to facilitate reuse and  
2016 related marketing activities.

2017 (b) Applications for grants under paragraph (a) ~~this~~  
2018 ~~subsection~~ must include a coordinated program of work or plan of  
2019 action delineating how the eligible project will be administered  
2020 and accomplished, which must include a plan for ensuring close  
2021 cooperation between civilian and military authorities in the  
2022 conduct of the funded activities and a plan for public  
2023 involvement. An applicant must agree to match at least 30  
2024 percent of any grant awarded.

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2025 Section 29. Section 288.9937, Florida Statutes, is amended  
2026 to read:

2027 288.9937 Evaluation of programs.—The Office of Economic  
2028 and Demographic Research and the Office of Program Policy  
2029 Analysis and Government Accountability shall analyze and  
2030 evaluate, and determine the economic benefits, as defined in s.  
2031 288.005, of the first 3 years of the Microfinance Loan Program  
2032 and the Microfinance Guarantee Program. The analysis by the  
2033 Office of Economic and Demographic Research must ~~also~~ evaluate  
2034 the number of jobs created, the increase or decrease in personal  
2035 income, and the impact on state gross domestic product from the  
2036 direct, indirect, and induced effects of the state's investment.  
2037 The analysis by the Office of Program Policy Analysis and  
2038 Government Accountability must ~~also~~ identify any inefficiencies  
2039 in the programs and provide recommendations for changes to the  
2040 programs. Each ~~The~~ office shall submit a report to the President  
2041 of the Senate and the Speaker of the House of Representatives by  
2042 January 15 ~~1~~, 2018. This section expires January 31, 2018.

2043 Section 30. Subsections (1) and (3), paragraph (a) of  
2044 subsection (5), and paragraph (e) of subsection (7) of section  
2045 288.11625, Florida Statutes, are amended to read:

2046 288.11625 Sports development.—

2047 (1) ADMINISTRATION.—The department shall serve as the  
2048 state agency responsible for screening applicants for state  
2049 funding under s. 212.20(6)(d)6.e. ~~212.20(6)(d)6.f.~~

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2050 (3) PURPOSE.—The purpose of this section is to provide  
2051 applicants state funding under s. 212.20(6)(d)6.e.  
2052 ~~212.20(6)(d)6.f.~~ for the public purpose of constructing,  
2053 reconstructing, renovating, or improving a facility.

2054 (5) EVALUATION PROCESS.—

2055 (a) Before recommending an applicant to receive a state  
2056 distribution under s. 212.20(6)(d)6.e. ~~212.20(6)(d)6.f.~~, the  
2057 department must verify that:

2058 1. The applicant or beneficiary is responsible for the  
2059 construction, reconstruction, renovation, or improvement of a  
2060 facility and obtained at least three bids for the project.

2061 2. If the applicant is not a unit of local government, a  
2062 unit of local government holds title to the property on which  
2063 the facility and project are, or will be, located.

2064 3. If the applicant is a unit of local government in whose  
2065 jurisdiction the facility is, or will be, located, the unit of  
2066 local government has an exclusive intent agreement to negotiate  
2067 in this state with the beneficiary.

2068 4. A unit of local government in whose jurisdiction the  
2069 facility is, or will be, located supports the application for  
2070 state funds. Such support must be verified by the adoption of a  
2071 resolution, after a public hearing, that the project serves a  
2072 public purpose.

2073 5. The applicant or beneficiary has not previously  
2074 defaulted or failed to meet any statutory requirements of a  
2075 previous state-administered sports-related program under s.

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2076 288.1162, s. 288.11621, s. 288.11631, or this section.

2077 Additionally, the applicant or beneficiary is not currently  
2078 receiving state distributions under s. 212.20 for the facility  
2079 that is the subject of the application, unless the applicant  
2080 demonstrates that the franchise that applied for a distribution  
2081 under s. 212.20 no longer plays at the facility that is the  
2082 subject of the application.

2083 6. The applicant or beneficiary has sufficiently  
2084 demonstrated a commitment to employ residents of this state,  
2085 contract with Florida-based firms, and purchase locally  
2086 available building materials to the greatest extent possible.

2087 7. If the applicant is a unit of local government, the  
2088 applicant has a certified copy of a signed agreement with a  
2089 beneficiary for the use of the facility. If the applicant is a  
2090 beneficiary, the beneficiary must enter into an agreement with  
2091 the department. The applicant's or beneficiary's agreement must  
2092 also require the following:

2093 a. The beneficiary must reimburse the state for state  
2094 funds that will be distributed if the beneficiary relocates or  
2095 no longer occupies or uses the facility as the facility's  
2096 primary tenant before the agreement expires. Reimbursements must  
2097 be sent to the Department of Revenue for deposit into the  
2098 General Revenue Fund.

2099 b. The beneficiary must pay for signage or advertising  
2100 within the facility. The signage or advertising must be placed  
2101 in a prominent location as close to the field of play or

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2102 competition as is practicable, must be displayed consistent with  
2103 signage or advertising in the same location and of like value,  
2104 and must feature Florida advertising approved by the Florida  
2105 Tourism Industry Marketing Corporation.

2106 8. The project will commence within 12 months after  
2107 receiving state funds or did not commence before January 1,  
2108 2013.

2109 (7) CONTRACT.—An applicant approved by the Legislature and  
2110 certified by the department must enter into a contract with the  
2111 department which:

2112 (e) Requires the applicant to reimburse the state by  
2113 electing to do one of the following:

2114 1. After all distributions have been made, reimburse at  
2115 the end of the contract term any amount by which the total  
2116 distributions made under s. 212.20(6)(d)6.e. ~~212.20(6)(d)6.f.~~  
2117 exceed actual new incremental state sales taxes generated by  
2118 sales at the facility during the contract, plus a 5 percent  
2119 penalty on that amount.

2120 2. After the applicant begins to submit the independent  
2121 analysis under paragraph (c), reimburse each year any amount by  
2122 which the previous year's annual distribution exceeds 75 percent  
2123 of the actual new incremental state sales taxes generated by  
2124 sales at the facility.

2125

2126 Any reimbursement due to the state must be made within 90 days  
2127 after the applicable distribution under this paragraph. If the

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2128 applicant is unable or unwilling to reimburse the state for such  
2129 amount, the department may place a lien on the applicant's  
2130 facility. If the applicant is a municipality or county, it may  
2131 reimburse the state from its half-cent sales tax allocation, as  
2132 provided in s. 218.64(3). Reimbursements must be sent to the  
2133 Department of Revenue for deposit into the General Revenue Fund.

2134 Section 31. Paragraph (c) of subsection (2) and paragraphs  
2135 (a), (c), and (d) of subsection (3) of section 288.11631,  
2136 Florida Statutes, are amended to read:

2137 288.11631 Retention of Major League Baseball spring  
2138 training baseball franchises.—

2139 (2) CERTIFICATION PROCESS.—

2140 (c) Each applicant certified on or after July 1, 2013,  
2141 shall enter into an agreement with the department which:

2142 1. Specifies the amount of the state incentive funding to  
2143 be distributed. The amount of state incentive funding per  
2144 certified applicant may not exceed \$20 million. However, if a  
2145 certified applicant's facility is used by more than one spring  
2146 training franchise, the maximum amount may not exceed \$50  
2147 million, and the Department of Revenue shall make distributions  
2148 to the applicant pursuant to s. 212.20(6)(d)6.d.

2149 ~~212.20(6)(d)6.e.~~

2150 2. States the criteria that the certified applicant must  
2151 meet in order to remain certified. These criteria must include a  
2152 provision stating that the spring training franchise must  
2153 reimburse the state for any funds received if the franchise does

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2154 not comply with the terms of the contract. If bonds were issued  
2155 to construct or renovate a facility for a spring training  
2156 franchise, the required reimbursement must be equal to the total  
2157 amount of state distributions expected to be paid from the date  
2158 the franchise violates the agreement with the applicant through  
2159 the final maturity of the bonds.

2160 3. States that the certified applicant is subject to  
2161 decertification if the certified applicant fails to comply with  
2162 this section or the agreement.

2163 4. States that the department may recover state incentive  
2164 funds if the certified applicant is decertified.

2165 5. Specifies the information that the certified applicant  
2166 must report to the department.

2167 6. Includes any provision deemed prudent by the  
2168 department.

2169 (3) USE OF FUNDS.--

2170 (a) A certified applicant may use funds provided under s.  
2171 212.20(6)(d)6.d. ~~212.20(6)(d)6.e.~~ only to:

2172 1. Serve the public purpose of constructing or renovating  
2173 a facility for a spring training franchise.

2174 2. Pay or pledge for the payment of debt service on, or to  
2175 fund debt service reserve funds, arbitrage rebate obligations,  
2176 or other amounts payable with respect thereto, bonds issued for  
2177 the construction or renovation of such facility, or for the  
2178 reimbursement of such costs or the refinancing of bonds issued  
2179 for such purposes.

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2180 (c) The Department of Revenue may not distribute funds  
2181 under s. 212.20(6)(d)6.d. ~~212.20(6)(d)6.e.~~ until July 1, 2016.  
2182 Further, the Department of Revenue may not distribute funds to  
2183 an applicant certified on or after July 1, 2013, until it  
2184 receives notice from the department that:

2185 1. The certified applicant has encumbered funds under  
2186 either subparagraph (a)1. or subparagraph (a)2.; and

2187 2. If applicable, any existing agreement with a spring  
2188 training franchise for the use of a facility has expired.

2189 (d)1. All certified applicants shall place unexpended  
2190 state funds received pursuant to s. 212.20(6)(d)6.d.  
2191 ~~212.20(6)(d)6.e.~~ in a trust fund or separate account for use  
2192 only as authorized in this section.

2193 2. A certified applicant may request that the department  
2194 notify the Department of Revenue to suspend further  
2195 distributions of state funds made available under s.  
2196 212.20(6)(d)6.d. ~~212.20(6)(d)6.e.~~ for 12 months after expiration  
2197 of an existing agreement with a spring training franchise to  
2198 provide the certified applicant with an opportunity to enter  
2199 into a new agreement with a spring training franchise, at which  
2200 time the distributions shall resume.

2201 3. The expenditure of state funds distributed to an  
2202 applicant certified after July 1, 2013, must begin within 48  
2203 months after the initial receipt of the state funds. In  
2204 addition, the construction or renovation of a spring training

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2205 facility must be completed within 24 months after the project's  
2206 commencement.

2207 Section 32. Effective July 1, 2016, paragraph (a) of  
2208 subsection (6), paragraph (b) of subsection (9), paragraph (a)  
2209 of subsection (35), subsection (60), and paragraph (b) of  
2210 subsection (64) of section 320.08058, Florida Statutes, are  
2211 amended to read:

2212 320.08058 Specialty license plates.—

2213 (6) FLORIDA UNITED STATES OLYMPIC COMMITTEE LICENSE  
2214 PLATES.—

2215 (a) Because the United States Olympic Committee has  
2216 selected this state to participate in a combined fundraising  
2217 program that provides for one-half of all money raised through  
2218 volunteer giving to stay in this state and be administered by  
2219 the Florida Sports Foundation ~~Enterprise Florida, Inc.~~, to  
2220 support amateur sports, and because the United States Olympic  
2221 Committee and the Florida Sports Foundation ~~Enterprise Florida,~~  
2222 ~~Inc.~~, are nonprofit organizations dedicated to providing  
2223 athletes with support and training and preparing athletes of all  
2224 ages and skill levels for sports competition, and because the  
2225 Florida Sports Foundation ~~Enterprise Florida, Inc.~~, assists in  
2226 the bidding for sports competitions that provide significant  
2227 impact to the economy of this state, and the Legislature  
2228 supports the efforts of the United States Olympic Committee and  
2229 the Florida Sports Foundation ~~Enterprise Florida, Inc.~~, the  
2230 Legislature establishes a Florida United States Olympic

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2231 Committee license plate for the purpose of providing a  
2232 continuous funding source to support this worthwhile effort.  
2233 Florida United States Olympic Committee license plates must  
2234 contain the official United States Olympic Committee logo and  
2235 must bear a design and colors that are approved by the  
2236 department. The word "Florida" must be centered at the top of  
2237 the plate.

2238 (9) FLORIDA PROFESSIONAL SPORTS TEAM LICENSE PLATES.—

2239 (b) The license plate annual use fees are to be annually  
2240 distributed as follows:

2241 1. Fifty-five percent of the proceeds from the Florida  
2242 Professional Sports Team plate must be deposited into the  
2243 Professional Sports Development Trust Fund within the Department  
2244 of Economic Opportunity. These funds must be used solely to  
2245 attract and support major sports events in this state. As used  
2246 in this subparagraph, the term "major sports events" means, but  
2247 is not limited to, championship or all-star contests of Major  
2248 League Baseball, the National Basketball Association, the  
2249 National Football League, the National Hockey League, Major  
2250 League Soccer, the men's and women's National Collegiate  
2251 Athletic Association championships ~~Final Four basketball~~  
2252 ~~championship~~, or a horseracing or dogracing Breeders' Cup. All  
2253 funds must be used to support and promote major sporting events,  
2254 and the uses must be approved by the Department of Economic  
2255 Opportunity.

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2256           2. The remaining proceeds of the Florida Professional  
2257 Sports Team license plate must be allocated to the Florida  
2258 Sports Foundation ~~Enterprise Florida, Inc.~~ These funds must be  
2259 deposited into the Professional Sports Development Trust Fund  
2260 within the Department of Economic Opportunity. These funds must  
2261 be used by the Florida Sports Foundation ~~Enterprise Florida,~~  
2262 ~~Inc.~~, to promote the economic development of the sports  
2263 industry; to distribute licensing and royalty fees to  
2264 participating professional sports teams; ~~to promote education~~  
2265 ~~programs in Florida schools that provide an awareness of the~~  
2266 ~~benefits of physical activity and nutrition standards; to~~  
2267 ~~partner with the Department of Education and the Department of~~  
2268 ~~Health to develop a program that recognizes schools whose~~  
2269 ~~students demonstrate excellent physical fitness or fitness~~  
2270 ~~improvement;~~ to institute a grant program for communities  
2271 bidding on minor sporting events that create an economic impact  
2272 for the state; to distribute funds to Florida-based charities  
2273 designated by the Florida Sports Foundation ~~Enterprise Florida,~~  
2274 ~~Inc.~~, and the participating professional sports teams; and to  
2275 fulfill the sports promotion responsibilities of the Department  
2276 of Economic Opportunity.

2277           3. The Florida Sports Foundation ~~Enterprise Florida, Inc.~~,  
2278 shall provide an annual financial audit in accordance with s.  
2279 215.981 of its financial accounts and records by an independent  
2280 certified public accountant pursuant to the contract established  
2281 by the Department of Economic Opportunity as specified in s.

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2282 288.1229(5). The auditor shall submit the audit report to the  
2283 Department of Economic Opportunity for review and approval. If  
2284 the audit report is approved, the Department of Economic  
2285 Opportunity shall certify the audit report to the Auditor  
2286 General for review.

2287 4. Notwithstanding the provisions of subparagraphs 1. and  
2288 2., proceeds from the Professional Sports Development Trust Fund  
2289 may also be used for operational expenses of the Florida Sports  
2290 Foundation ~~Enterprise Florida, Inc.~~, and financial support of  
2291 the Sunshine State Games and Florida Senior Games.

2292 (35) FLORIDA GOLF LICENSE PLATES.—

2293 (a) The Department of Highway Safety and Motor Vehicles  
2294 shall develop a Florida Golf license plate as provided in this  
2295 section. The word "Florida" must appear at the bottom of the  
2296 plate. The Dade Amateur Golf Association, following consultation  
2297 with the PGA TOUR, the Florida Sports Foundation ~~Enterprise~~  
2298 ~~Florida, Inc.~~, the LPGA, and the PGA of America may submit a  
2299 revised sample plate for consideration by the department.

2300 (60) FLORIDA NASCAR LICENSE PLATES.—

2301 (a) The department shall develop a Florida NASCAR license  
2302 plate as provided in this section. Florida NASCAR license plates  
2303 must bear the colors and design approved by the department. The  
2304 word "Florida" must appear at the top of the plate, and the term  
2305 "NASCAR" must appear at the bottom of the plate. The National  
2306 Association for Stock Car Auto Racing, following consultation

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2307 with the Florida Sports Foundation ~~Enterprise Florida, Inc.~~, may  
2308 submit a sample plate for consideration by the department.

2309 (b) The license plate annual use fees shall be distributed  
2310 to the Florida Sports Foundation ~~Enterprise Florida, Inc.~~. The  
2311 license plate annual use fees shall be annually allocated as  
2312 follows:

2313 1. Up to 5 percent of the proceeds from the annual use  
2314 fees may be used by the Florida Sports Foundation ~~Enterprise~~  
2315 ~~Florida, Inc.~~, for the administration of the NASCAR license  
2316 plate program.

2317 2. The National Association for Stock Car Auto Racing  
2318 shall receive up to \$60,000 in proceeds from the annual use fees  
2319 to be used to pay startup costs, including costs incurred in  
2320 developing and issuing the plates. Thereafter, 10 percent of the  
2321 proceeds from the annual use fees shall be provided to the  
2322 association for the royalty rights for the use of its marks.

2323 3. The remaining proceeds from the annual use fees shall  
2324 be distributed to the Florida Sports Foundation ~~Enterprise~~  
2325 ~~Florida, Inc.~~ The Florida Sports Foundation ~~Enterprise Florida,~~  
2326 ~~Inc.~~, will retain 15 percent to support its regional grant  
2327 program, attracting sporting events to Florida; 20 percent to  
2328 support the marketing of motorsports-related tourism in the  
2329 state; and 50 percent to be paid to the NASCAR Foundation, a s.  
2330 501(c)(3) charitable organization, to support Florida-based  
2331 charitable organizations.

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2332 (c) The Florida Sports Foundation ~~Enterprise Florida,~~  
2333 ~~Inc.~~, shall provide an annual financial audit in accordance with  
2334 s. 215.981 of its financial accounts and records by an  
2335 independent certified public accountant pursuant to the contract  
2336 established by the Department of Economic Opportunity as  
2337 specified in s. 288.1229(5). The auditor shall submit the audit  
2338 report to the Department of Economic Opportunity for review and  
2339 approval. If the audit report is approved, the Department of  
2340 Economic Opportunity shall certify the audit report to the  
2341 Auditor General for review.

2342 (64) FLORIDA TENNIS LICENSE PLATES.-

2343 (b) The department shall distribute the annual use fees to  
2344 the Florida Sports Foundation ~~Enterprise Florida, Inc.~~ The  
2345 license plate annual use fees shall be annually allocated as  
2346 follows:

2347 1. Up to 5 percent of the proceeds from the annual use  
2348 fees may be used by the Florida Sports Foundation ~~Enterprise~~  
2349 ~~Florida, Inc.~~, to administer the license plate program.

2350 2. The United States Tennis Association Florida Section  
2351 Foundation shall receive the first \$60,000 in proceeds from the  
2352 annual use fees to reimburse it for startup costs,  
2353 administrative costs, and other costs it incurs in the  
2354 development and approval process.

2355 3. Up to 5 percent of the proceeds from the annual use  
2356 fees may be used for promoting and marketing the license plates.  
2357 The remaining proceeds shall be available for grants by the

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2358 United States Tennis Association Florida Section Foundation to  
 2359 nonprofit organizations to operate youth tennis programs and  
 2360 adaptive tennis programs for special populations of all ages,  
 2361 and for building, renovating, and maintaining public tennis  
 2362 courts.

2363 Section 33. For the purpose of incorporating the amendment  
 2364 made by this act to section 288.106, Florida Statutes, in a  
 2365 reference thereto, subsection (11) of section 159.803, Florida  
 2366 Statutes, is reenacted to read:

2367 159.803 Definitions.—As used in this part, the term:

2368 (11) "Florida First Business project" means any project  
 2369 which is certified by the Department of Economic Opportunity as  
 2370 eligible to receive an allocation from the Florida First  
 2371 Business allocation pool established pursuant to s. 159.8083.  
 2372 The Department of Economic Opportunity may certify those  
 2373 projects meeting the criteria set forth in s. 288.106(4)(b) or  
 2374 any project providing a substantial economic benefit to this  
 2375 state.

2376 Section 34. This act shall take effect July 1, 2016.

2377

2378 -----

2379 **T I T L E A M E N D M E N T**

2380 Remove everything before the enacting clause and insert:  
 2381 An act relating to economic development; amending s. 163.3175,  
 2382 F.S.; providing that certain representatives of military  
 2383 installations are not required to file a statement of financial

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2384 interest; amending s. 163.3180, F.S.; prohibiting a local  
2385 government from applying transportation concurrency within its  
2386 jurisdiction under certain conditions; providing applicability;  
2387 providing for expiration of the prohibition; amending s.  
2388 163.31801, F.S.; prohibiting a county, municipality, or special  
2389 district from applying certain impact fees or other fees within  
2390 its jurisdiction under certain conditions; providing  
2391 applicability; amending s. 189.033, F.S.; conforming cross-  
2392 references; amending s. 196.012, F.S.; conforming provisions to  
2393 changes made by the act; amending s. 212.20, F.S.; conforming  
2394 provisions to the repeal by the act of s. 288.1169, F.S.;  
2395 amending s. 220.191, F.S.; revising the definition of the term  
2396 "cumulative capital investment" for purposes of the capital  
2397 investment tax credit; amending s. 220.196, F.S.; conforming a  
2398 cross-reference; amending s. 288.0001, F.S.; revising required  
2399 elements of specified analyses prepared by the Office of  
2400 Economic and Demographic Research and the Office of Program  
2401 Policy Analysis and Government Accountability; conforming  
2402 provisions; amending s. 288.005, F.S.; revising the definition  
2403 of the term "average private sector wage in the area"; revising  
2404 the definition of the term "economic benefits"; providing for  
2405 expiration of the prohibition; amending s. 288.061, F.S.;  
2406 requiring the Department of Economic Opportunity to prescribe  
2407 the format for certain economic incentive applications;  
2408 providing required elements of the applications; revising  
2409 evaluation and contract requirements of the economic development

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2410 incentive application process; revising a definition; providing  
2411 and revising responsibilities of the department; amending s.  
2412 288.076, F.S.; revising definitions; creating s. 288.103, F.S.;  
2413 providing for the repayment of economic development program  
2414 awards by certain businesses; providing applicability; amending  
2415 s. 288.1045, F.S.; revising definitions; revising the  
2416 application process for the qualified defense contractor and  
2417 space flight business tax refund program; revising tax refund  
2418 requirements; revising the expiration date of the program;  
2419 amending s. 288.106, F.S.; revising definitions; revising the  
2420 application process for the tax refund program for qualified  
2421 target industry businesses; revising tax refund requirements;  
2422 removing provisions regarding economic recovery extensions of  
2423 certain tax refund agreements; amending s. 288.108, F.S.;  
2424 revising and providing definitions; revising application  
2425 requirements and requiring the Department of Economic  
2426 Opportunity to certify high-impact business grant applications;  
2427 providing duties of the Governor and the department; amending s.  
2428 288.1088, F.S.; revising provisions relating to the Quick Action  
2429 Closing Fund; revising project eligibility requirements;  
2430 providing limitations on, and authorizing waivers from, local  
2431 financial support requirements; revising contract requirements  
2432 for certain projects; revising approval requirements for  
2433 amendments or modifications of contract requirements for such  
2434 projects; revising duties of the Governor; amending s. 288.1089,  
2435 F.S.; revising definitions; revising application requirements

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2436 for the Innovation Incentive Program; authorizing the department  
2437 to waive certain wage requirements for projects in a rural area  
2438 of opportunity or certified enterprise zone; revising duties of  
2439 the Governor and the department; revising approval requirements  
2440 for amendments or modifications of contract requirements for  
2441 such projects; amending s. 288.11621, F.S.; conforming a  
2442 provision to changes made by the act; repealing s. 288.1169,  
2443 F.S., relating to state agency funding of the International Game  
2444 Fish Association World Center facility; reviving, reenacting,  
2445 and amending s. 288.1229, F.S., relating to the promotion and  
2446 development of sports-related industries and amateur athletics;  
2447 amending s. 288.901, F.S.; revising the purpose and duties of  
2448 Enterprise Florida, Inc., with respect to fostering and  
2449 encouraging high-technology startup and second-state business  
2450 development; revising membership requirements for the board of  
2451 directors of Enterprise Florida, Inc.; amending s. 288.9015,  
2452 F.S.; conforming provisions to changes made by the act; creating  
2453 s. 288.913, F.S.; creating the Innovation Florida Initiative;  
2454 providing legislative findings; providing definitions; requiring  
2455 the department to develop a statewide strategic plan for high-  
2456 technology startup and second-stage business growth and  
2457 development; providing requirements for the plan; providing  
2458 marketing requirements; providing reporting requirements;  
2459 amending s. 288.92, F.S.; revising the required divisions within  
2460 Enterprise Florida, Inc.; amending s. 288.9604, F.S.; providing  
2461 for ratification of certain actions taken by the board of

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2462 directors of the Florida Development Finance Corporation;  
2463 amending s. 288.980, F.S.; authorizing grant awards for  
2464 activities that grow the economy of a defense-dependent  
2465 community; making technical changes; amending s. 288.9937, F.S.;  
2466 requiring the Office of Program Policy Analysis and Government  
2467 Accountability to evaluate the Microfinance Loan Program;  
2468 providing requirements for the evaluation; revising reporting  
2469 requirements; amending ss. 288.11625 and 288.11631, F.S.;  
2470 conforming cross-references; amending s. 320.08058, F.S.;  
2471 conforming provisions to changes made by the act; amending uses  
2472 of the proceeds of the Florida Professional Sports Team license  
2473 plate; reenacting s. 159.803(11), F.S., relating to definitions  
2474 applicable to the Florida Private Activity Bond Allocation Act,  
2475 to incorporate the amendment made by the act to s. 288.106,  
2476 F.S., in a reference thereto; providing an effective date.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1379 Airport Zoning Law of 1945

**SPONSOR(S):** Miller

**TIED BILLS:** IDEN./SIM. BILLS: SB 1508

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Ports Subcommittee	12 Y, 0 N	Willson	Vickers
2) Transportation & Economic Development Appropriations Subcommittee		Davis	Davis
3) Economic Affairs Committee			

### SUMMARY ANALYSIS

This bill updates and revises chapter 333, F.S., the "Airport Zoning Law of 1945", which governs land use and airspace management at or around airports. Originally enacted in 1945, it contains many outdated provisions and internal inconsistencies, as well as provisions that are inconsistent with current federal regulations. Likewise, stakeholders found that the local government airport protection zoning process as it currently exists is often cumbersome and confusing.

The bill implements the recommendations of a stakeholder working group, in effect modernizing the regulation of airspace and land use for affected areas and transitioning from an antiquated variance process to a more streamlined permitting process for certain structures.

The bill does not appear to have a fiscal impact on the state, and may have an indeterminate but likely insignificant impact on local governments related to structural permitting and enforcement.

The bill has an effective date of July 1, 2016.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

The bill revises Chapter 333, F.S., governing land use and airspace management at or around airports. For ease of understanding, the analysis is arranged by section.

##### Current Situation

In 2012, DOT created a stakeholder working group to address problems with the state's airport zoning law and to update it to reflect current federal requirements and industry standards. The group consisted of representatives from airports, local planning/zoning departments, the Florida Defense Alliance, the Florida League of Cities, the Florida Airports Council, the real estate development community, and DOT. The group met three times between June and September 2012.

The working group determined that the law, which originally passed in 1945,<sup>1</sup> contains provisions that are outdated and inconsistent with federal regulations, has internal inconsistencies, and requires a local government airport protection zoning process that can be cumbersome and confusing.

##### **Definitions (s. 333.01, F.S.)**

##### Current Situation

Current law defines various terms as they relate to airport zoning.

##### Proposed Changes

The bill implements numerous changes to definitions related to airport zoning to reflect improved consistency with federal regulations and guidance. Specifically, the bill adds the following definitions to s. 333.01, F.S.:

- Aeronautical study - a Federal Aviation Administration (FAA) review conducted pursuant to 14 C.F.R. Part 77, concerning the effect of proposed construction or alteration on the use of air navigation facilities or navigable airspace by aircraft.
- Airport master plan - a comprehensive plan of an airport that describes the immediate and long-term development plans to meet future aviation demand.
- Airport protection zoning regulations- airport zoning regulations governing airport hazards.
- Department - Department of Transportation as created under s. 20.23, F.S.
- Educational facility - any structure, land, or use thereof that includes a public or private kindergarten through twelfth grade school, charter school, magnet school, college campus, or university campus. For the purposes of Ch. 333, F.S. the term "educational facility" does not include space utilized for educational purposes within a multi-tenant building.
- Landfill - has the same meaning as in s. 403.703, F.S.<sup>2</sup>
- Public-use airport - an airport,<sup>3</sup> publicly or privately owned, licensed by the state, which is open for use by the public.

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<sup>1</sup> Ch. 23079, Laws of Fla.

<sup>2</sup> section 403.703(17), F.S., defines "landfill" as "any solid waste land disposal area for which a permit, other than a general permit, is required by s. 403.707 and which receives solid waste for disposal in or upon land. The term does not include a land-spreading site, an injection well, a surface impoundment, or a facility for the disposal of construction and demolition debris."

<sup>3</sup> The bill defines "airport" as "any area of land or water designed and set aside for the landing and taking off of aircraft and utilized or to be utilized in the interest of the public for such purpose."

- Substantial modification - any repair, reconstruction, rehabilitation, or improvement of a structure when the actual cost of repair, reconstruction, rehabilitation, or improvement of the structure equals or exceeds 50 percent of the market value of the structure.

The bill also amends the following definitions:

- Airport hazard
- Airport hazard area
- Airport land use compatibility zoning
- Airport layout plan
- Obstruction
- Political subdivision
- Runway protection zone
- Structure

The bill also deletes the definition of "aeronautics" since the term is not being used. It also deletes the definition of "tree" and replaces the term with "obstruction" throughout Ch. 333, F.S., as applicable.

### **Permit Required for Structures Exceeding Federal Obstruction Standards (s. 333.025, F.S.)**

#### Current Situation

Current law provides that in order to prevent structures<sup>4</sup> dangerous to air navigation from being erected, each person<sup>5</sup> must secure permit from DOT to erect, alter, or modify a structure exceeding the federal obstruction standards.<sup>6</sup> However, permits are only required within an airport hazard area<sup>7</sup> where federal standards are exceeded and if the proposed construction is within a 10-nautical-mile radius of the geographical center of the airport.

Current law provides that affected airports are considered having those facilities which are shown on the airport master plan, or an airport layout plan,<sup>8</sup> or in comparable military documents, and those facilities will be protected. Planned or proposed public-use airports which are the subject of a notice or proposal submitted to the FAA or to DOT will also be protected.

Current law provides that permit requirements do not apply if the project received construction permits from the Federal Communications Commission (FCC) prior to May 20, 1975;<sup>9</sup> nor do permit requirements apply to previously approved structures now existing, or any necessary replacement or repairs to existing structures, provided that there is no change to the height and location of the structure.

Current law provides that when political subdivisions<sup>10</sup> have adopted adequate airspace protections, which are on file with DOT, a DOT permit for the structure is not required.

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<sup>4</sup> The bill defines "structure" as "any object, constructed, erected, altered, or installed, including, but without limitation thereof, buildings, towers, smokestacks, utility poles, power generation equipment and overhead transmission lines."

<sup>5</sup> The bill defines "person" as "any individual, firm, copartnership, corporation, company, association, joint-stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof."

<sup>6</sup> The federal obstruction standards are contained in 14 C.F.R. §§ 77.15, 77.17, 77.19, 77.21, and 77.23.

<sup>7</sup> The bill defines "airport hazard area" as "any area of land or water upon which an airport hazard might be established."

<sup>8</sup> The bill defines "airport layout plan" as "a scaled drawing, or set of drawings, in either paper or electronic form, of existing and planned airport facilities that provide a graphic representation of the existing and long-term development plan for the airport and demonstrates the preservation and continuity of safety, utility, and efficiency of the airport."

<sup>9</sup> This is provided that these structures now exist.

<sup>10</sup> The bill defines "political subdivision" as "the local government any county, city, town, village, or other subdivision or agency thereof, or any district or special district, port commission, port authority, or other such agency authorized to establish or operate airports in the state."

Upon receipt of a permit application, DOT has 30 days to issue or deny a permit to erect, alter, or modify any structure that would exceed federal obstruction standards.

Current law provides that in determining whether to issue or deny a permit, DOT considers the following:

- The nature of the terrain and height of existing structures.
- Public and private interests and investments.
- The character of flying operations and planned developments of airports.
- Federal airways as designated by the FAA.
- Whether the construction of the proposed structure would cause an increase in the minimum descent altitude or the decision height at the affected airport.
- Technological advances.
- The safety of persons on the ground and in the air.
- Land use density.
- The safe and efficient use of navigable airspace.
- The cumulative effects on navigable airspace of all existing structures, proposed structures identified in the applicable jurisdictions' comprehensive plans, and all other known proposed structures in the area.

Current law provides that when issuing a permit, DOT shall require the obstruction<sup>11</sup> marking and lighting of the permitted obstruction.

Current law prohibits DOT from approving a permit to erect a structure unless the applicant submits documentation showing compliance with both federal notification requirements and a valid aeronautical evaluation. DOT shall not approve a permit solely on the basis that such proposed structure will not exceed federal obstruction standards or any other federal aviation regulation.

#### Proposed Changes

The bill replaces the term "geographic center" with "airport reference point", which is defined as the approximate geometric center of all usable runways at a public airport. The bill also removes a redundant reference to FAA rules governing federal obstruction standards.

The bill provides that existing, planned, and proposed facilities at public-use airports contained in an airport master plan, on an airport layout plan, or in comparable military documents will be protected from airport hazards. The bill also removes the provision that certain planned or proposed public-use airports are also protected.

The bill replaces the term "project" with "existing structures" in s. 333.025(3), F.S. and removes the conditional reference to the existence of certain structures that were permitted by the FCC prior to May 20, 1975.

The bill provides that a DOT permit is not required for a structure in a political subdivision that has adequate airport protection zoning regulations on file with DOT, and the political subdivision has established a permitting process. The bill creates a 15-day period, concurrent with the permitting process, for DOT to evaluate the permit for technical consistency. Cranes, construction equipment, and other temporary structures, in use or in place for a period not exceeding 18 consecutive months are exempt from DOT review, unless review is requested by DOT.

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<sup>11</sup> The bill defines "obstruction" as any object of natural growth or terrain or permanent or temporary construction or alteration, including equipment or materials used and any permanent or temporary apparatus, or alteration of any permanent or temporary existing structure by a change in its height, including appurtenances, or lateral dimensions, including equipment or material used therein, existing or proposed, which exceeds the standards contained in 14 C.F.R. §§ 77.15, 77.17, 11.19, 77.21, and 77.23.

The bill provides that DOT has 30 days after receiving an application to issue or deny a permit for the construction or alteration of an obstruction. The bill requires DOT to review permit applications in conformity with s. 120.60, F.S.<sup>12</sup>

The bill adds the following criteria for DOT to consider when granting or denying a permit:

- The effect of the construction or alteration of an obstruction on the state licensing standards for a public-use airport.<sup>13</sup>

The bill modifies the following criteria for DOT to consider in granting or denying a permit:

- The character of existing and planned flight operations and developments at public-use airports.
- Federal airways, visual flight rules, flyways and corridors, and instrument approaches as designated by the FAA.
- The cumulative effects on navigable airspace of all existing obstructions and all other known proposed obstructions in the area.

The bill deletes the following criteria for DOT to consider in granting or denying a permit:

- Technological advances
- Land use density.

The bill provides that when issuing a permit, DOT must require the owner of the obstruction to install, operate, and maintain, at his or her own expense, marking and lighting in conformance with FAA standards.

The bill provides that DOT shall not approve the construction or alteration of an obstruction unless documentation is submitted that it is in compliance with certain standards. The bill changes the term "aeronautical evaluation" to "aeronautical study," which the bill defines.

The bill creates s. 333.025(9), F.S., providing that the denial of a permit is subject to the administrative review under the Florida Administrative Procedures Act.<sup>14</sup>

### **Power to Adopt Airport Zoning Regulations (s. 333.03, F.S.)**

#### Current Situation

Current law provides that every political subdivision with an airport hazard<sup>15</sup> area has until October 1, 1977, to adopt, administer, and enforce airport zoning regulations for the airport hazard area.

Current law provides where an airport is owned or controlled by a political subdivision and any airport hazard area related to the airport is located in whole or in part outside of the political subdivision, the political subdivision owning or controlling the airport and the political subdivision where the airport hazard area is located, shall either:

- By interlocal agreement, adopt, administer, and enforce airport zoning regulations applicable to the airport hazard area; or
- create a joint airport zoning board, with the same power to adopt, administer, and enforce airport zoning regulations applicable to the airport hazard area.

Current law provides that airport zoning regulations shall, as a minimum, require:

- A variance for the erection, alteration, or modification of any structure that would cause the structure to exceed the federal obstruction standards;

<sup>12</sup> section 120.60, F.S., relates to licensing.

<sup>13</sup> The state licensing standards for a public-use airport are contained in Ch. 330, F.S., and Rule 14-60, F.A.C.

<sup>14</sup> Ch. 120, F.S.

<sup>15</sup> The bill defines "airport hazard" as "any obstruction to air navigation that affects the safe and efficient use of navigable airspace or the operation of planned or existing air navigation and communication facilities."

- obstruction marking and lighting for structures;
- documentation showing compliance with the federal requirement for notification of proposed construction and a valid aeronautical evaluation submitted by each person applying for a variance;
- consideration of the criteria in s. 333.025(6), F.S., when determining whether to issue or deny a variance; and
- that no variance shall be approved solely on the basis that such proposed structure will not exceed federal obstruction standards or any other federal aviation regulation.

Current law requires DOT to issue copies of the federal obstruction standards to each political subdivision with an airport hazard area. Additionally, DOT must, in cooperation with political subdivisions, issue appropriate airport zoning maps depicting within each county the maximum allowable height of any structure or tree.

Current law provides that interim airport land use compatibility zoning<sup>16</sup> regulations shall be adopted. When political subdivisions have land development regulations addressing land use consistent with Ch. 333, F.S, the political subdivision is not required to adopt airport land use compatibility regulations. Interim land use compatibility regulations are required to consider the following:

- Whether sanitary landfills are located within the following areas:
  - Within 10,000 feet from the nearest point of any runway used or planned to be used by turbojet or turboprop aircraft.
  - Within 5,000 feet from the nearest point of any runway used only by piston-type aircraft.
  - Outside the perimeters defined above, but still within the lateral limits of the civil airport imaginary surfaces. Current law advises a case-by-case review of such landfills.
- Whether any landfill is located and constructed so that it attracts or sustains hazardous bird movements. The political subdivision shall request a report from the airport on such bird feeding or roosting areas that are known to the airport. In preparing its report, the airport, considers whether the landfill will incorporate bird management techniques or other practices to minimize bird hazards to airborne aircraft. The airport has 30 days to respond to the request.
- Where an airport authority or other governing body has conducted a noise study<sup>17</sup> neither residential construction nor any educational facility<sup>18</sup> with the exception of aviation school facilities, shall be permitted within the area contiguous to the airport defined by an outer noise contour that is considered incompatible with that type of construction.
- Where an airport authority or other governing body operating an airport has not conducted a noise study, neither residential construction nor any educational facility except for of aviation school facilities, shall be permitted within an area contiguous to the airport measuring one-half the length of the longest runway on either side of and at the end of each runway centerline.

Current law requires airport zoning regulations restricting new incompatible uses, activities, or construction within runway clear zones, including uses, activities, or construction in runway clear zones which are incompatible with normal airport operations or endanger public health, safety, and welfare by resulting in congregations of people, emissions of light or smoke, or attraction of birds. These regulations shall prohibit the construction of an educational facility at either end of a runway of an airport within an area which extends five miles in a direct line along the centerline of the runway, and which has a width measuring one-half the length of the runway. Exceptions approving construction of an educational facility within the delineated area shall only be granted when the political subdivision administering the zoning regulations makes specific findings detailing how the public policy reasons for allowing the construction outweigh health and safety concerns.

<sup>16</sup> The bill defines "airport land use compatibility zoning" as "airport zoning regulations governing the use of land on, adjacent to, or in the immediate vicinity of airports."

<sup>17</sup> A noise study is conducted in accordance with 14 C.F.R. § 150.

<sup>18</sup> section 1013.01(6), F.S., defines "educational facilities" as "the buildings and equipment, structures, and special educational use areas that are built, installed, or established to serve primarily the educational purposes and secondarily the social and recreational purposes of the community and which may lawfully be used as authorized by the Florida Statutes and approved by boards."

Current law requires DOT to provide technical assistance to any political subdivision requesting assistance in preparing an airport zoning code. A copy of all local airport zoning codes, rules, and regulations, and amendments and proposed and granted variances, must be filed with DOT.

Current law provides that nothing shall be construed to require the removal, change, or to interfere with the continued use or adjacent expansion of any educational structure or site in existence on July 1, 1993, or be construed to prohibit the construction of any new structure for which a site has been determined as provided in former s. 235.19, F.S., as of July 1, 1993.

### Proposed Changes

The bill amends the title of s. 333.03, F.S., to “Airport protection zoning regulations.”

The bill amends s. 333.03(1)(a), F.S., removing the October 1, 1977 deadline, clarifying language, and specifying airport protection zoning regulations.

The bill amends s. 333.03(1)(b), F.S., removing antiquated legal phrasing, providing clarity and specificity, and deleting unnecessary statutory references.

The bill amends s. 333.03(1)(c), F.S., reflecting the conversion from a variance process to a permitting process. The bill also removes references to FAA rules.

The bill amends s. 333.03(1)(d), F.S., removing the requirement that DOT issue copies of the federal obstruction standards. The paragraph now provides that DOT is available to assist political subdivisions with regard to federal obstruction standards.

The bill amends s. 333.03(2), F.S., modifying the text to require political subdivisions adopt, administer, and enforce airport land use compatibility zoning regulations.

The bill amends s. 333.03(2)(a), F.S., prohibiting any new and restricting any existing landfills in the areas above. The text is also modified to reflect current aviation terminology regarding the types of aircraft and to update a C.F.R. reference.

The bill amends s. 333.03(2)(b), F.S., eliminating statutory redundancy.

The bill amends s. 333.03(2)(c), F.S., allowing for alternative noise studies approved by the FAA in lieu of a noise study provided for in 14 C.F.R. Part 150.

The bill amend s. 333.03(2)(d), F.S., removing the term “publicly-owned” and a reference to a definition for educational facility in Ch. 1013, F.S.

The bill redesignates the previous s. 333.03(3), F.S., as s. 333.03(2)(e), F.S., and amends this provision to reflect revised statutory intent, removing redundancy and antiquated aviation terminology and reflecting the purpose of runway protection zones<sup>19</sup> as defined and described in FAA AC 15-5300-13A.<sup>20</sup>

The bill repeals s. 333.03(4), F.S., preventing redundancy due to changes to the permitting process.

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<sup>19</sup> The bill defines “runway protection zone” as an area at ground level beyond the runway end to enhance the safety and protection of people and property on the ground.

<sup>20</sup> FAA AC 15-5300-13A is available at:

[http://www.faa.gov/airports/resources/advisory\\_circulars/index.cfm/go/document.current/documentNumber/150\\_5300-13](http://www.faa.gov/airports/resources/advisory_circulars/index.cfm/go/document.current/documentNumber/150_5300-13) (last visited January 7, 2016).

The bill redesignates the previous s. 333.03(5), F.S., as s. 333.03(3), F.S., providing clarity and specificity and to reflect a conversion to a permitting process by requiring all updates and amendments to local airport zoning codes, rules, and regulations to be filed with DOT within 30 days after adoption.

The bill redesignates the previous s. 333.03(6), F.S., as s. 333.03(4), F.S., removing the provision prohibiting the construction of a new site as determined by the former s. 235.19, F.S., as of July 1, 1993.

The bill creates a new s. 333.03(5), F.S., providing that nothing precludes another governing body operating a public-use airport from establishing airport zoning regulations stricter than provided in state law in order to protect the health, safety and welfare of the public in the air and on the ground.

### **Comprehensive Zoning Regulations; Most Stringent to Prevail Where Conflicts Occur (s. 333.04, F.S.)**

#### Current Situation

##### *Incorporation*

Current law provides that if a political subdivision has a comprehensive zoning ordinance regulating, among other things, the height of buildings, structures, and natural objects, and uses of property, any airport zoning regulations applicable to the same area or portion of the area may be incorporated in and made a part of such comprehensive zoning regulations, and be administered and enforced in connection with the comprehensive zoning regulations.

##### *Conflict*

Current law provides that if there is a conflict between any airport zoning regulations and any other regulations applicable to the same area, the more stringent limitation or requirement governs and prevails.

#### Proposed Changes

The bill amends s. 333.04(1), F.S., changing zoning ordinance to “zoning plan or policy.” The bill also adds “protection” to the phrase “airport zoning regulations.”

The bill amends s. 333.04(2), F.S., providing that it refers to “airport protection zoning” and to change the word “trees” to “vegetation.”

### **Procedure for Adoption of Zoning Regulations (s. 333.05, F.S.)**

#### Current Situation

##### *Notice and Hearing*

Current law provides that airport zoning regulations shall not be adopted, amended, or changed except by action of the legislative body of the political subdivision, or the joint board after a public hearing where interested parties and citizens may be heard.

##### *Airport Zoning Commission*

Current law provides that prior to the initial zoning of any airport area, the political subdivision or joint airport zoning board appoints an airport zoning commission. The airport zoning commission recommends the boundaries of the various zones to be established and the regulations to be adopted. Where a city plan commission or comprehensive zoning commission already exists, it may be appointed as the airport zoning commission.

#### Proposed Changes

The bill amends s. 333.05, F.S., providing internal consistency with definitions and to reflect correct community planning terminology.

## **Airport Zoning Requirements (s. 333.06, F.S.)**

### Current Situation

#### *Reasonableness*

Current law provides that all airport zoning regulations shall be reasonable and not impose any requirement or restriction which is not reasonably necessary. In determining what regulations it may adopt, the following must be considered:

- The character of the flying operations expected to be conducted at the airport;
- the nature of the terrain within the airport hazard area and runway clear zones;
- the character of the neighborhood;
- the uses to which the property to be zoned is put and adaptable; and
- the impact of any new use, activity, or construction on the airport's operating capability and capacity.

#### *Independent Justification*

Current law provides that the purpose of all airport zoning regulations is to provide both airspace protection and land use compatible with airport operations. Each aspect requires independent justification in order to promote the public interest in safety, health, and general welfare. Specifically, construction in a runway clear zone which does not exceed airspace height restrictions is not evidence per se that such use, activity, or construction is compatible with airport operations.

#### *Nonconforming Uses*

Current law prohibits airport zoning regulations from requiring the removal, lowering, or other change of any structure or tree not conforming to the regulations when adopted or amended, or otherwise interfere with the continuance of any nonconforming use, except as provided in s. 333.07(1) and (3), F.S.

#### *Adoption of Airport Master Plan and Notice to Affected Local Governments*

Current law requires that each public airport licensed by DOT prepare an airport master plan.

### Proposed Changes

The bill amends s. 333.06, F.S. deleting the term "runway clear zone" and replacing it with "runway protection zone."<sup>21</sup> The bill also modifies the statute for internal consistency with definitions.

## **Guidelines Regarding Land Use Near Airports (s. 333.065, F.S.)**

### Current Situation

Current law provides that DOT, after consultation with the Department of Economic Opportunity, local governments, and other interested persons, is required to adopt by rule recommended guidelines regarding compatible land uses in the vicinity of airports.

### Proposed Changes

The bill repeals s. 333.065, F.S. According to DOT, this is due to the completion of its Airport Compatibility Land Use Guidebook.<sup>22</sup>

## **Permits and Variances (s. 333.07, F.S.)**

### Current Situation

<sup>21</sup> According to DOT, this is consistent with FAA AC 150/5300-13A.

<sup>22</sup> A copy of DOT's Airport Compatibility Land Use Guidebook is available at: <http://www.dot.state.fl.us/aviation/compland.shtml> (last visited January 6, 2016).

### *Permits*

Current law provides that any airport zoning regulations may require that a permit be obtained before any new structure or use may be constructed or established and before any existing use or structure is substantially changed or substantially altered or repaired. All such regulations shall provide that before any nonconforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted, a permit must be secured from the administrative agency authorized to administer and enforce the regulations. A permit may not be granted that would allow the establishment or creation of an airport hazard or would permit a nonconforming structure or tree or nonconforming use to be made or become higher or to become a greater hazard to air navigation than it was when the applicable regulation was adopted or than it is when the application for a permit is made.

Current law provides that whenever the administrative agency determines that a nonconforming use or nonconforming structure or tree has been abandoned or is more than 80 percent torn down, destroyed, deteriorated, or decayed, it may not grant a permit that would allow the structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations. Whether application is made for a permit or not, the agency may by appropriate action, compel the owner of the nonconforming structure or tree, at his or her own expense, to lower, remove, reconstruct, or equip such object as may be necessary to conform to the regulations. If the owner of the nonconforming structure or tree does not comply with the order within 10 days, the agency may report the violation to the political subdivision involved, who, through its appropriate agency, may proceed to have the object lowered, removed, reconstructed, or equipped, and assess its cost and expense thereof upon the object or the land where it is or was located, and, unless such an assessment is paid within 90 days from the service of notice on the owner or the owner's agent, of such object or land, the sum shall be a lien on said land, and shall bear interest at an annual rate of six percent, and shall be collected in the same manner as the political subdivision collects property taxes, or, the political subdivision may enforce the lien in the manner provided for enforcement of liens.<sup>23</sup>

Current law provides that except as provided, applications for permits shall be granted, provided the matter applied for meets the provisions Ch. 333, F.S., and the regulations adopted and in force.

### *Variances*

Current law provides that any person desiring use his or her property in violation of airport zoning regulations or any land development regulation adopted pertaining to airport land use compatibility, may apply to the board of adjustment for a variance from the zoning regulations. When filing the application, the applicant forwards a copy to DOT. DOT has 45 days to comment or waive the right to comment to the applicant and the board of adjustment. DOT must include in its comments its explanation for any objections. If DOT fails to comment within 45 days, it waives its right to comment. The board of adjustment may proceed with its consideration of the application only after it receives DOT's comments or DOT waives its right to comment. Noncompliance is grounds to appeal and to apply for judicial relief. Such variances may only be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and where the relief granted would not be contrary to the public interest but would do substantial justice and be in accordance with the spirit of airport zoning regulations and Ch. 333, F.S. However, any variance may be allowed subject to any reasonable conditions that the board of adjustment deems necessary.

Current law allows DOT to appeal any variance granted and apply for judicial relief.

Current law provides that in granting any permit or variance the administrative agency or board of adjustment shall require the owner of the structure or tree to install, operate, and maintain, at his or her own expense, marking and lighting as may be necessary to indicate to aircraft pilots the presence of an obstruction.

### *Obstruction marking and lighting*

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<sup>23</sup> The enforcement of statutory liens is provided for in Ch. 85, F.S.

Current law provides that marking and lighting shall conform to the specific standards established in DOT rule.

Current law provides that existing structures not in compliance on October 1, 1988, shall be required to comply the earliest of whenever the existing lighting requires replacement, or within 5 years of October 1, 1988.

#### Proposed Changes

The bill amends the title of s. 333.07, F.S., to "Local government permitting of airspace obstructions".

#### *Permits*

The bill amends ss. 333.07(1)(a) and (b), F.S., reflecting the conversion from a variance to a permitting process, for internal consistency with definitions, and removing antiquated legal phrasing.

The bill deletes s. 333.07(1)(c), F.S., removing statutory redundancy.

#### *Variances*

The bill deletes s. 333.07(2), F.S., reflecting the conversion from a variance process to a permitting process.

#### *Considerations when issuing or denying permits*

The bill creates s. 333.07(2), F.S. relating to considerations when issuing or denying a permit. In determining whether to issue or deny a permit, the political subdivision or its administrative agency considers the impact of the following, as applicable:

- The safety of persons on the ground and in the air.
- The safe and efficient use of navigable airspace.
- The nature of the terrain and height of existing structures.
- The effect of the construction or alteration on the state licensing standards for a public-use airport contained in Ch. 330, F.S., and rules adopted thereunder..
- The character of existing and planned flight operations and developments at public-use airports.
- Federal airways, visual flight rules, flyways and corridors, and instrument approaches as designated by the FAA.
- Effect of the construction or alteration of the proposed structure on the minimum descent altitude or the decision height at the affected airport.
- The cumulative effect on navigable airspace of all existing structures, and all other known proposed structures in the area.
- Additional requirements adopted by the political subdivision pertinent to evaluation and protection of airspace and airport operations.

#### *Obstruction marking and lighting*

The bill amends ss. 333.07(3)(a) and (b), F.S., for internal consistency with definitions and with FAA AC 70/7460-1K.<sup>24</sup> The bill removes s. 333.07(3)(b), F.S., requiring such marking and lighting to conform to DOT standards established by rule. The bill also removes s. 333.07(3)(c), F.S., which contains an obsolete date.

#### **Appeals (s. 333.08, F.S.)**

#### Current Situation

Current law provides that any person aggrieved, or taxpayer affected, by any decision of an administrative agency in the administration of airport zoning regulations; or any governing body of a political subdivision, or DOT, or any joint airport zoning board, which believes that an administrative

<sup>24</sup> A copy of FAA AC 70/7460-1K is available at:

[http://www.faa.gov/regulations\\_policies/advisory\\_circulars/index.cfm/go/document.current/documentNumber/70\\_7460-1](http://www.faa.gov/regulations_policies/advisory_circulars/index.cfm/go/document.current/documentNumber/70_7460-1) (last visited January 6, 2016).

agency's decision is an improper application of airport zoning regulations of concern to the governing body or board, may appeal to the board of adjustment authorized to hear and decide appeals from the decisions of such administrative agency.

Current law provides that all appeals are to be taken within a reasonable time, by filing a notice of appeal with the agency from which appeal is taken and with the board. The notice of appeal must specify the grounds of the appeal.

Current law provides that an appeal stays all proceedings in furtherance of the action appealed from, unless the agency from which the appeal is taken certifies to the board, after the notice of appeal has been filed, that by reason of the facts stated in the certification that a stay would, in its opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by an order of the board on notice to the agency from which the appeal is taken and on due cause shown.

Current law provides that the board shall fix a reasonable time for the hearing of appeals, give public notice and due notice to the parties, and make its decision within a reasonable time.

Current law provides that the board may reverse or affirm wholly or partly, or modify, the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the administrative agency from which the appeal is taken.

#### Proposed Changes

The bill repeals s. 333.08, F.S., and moves the text into a new s. 333.09(3), F.S.

### **Administration of Airport Zoning Regulations (s. 333.09, F.S.)**

#### Current Situation

Current law requires that all airport zoning regulations provide for their administration and enforcement by an administrative agency. The administrative agency may be an agency created by such regulations or any official, board, or other existing agency of the political subdivision adopting the regulations or of one of the political subdivisions which participated in the creation of the joint airport zoning board. Such administrative agency may not be or include any member of the board of adjustment. The duties of any administrative agency include hearing and deciding all permits, deciding all matters under s. 333.07(3), F.S., as they pertain to the agency, and all other matters under the state's airport zoning law, which applies to the agency, but the agency shall not have or exercise any of the powers delegated to the board of adjustment.

#### Proposed Changes

##### *Administration*

The bill provides that all airport zoning regulations shall provide for the administration and enforcement of those regulations by the political subdivision or its administrative agency. The duties of any administrative agency shall include that of hearing and deciding all permits, as they pertain to such agency, and all other matters under Ch. 333, F.S. applying to the agency.

##### *Local Government Process*

The bill creates s. 333.09(2), F.S., providing for a local government permitting process. Any political subdivision required to adopt airport zoning regulations must provide a process to:

- Issue and deny permits.
- Provide DOT with a copy of a complete application.
- Enforce the issuance or denial a permit or other determination made by the administrative agency with respect to airport zoning regulations.

Where a political subdivision already has a zoning board or permitting body, the existing zoning board or permitting body may implement the permitting and appeals process.

#### Appeals

The bill moves the substance of s. 333.08, F.S. to a newly created s. 333.09(3), F.S., relating to appeals. The language is modified to reflect the conversion from the variance process to a permitting process and to clean-up and update various provisions.

#### **Board of Adjustment (s. 333.10, F.S.)**

##### Current Situation

Current law provides that all airport zoning regulations must provide for a board of adjustment having and exercising the following powers:

- To hear and decide appeals from any order, requirement, decision, or determination made by the administrative agency in the enforcement of the airport zoning regulations.
- To hear and decide any special exceptions to the terms of the airport zoning regulations upon which such board may be required to pass under such regulations.
- To hear and decide specific variances.

An existing zoning board may be appointed as the board of adjustment.

The majority vote of the board's members is sufficient to reverse any order, requirement, decision, or determination of the administrative agency, or to decide in favor of the applicant on any matter upon which it is required to pass under the airport zoning regulations, or to effect any variation in such regulations.

The board of adjustment is required to adopt rules in accordance with the ordinance or resolution creating it.

##### Proposed Changes

The bill repeals s. 333.10, F.S., reflecting the conversion from the variance process to a permitting process.

#### **Judicial Review (s. 333.11, F.S.)**

##### Current Situation

Current law provides that any person aggrieved, or taxpayer affected, by any decision of a board of adjustment, or any governing body of a political subdivision or DOT or any joint airport zoning board, or of any administrative agency, may apply for judicial relief. The appeal must be filed within 30 days after the board of adjustment renders its decision. Review shall be by petition for writ of certiorari, governed by the Florida Rules of Appellate Procedure.

Upon presentation of such petition to the court, the court may allow a writ of certiorari, directed to the board of adjustment, to review the board's decision. The allowance of the writ does not stay the proceedings upon the decision appealed from, but the court may, under certain circumstances, grant a restraining order.

The court has exclusive jurisdiction to affirm, modify, or set aside the decision brought up for review and if need be, order further proceedings by the board of adjustment. The findings of fact by the board of adjustment, if supported by substantial evidence, shall be accepted by the court as conclusive, and no objection to a board of adjustment decision shall be considered by the court unless such objection shall have been urged before the board of adjustment, or, if it was not so urged, unless there were reasonable grounds for failure to do so.

If airport zoning regulations, although generally reasonable, are held by a court to interfere with the use and enjoyment of a particular structure or parcel of land to such an extent, or to be so onerous in their application to such a structure or parcel of land, as to constitute a taking or deprivation of that property in violation of the State Constitution or the Constitution of the United States, such holding does not affect the application of the regulations to other structures and parcels of land, or other regulations that are not involved in the particular decision.

Current law provides that no appeal is permitted to any courts, save and except an appeal from a decision of the board of adjustment, the appeal provided being from such final decision of the board of adjustment. The appellant is required to exhaust his or her remedies of application for permits, exceptions and variances, and appeal to the board of adjustment, and gaining a determination by said board, before being permitted to appeal to the court.

#### Proposed Changes

The bill amends s. 333.11(1), F.S., removing references to the board of adjustment and DOT. The bill also changes one reference to the board of adjustment to political subdivision to reflect other changes being made to Ch. 333, F.S.

The bill repeals ss. 333.11(2) and (3), F.S., reflecting the conversion from a variance process to a permitting process.

The bill amends s. 333.011(4), F.S., modifying it for clarity and specificity and for consistency with Ch. 163, F.S.

The bill amends s. 333.011(5), F.S., removing the phrase "although generally reasonable."

The bill amends s. 311.11(6), F.S., providing that a judicial appeal may not be permitted to any courts, until the appellant has exhausted all of its remedies through the application for political subdivision permits, exceptions, and appeals.

#### **Acquisition of Air Rights (s. 333.12, F.S.)**

##### Current Situation

Current law provides that when it is desired to remove, lower, or otherwise terminate a nonconforming structure or use; or the approach protection necessary cannot, due to constitutional limitations, be provided by airport regulations; or it appears advisable that the necessary approach protection be provided by acquisition of property rights rather than by airport zoning regulations, the political subdivision within which the property or nonconforming use is located, or the political subdivision owning or operating the airport or being served by it, may acquire, by purchase, grant, or condemnation such air right, navigation easement, or other estate, portion or interest in the property or nonconforming structure or use or such interest in the air above such property, tree, structure, or use, in question, as may be necessary to effectuate the purposes of Ch. 333, F.S., and in so doing, if by condemnation, to have the right to take immediate possession of the property, interest in property, air right, or other right sought to be condemned. In the case of the purchase of any property or any easement or estate or interest therein or the acquisition by the power of eminent domain the political subdivision making such purchase or exercising such power shall in addition to the damages for the taking, injury or destruction of property also pay the cost of the removal and relocation of any structure or any public utility which is required to be moved to a new location.

##### Proposed Changes

The bill amends s. 333.12, F.S. for clarity, specificity, and internal consistency with definitions, including the replacement of "navigation easement" with the more accurate term "avigation easement."<sup>25</sup>

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<sup>25</sup> An avigation easement is the conveyance of airspace over another property for use by the airport.

## **Enforcement and Remedies (s. 333.13, F.S.)**

### Current Situation

Current law provides for the enforcement of Ch. 333, F.S., and appropriate remedies.

### Proposed Changes

The bill amends s. 333.13(3), F.S., changing a reference to the Department of Transportation to "the department" for internal consistency with the definitions provided in s. 333.01, F.S.

## **Transition Provisions (s. 333.135, F.S.)**

### Current Situation

Currently Ch. 333, F.S., does not contain any transition provisions.

### Proposed Changes

The bill creates s. 333.135, F.S., providing transition provisions regarding the changes made to Ch. 333, F.S. The bill provides that any airport zoning regulation in effect on July 1, 2016, which include provisions conflicting with Ch. 333, F.S., shall be amended to conform to the requirements of Ch. 333, F.S., by July 1, 2017.

Any political subdivisions having an airport within its territorial limits, which have not adopted airport zoning regulations, shall by July 1, 2017, adopt airport zoning regulations for such airport. The regulations must be consistent with Ch. 333, F.S.

For those political subdivisions that have not yet adopted airport protection zoning regulations, DOT will administer the permitting process as provided in s. 333.025, F.S.

## **Short Title (s. 333.14, F.S.)**

### Current Situation

Current law provides the short title "Airport Zoning Law of 1945."

### Proposed Changes

The bill repeals s. 333.14, F.S., eliminating a short title for Ch. 333., F.S.

## **Statute Reenactment / Florida Transportation Code (s. 350.81(6), F.S.)**

The bill reenacts s. 350.81(6), F.S., relating to communication services offered by local governments to incorporate the changes made by the bill to s. 333.01, F.S.

The bill has an effective date of July 1, 2016.

## **B. SECTION DIRECTORY:**

- Section 1 Amends s. 333.01, F.S., relating to definitions.
- Section 2 Amends s. 333.025, F.S., relating to permit required for structures exceeding federal obstruction standards.
- Section 3 Amends s. 333.03, F.S., relating to power to adopt airport zoning regulations.
- Section 4 Amends s. 333.04, F.S., relating to comprehensive zoning regulations; most stringent to prevail where conflicts occurs.
- Section 5 Amends s. 333.05, F.S., relating to procedure for adoption of zoning regulations.

- Section 6 Amends s. 333.06, F.S., relating to airport zoning requirements.
- Section 7 Amends s. 333.07, F.S., relating to permits and variances.
- Section 8 Amends s. 333.09, F.S., relating to administration of airport zoning regulations.
- Section 9 Amends s. 333.11, F.S., relating to judicial review.
- Section 10 Amends s. 333.12, F.S., relating to acquisition of air rights.
- Section 11 Amends s. 333.13, F.S., relating to enforcement and remedies.
- Section 12 Creates s. 333.135, F.S., relating to transition provisions.
- Section 13 Repeals s. 333.065, F.S., relating to guidelines regarding land use near airports; repeals s. 333.08, F.S., relating to appeals; repeals s. 333.10, F.S., relating to board of adjustment; and repeals s. 333.14, F.S., providing a short title.
- Section 14 Reenacts s. 350.81, F.S., relating to communications services offered by governmental entities.
- Section 15 Provides an effective date.

## 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:

None.

2. Expenditures:

Political subdivisions that have an airport but no airport zoning regulations may see an indeterminate, but likely insignificant, increase to expenditures related to structural permitting and enforcement.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

None.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

None.

##### 1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not require a reduction of the percentage of state tax shared with municipalities of counties.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

Chapter 14-60, F.A.C., implements portions of Ch. 333, F.S., relating to airport zoning, as well as other statutes relating to aviation. DOT advises that it is in the process of reviewing and revising its aviation related rules; however, DOT will defer its final revisions, pending the revisions to Ch. 333, F.S., contained in the bill.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES



27 | procedure for adoption of zoning regulations; revising  
 28 | provisions relating to an airport zoning commission;  
 29 | amending s. 333.06, F.S.; revising airport zoning  
 30 | regulation requirements; revising requirements for  
 31 | adoption of an airport master plan and amendments  
 32 | thereto; amending s. 333.07, F.S.; requiring a permit  
 33 | to construct, alter, or allow an airport obstruction  
 34 | in an airport hazard area under certain circumstances;  
 35 | providing conditions for issuance or denial of such  
 36 | permit; revising provisions to compel conformance;  
 37 | removing provisions for obtaining a variance to zoning  
 38 | regulations; removing reference to a board of  
 39 | adjustment; revising provisions directing a political  
 40 | subdivision to require an owner to install and  
 41 | maintain certain lighting or marking of obstructions;  
 42 | amending s. 333.09, F.S.; revising requirements for  
 43 | administration of airport protection zoning  
 44 | regulations; requiring the political subdivision to  
 45 | provide a process for permitting, notifications to the  
 46 | department, and enforcement; providing for appeal of  
 47 | decisions made by the political subdivision; amending  
 48 | s. 333.11, F.S.; revising provisions for judicial  
 49 | review of decisions by a political subdivision;  
 50 | revising jurisdiction of the court relating to  
 51 | decisions of the political subdivision; removing  
 52 | reference to a board of adjustment; requiring certain

53 | procedures before an appeal to a court; amending s.  
 54 | 333.12, F.S.; revising provisions for acquisition of  
 55 | property when a nonconforming obstruction is  
 56 | determined to be an airport hazard; amending s.  
 57 | 333.13, F.S.; revising penalty provisions; creating s.  
 58 | 333.135, F.S.; providing a timeframe for compliance by  
 59 | political subdivisions; repealing ss. 333.065, 333.08,  
 60 | 333.10, and 333.14, F.S., relating to guidelines  
 61 | regarding land use near airports, appeals, boards of  
 62 | adjustment, and a short title; reenacting s.  
 63 | 350.81(6), F.S., relating to communications services  
 64 | offered by governmental entities, to incorporate the  
 65 | amendment made by the act to s. 333.01, F.S., in a  
 66 | reference thereto; providing an effective date.

67 |

68 | Be It Enacted by the Legislature of the State of Florida:

69 |

70 | Section 1. Section 333.01, Florida Statutes, is amended to  
 71 | read:

72 | 333.01 Definitions.—As used in ~~For the purpose of~~ this  
 73 | chapter, the term ~~following words, terms, and phrases shall have~~  
 74 | ~~the meanings herein given, unless otherwise specifically~~  
 75 | ~~defined, or unless another intention clearly appears, or the~~  
 76 | ~~context otherwise requires:~~

77 | (1) "Aeronautical study" means a Federal Aviation  
 78 | Administration study, conducted in accordance with the standards

79 | of 14 C.F.R. part 77, subpart C, and Federal Aviation  
 80 | Administration policy and guidance, on the effect of proposed  
 81 | construction or alteration on the operation of air navigation  
 82 | facilities and the safe and efficient use of navigable airspace  
 83 | ~~"Aeronautics" means transportation by aircraft; the operation,~~  
 84 | ~~construction, repair, or maintenance of aircraft, aircraft power~~  
 85 | ~~plants and accessories, including the repair, packing, and~~  
 86 | ~~maintenance of parachutes; the design, establishment,~~  
 87 | ~~construction, extension, operation, improvement, repair, or~~  
 88 | ~~maintenance of airports, restricted landing areas, or other air~~  
 89 | ~~navigation facilities, and air instruction.~~

90 |       (2) "Airport" means any area of land or water designed and  
 91 | set aside for the landing and taking off of aircraft and  
 92 | utilized or to be utilized in the interest of the public for  
 93 | such purpose.

94 |       (3) "Airport hazard" means an obstruction to air  
 95 | navigation that affects the safe and efficient use of navigable  
 96 | airspace or the operation of planned or existing air navigation  
 97 | and communication facilities ~~any structure or tree or use of~~  
 98 | ~~land which would exceed the federal obstruction standards as~~  
 99 | ~~contained in 14 C.F.R. ss. 77.21, 77.23, 77.25, 77.28, and 77.29~~  
 100 | ~~and which obstructs the airspace required for the flight of~~  
 101 | ~~aircraft in taking off, maneuvering, or landing or is otherwise~~  
 102 | ~~hazardous to such taking off, maneuvering, or landing of~~  
 103 | ~~aircraft and for which no person has previously obtained a~~  
 104 | ~~permit or variance pursuant to s. 333.025 or s. 333.07.~~

105 (4) "Airport hazard area" means any area of land or water  
 106 upon which an airport hazard might be established ~~if not~~  
 107 ~~prevented as provided in this chapter.~~

108 (5) "Airport land use compatibility zoning" means airport  
 109 zoning regulations governing ~~restricting~~ the use of land on,  
 110 adjacent to, or in the immediate vicinity of airports ~~in the~~  
 111 ~~manner enumerated in s. 333.03(2) to activities and purposes~~  
 112 ~~compatible with the continuation of normal airport operations~~  
 113 ~~including landing and takeoff of aircraft in order to promote~~  
 114 ~~public health, safety, and general welfare.~~

115 (6) "Airport layout plan" means a set of scaled drawings  
 116 that provides a graphic representation of the existing and  
 117 future development plan for the airport and demonstrates the  
 118 preservation and continuity of safety, utility, and efficiency  
 119 of the airport detailed, scale engineering drawing, including  
 120 ~~pertinent dimensions, of an airport's current and planned~~  
 121 ~~facilities, their locations, and runway usage.~~

122 (7) "Airport master plan" means a comprehensive plan of an  
 123 airport which typically describes current and future plans for  
 124 airport development designed to support existing and future  
 125 aviation demand.

126 (8) "Airport protection zoning regulations" means airport  
 127 zoning regulations governing airport hazards.

128 (9) "Department" means the Department of Transportation.

129 (10) "Educational facility" means any structure, land, or  
 130 use thereof that includes a public or private K-12 school,

131 charter school, magnet school, college campus, or university  
 132 campus. The term does not include space used for educational  
 133 purposes within a multi-tenant building.

134 (11) "Landfill" has the same meaning as provided in s.  
 135 403.703.

136 (12)-(7) "Obstruction" means any object of natural growth  
 137 or terrain, or permanent or temporary construction or  
 138 alteration, including equipment or materials used and any  
 139 permanent or temporary apparatus, or alteration of any permanent  
 140 or temporary existing structure by a change in its height,  
 141 including appurtenances, or lateral dimensions, including  
 142 equipment or material used therein, existing or proposed, which  
 143 exceeds ~~manmade object or object of natural growth or terrain~~  
 144 that violates the federal obstruction standards contained in 14  
 145 C.F.R. part 77, subpart C ss. 77.21, 77.23, 77.25, 77.28, and  
 146 77.29.

147 (13)-(8) "Person" means any individual, firm,  
 148 copartnership, corporation, company, association, joint-stock  
 149 association, or body politic, and includes any trustee,  
 150 receiver, assignee, or other similar representative thereof.

151 (14)-(9) "Political subdivision" means the local government  
 152 of any county, city, town, village, or other subdivision or  
 153 agency thereof, or any district or special district, port  
 154 commission, port authority, or other such agency authorized to  
 155 establish or operate airports in the state.

156 (15) "Public-use airport" means an airport, publicly or

157 privately owned, licensed by the state, which is open for use by  
 158 the public.

159 (16)(10) "Runway protection clear zone" means an area at  
 160 ground level beyond the runway end to enhance the safety and  
 161 protection of people and property on the ground a runway clear  
 162 zone as defined in 14 C.F.R. s. 151.9(b).

163 (17)(11) "Structure" means any object, constructed,  
 164 erected, altered, or installed by humans, including, but without  
 165 limitation thereof, buildings, towers, smokestacks, utility  
 166 poles, power generation equipment, and overhead transmission  
 167 lines.

168 (18) "Substantial modification" means any repair,  
 169 reconstruction, rehabilitation, or improvement of a structure  
 170 the actual cost of which equals or exceeds 50 percent of the  
 171 market value of the structure.

172 ~~(12) "Tree" includes any plant of the vegetable kingdom.~~

173 Section 2. Section 333.025, Florida Statutes, is amended  
 174 to read:

175 333.025 Permit required for obstructions structures  
 176 ~~exceeding federal obstruction standards.-~~

177 (1) A person proposing the construction or alteration of  
 178 an obstruction shall obtain a permit from the department in  
 179 ~~order to prevent the erection of structures dangerous to air~~  
 180 ~~navigation, subject to the provisions of subsections (2), (3),~~  
 181 ~~and (4), each person shall secure from the Department of~~  
 182 ~~Transportation a permit for the erection, alteration, or~~

183 ~~modification of any structure the result of which would exceed~~  
 184 ~~the federal obstruction standards as contained in 14 C.F.R. ss.~~  
 185 ~~77.21, 77.23, 77.25, 77.28, and 77.29.~~ However, permits from the  
 186 department are ~~of Transportation will be~~ required only within an  
 187 airport hazard area where federal obstruction standards are  
 188 exceeded and if the proposed construction or alteration is  
 189 within a 10-nautical-mile radius of the airport reference point,  
 190 located at the approximate geometric ~~geographical~~ center of all  
 191 usable runways of a public-use airport or a ~~publicly owned or~~  
 192 operated airport, a military airport, ~~or an airport licensed by~~  
 193 ~~the state for public use.~~

194 (2) Existing, planned, and proposed ~~Affected airports will~~  
 195 ~~be considered as having these~~ facilities on public-use airports  
 196 contained in an ~~which are shown on the~~ airport master plan, on  
 197 ~~or~~ an airport layout plan submitted to the Federal Aviation  
 198 Administration ~~Airport District Office,~~ or in comparable  
 199 military documents shall, ~~and will be so~~ protected from airport  
 200 hazards. ~~Planned or proposed public use airports which are the~~  
 201 ~~subject of a notice or proposal submitted to the Federal~~  
 202 ~~Aviation Administration or to the Department of Transportation~~  
 203 ~~shall also be protected.~~

204 (3) A permit is not required for existing structures that  
 205 ~~requirements of subsection (1) shall not apply to projects which~~  
 206 received construction permits from the Federal Communications  
 207 Commission for structures exceeding federal obstruction  
 208 standards before ~~prior to~~ May 20, 1975, and a permit is not

209 required for ~~provided such structures now exist, nor shall it~~  
 210 ~~apply to previously approved structures now existing, or any~~  
 211 necessary replacement or repairs to such existing structures  
 212 provided, so long as the height and location are ~~is~~ unchanged.

213 (4) When political subdivisions have, in compliance with  
 214 this chapter, adopted adequate airport airspace protection  
 215 zoning regulations, placed in compliance with s. 333.03, and  
 216 such regulations ~~are~~ on file with the department's Aviation and  
 217 Spaceports Office Department of Transportation, and established  
 218 a permitting process, a permit for such structure is ~~shall~~ not  
 219 ~~be~~ required from the department ~~of Transportation~~. Upon receipt  
 220 of a complete permit application, the local government shall  
 221 provide a copy of the application to the department's Aviation  
 222 and Spaceports Office by certified mail, return receipt  
 223 requested, or by delivery service that provides a receipt  
 224 evidencing delivery. To evaluate technical consistency with this  
 225 subsection, the department has a 15-day review period following  
 226 receipt of the application, which runs concurrently with the  
 227 local government permitting process. Cranes, construction  
 228 equipment, and other temporary structures in use or in place for  
 229 a period not to exceed 18 consecutive months are exempt from  
 230 department review unless such review is requested by the  
 231 department.

232 (5) The department ~~of Transportation~~ shall, within 30 days  
 233 ~~after of the~~ receipt of an application for a permit, issue or  
 234 deny a permit for the construction or ~~erection, alteration, or~~

235 ~~modification~~ of an obstruction. The department shall review  
 236 permit applications in conformity with s. 120.60 ~~any structure~~  
 237 ~~the result of which would exceed federal obstruction standards~~  
 238 ~~as contained in 14 C.F.R. ss. 77.21, 77.23, 77.25, 77.28, and~~  
 239 ~~77.29.~~

240 (6) In determining whether to issue or deny a permit, the  
 241 department shall consider:

242 (a) The safety of persons on the ground and in the air.

243 (b) The safe and efficient use of navigable airspace.

244 ~~(c)(a)~~ The nature of the terrain and height of existing  
 245 structures.

246 (d) The effect of the construction or alteration of an  
 247 obstruction on the state licensing standards for a public-use  
 248 airport contained in chapter 330 and rules adopted thereunder.

249 ~~(b) Public and private interests and investments.~~

250 ~~(e)(e)~~ The character of existing and planned flight flying  
 251 operations and planned developments at public-use of airports.

252 ~~(f)(d)~~ Federal airways, visual flight rules, flyways and  
 253 corridors, and instrument approaches as designated by the Federal  
 254 Aviation Administration.

255 ~~(g)(e)~~ The effect of whether the construction or  
 256 alteration of an obstruction on of the proposed structure would  
 257 cause an increase in the minimum descent altitude or the  
 258 decision height at the affected airport.

259 ~~(f) Technological advances.~~

260 ~~(g) The safety of persons on the ground and in the air.~~

261       ~~(h) Land use density.~~  
 262       ~~(i) The safe and efficient use of navigable airspace.~~  
 263       (h)(j) The cumulative effects on navigable airspace of all  
 264 existing obstructions structures, ~~proposed structures identified~~  
 265 ~~in the applicable jurisdictions' comprehensive plans~~, and all  
 266 other known proposed obstructions structures in the area.  
 267       (7) When issuing a permit under this section, the  
 268 department ~~of Transportation~~ shall, ~~as a specific condition of~~  
 269 ~~such permit~~, require the owner of the obstruction to install,  
 270 operate, and maintain thereon, at the owner's expense, marking  
 271 and lighting in conformance with the specific standards  
 272 established by the Federal Aviation Administration ~~of the~~  
 273 ~~permitted structure as provided in s. 333.07(3)(b).~~  
 274       (8) The department may ~~of Transportation~~ shall not approve  
 275 a permit for the construction or alteration of an obstruction  
 276 ~~erection of a structure~~ unless the applicant submits ~~both~~  
 277 documentation showing compliance with the federal requirement  
 278 for notification of proposed construction or alteration and a  
 279 valid aeronautical study. ~~A evaluation, and no permit may not~~  
 280 ~~shall~~ be approved solely because the Federal Aviation  
 281 Administration determines that the proposed obstruction is not  
 282 an airport hazard ~~on the basis that such proposed structure will~~  
 283 ~~not exceed federal obstruction standards as contained in 14~~  
 284 ~~C.F.R. ss. 77.21, 77.23, 77.25, 77.28, or 77.29, or any other~~  
 285 ~~federal aviation regulation.~~  
 286       (9) The denial of a permit under this section is subject

287 to administrative review under chapter 120.

288 Section 3. Section 333.03, Florida Statutes, is amended to  
 289 read:

290 333.03 ~~Power to adopt~~ Airport protection zoning  
 291 regulations.-

292 (1) (a) ~~In order to prevent the creation or establishment~~  
 293 ~~of airport hazards,~~ Every political subdivision having an  
 294 airport hazard area within its territorial limits shall, ~~by~~  
 295 ~~October 1, 1977,~~ adopt, administer, and enforce, under the  
 296 police power and in the manner and upon the conditions  
 297 ~~hereinafter~~ prescribed in this section, airport protection  
 298 zoning regulations for such airport hazard area.

299 (b) When ~~Where~~ an airport is owned or controlled by a  
 300 political subdivision and any other political subdivision has  
 301 land upon which an obstruction may be constructed or altered,  
 302 which land underlies any of the surfaces of the airport  
 303 described in 14 C.F.R. part 77, subpart C, the political  
 304 subdivisions ~~airport hazard area appertaining to such airport is~~  
 305 ~~located wholly or partly outside the territorial limits of said~~  
 306 ~~political subdivision, the political subdivision owning or~~  
 307 ~~controlling the airport and the political subdivision within~~  
 308 ~~which the airport hazard area is located,~~ shall either:

309 1. By interlocal agreement, ~~in accordance with the~~  
 310 ~~provisions of chapter 163,~~ adopt, administer, and enforce a set  
 311 of airport protection zoning regulations ~~applicable to the~~  
 312 ~~airport hazard area in question;~~ or

313 2. By ordinance, regulation, or resolution ~~duly adopted~~,  
 314 create a joint airport protection zoning board ~~that, which board~~  
 315 shall ~~have the same power to~~ adopt, administer, and enforce a  
 316 set of airport protection zoning regulations ~~applicable to the~~  
 317 ~~airport hazard area in question as that vested in paragraph (a)~~  
 318 ~~in the political subdivision within which such area is located.~~  
 319 ~~The~~ ~~Each~~ such joint airport protection zoning board shall have  
 320 as voting members two representatives appointed by each  
 321 participating political subdivision ~~participating in its~~  
 322 ~~creation and in addition~~ a chair elected by a majority of the  
 323 members ~~so~~ appointed. ~~However,~~ The airport manager or a  
 324 representative of each airport in managers of the participating  
 325 ~~affected~~ political subdivisions shall serve on the board in a  
 326 nonvoting capacity.

327 (c) Airport protection zoning regulations adopted under  
 328 paragraph (a) shall, at ~~as~~ a minimum, require:

329 1. A permit ~~variance~~ for the construction or erection,  
 330 ~~alteration, or modification~~ of any obstruction ~~structure~~ which  
 331 ~~would cause the structure to exceed the federal obstruction~~  
 332 ~~standards as contained in 14 C.F.R. ss. 77.21, 77.23, 77.25,~~  
 333 ~~77.28, and 77.29;~~

334 2. ~~Obstruction~~ Marking and lighting for obstructions  
 335 ~~structures as specified in s. 333.07(3);~~

336 3. Documentation showing compliance with the federal  
 337 requirement for notification of proposed construction or  
 338 alteration of structures and a valid aeronautical study

339 ~~evaluation~~ submitted by each person applying for a permit  
 340 ~~variance~~;

341 4. Consideration of the criteria in s. 333.025(6), when  
 342 determining whether to issue or deny a permit variance; and

343 5. That a permit may not ~~no variance shall~~ be approved  
 344 solely because the Federal Aviation Administration determines  
 345 that the proposed obstruction is not an airport hazard on the  
 346 ~~basis that such proposed structure will not exceed federal~~  
 347 ~~obstruction standards as contained in 14 C.F.R. ss. 77.21,~~  
 348 ~~77.23, 77.25, 77.28, or 77.29, or any other federal aviation~~  
 349 ~~regulation.~~

350 (d) The department shall be available to provide  
 351 assistance to political subdivisions with regard to ~~issue copies~~  
 352 ~~of the federal obstruction standards as contained in 14 C.F.R.~~  
 353 ~~ss. 77.21, 77.23, 77.25, 77.28, and 77.29 to each political~~  
 354 ~~subdivision having airport hazard areas and, in cooperation with~~  
 355 ~~political subdivisions, shall issue appropriate airport zoning~~  
 356 ~~maps depicting within each county the maximum allowable height~~  
 357 ~~of any structure or tree. Material distributed pursuant to this~~  
 358 ~~subsection shall be at no cost to authorized recipients.~~

359 (2) In the manner provided in subsection (1), political  
 360 subdivisions shall adopt, administer, and enforce interim  
 361 ~~airport land use compatibility zoning regulations shall be~~  
 362 ~~adopted.~~ Airport land use compatibility zoning regulations  
 363 shall, at a minimum, address ~~When political subdivisions have~~  
 364 ~~adopted land development regulations in accordance with the~~

365 ~~provisions of chapter 163 which address the use of land in the~~  
 366 ~~manner consistent with the provisions herein, adoption of~~  
 367 ~~airport land use compatibility regulations pursuant to this~~  
 368 ~~subsection shall not be required. Interim airport land use~~  
 369 ~~compatibility zoning regulations shall consider the following:~~

370 (a) Prohibiting any new landfills and restricting any  
 371 existing ~~Whether sanitary~~ landfills are located within the  
 372 following areas:

373 1. Within 10,000 feet from the nearest point of any runway  
 374 used or planned to be used by turbine ~~turbojet or turboprop~~  
 375 aircraft.

376 2. Within 5,000 feet from the nearest point of any runway  
 377 used only by nonturbine ~~piston-type~~ aircraft.

378 3. Outside the perimeters defined in subparagraphs 1. and  
 379 2., but still within the lateral limits of the civil airport  
 380 imaginary surfaces defined in 14 C.F.R. s. 77.19 ~~part 77.25~~.  
 381 Case-by-case review of such landfills is advised.

382 (b) Where ~~Whether~~ any landfill is located and constructed  
 383 so that it attracts or sustains hazardous bird movements from  
 384 feeding, water, or roosting areas into, or across, the runways  
 385 or approach and departure patterns of aircraft. The operator of  
 386 such a landfill must be required to ~~political subdivision shall~~  
 387 ~~request from the airport authority or other governing body~~  
 388 ~~operating the airport a report on such bird feeding or roosting~~  
 389 ~~areas that at the time of the request are known to the airport.~~  
 390 ~~In preparing its report, the authority, or other governing body,~~

391 ~~shall consider whether the landfill will~~ incorporate bird  
 392 management techniques or other practices to minimize bird  
 393 hazards to airborne aircraft. ~~The airport authority or other~~  
 394 ~~governing body shall respond to the political subdivision no~~  
 395 ~~later than 30 days after receipt of such request.~~

396 (c) Where an airport authority or other governing body  
 397 operating a ~~publicly owned,~~ public-use airport has conducted a  
 398 noise study in accordance with ~~the provisions of~~ 14 C.F.R. part  
 399 150 or where a public-use airport owner has established noise  
 400 contours pursuant to another public study approved by the Federal  
 401 Aviation Administration. Noncompatible land uses, as established  
 402 in the noise study under Appendix A to 14 C.F.R. part 150 or as a  
 403 part of an alternative public study approved by the Federal  
 404 Aviation Administration, are not permitted within the noise  
 405 contours established by such study, except where such land use is  
 406 specifically contemplated by such study with appropriate  
 407 mitigation or similar techniques described in the study, ~~neither~~  
 408 ~~residential construction nor any educational facility as defined~~  
 409 ~~in chapter 1013, with the exception of aviation school~~  
 410 ~~facilities, shall be permitted within the area contiguous to the~~  
 411 ~~airport defined by an outer noise contour that is considered~~  
 412 ~~incompatible with that type of construction by 14 C.F.R. part~~  
 413 ~~150, Appendix A or an equivalent noise level as established by~~  
 414 ~~other types of noise studies.~~

415 (d) Where an airport authority or other governing body  
 416 operating a ~~publicly owned,~~ public-use airport has not conducted

417 a noise study., ~~neither~~ Residential construction and ~~nor~~ any  
 418 educational facility ~~as defined in chapter 1013~~, with the  
 419 exception of an aviation school facility facilities, are not  
 420 ~~shall be~~ permitted within an area contiguous to the airport  
 421 measuring one-half the length of the longest runway on either  
 422 side of and at the end of each runway centerline.

423 (e)(3) Restricting ~~In the manner provided in subsection~~  
 424 ~~(1)~~, ~~airport zoning regulations shall be adopted which restrict~~  
 425 new incompatible uses, activities, or substantial modifications  
 426 to existing incompatible uses ~~construction~~ within runway  
 427 protection ~~clear zones, including uses, activities, or~~  
 428 ~~construction in runway clear zones which are incompatible with~~  
 429 ~~normal airport operations or endanger public health, safety, and~~  
 430 ~~welfare by resulting in congregations of people, emissions of~~  
 431 ~~light or smoke, or attraction of birds. Such regulations shall~~  
 432 ~~prohibit the construction of an educational facility of a public~~  
 433 ~~or private school at either end of a runway of a publicly owned,~~  
 434 ~~public use airport within an area which extends 5 miles in a~~  
 435 ~~direct line along the centerline of the runway, and which has a~~  
 436 ~~width measuring one half the length of the runway. Exceptions~~  
 437 ~~approving construction of an educational facility within the~~  
 438 ~~delineated area shall only be granted when the political~~  
 439 ~~subdivision administering the zoning regulations makes specific~~  
 440 ~~findings detailing how the public policy reasons for allowing~~  
 441 ~~the construction outweigh health and safety concerns prohibiting~~  
 442 ~~such a location.~~

443 ~~(4) The procedures outlined in subsections (1), (2), and~~  
 444 ~~(3) for the adoption of such regulations are supplemental to any~~  
 445 ~~existing procedures utilized by political subdivisions in the~~  
 446 ~~adoption of such regulations.~~

447 (3)(5) Political subdivisions shall provide ~~The Department~~  
 448 ~~of Transportation shall provide technical assistance to any~~  
 449 ~~political subdivision requesting assistance in the preparation~~  
 450 ~~of an airport zoning code. a copy of all local airport~~  
 451 protection zoning codes, rules, and regulations and airport land  
 452 use compatibility zoning regulations, together with any related  
 453 amendments, to the department's Aviation and Spaceports Office  
 454 within 30 days after adoption, and amendments and proposed and  
 455 ~~granted variances thereto, shall be filed with the department.~~

456 ~~(4)(6) Nothing in Subsection (2) does not or subsection~~  
 457 ~~(3) shall be construed to require the removal, alteration, sound~~  
 458 ~~conditioning, or other change to, or to interfere with the~~  
 459 ~~continued use or adjacent expansion of, any educational facility~~  
 460 ~~structure or site in existence on July 1, 1993, or be construed~~  
 461 ~~to prohibit the construction of any new structure for which a~~  
 462 ~~site has been determined as provided in former s. 235.19, as of~~  
 463 ~~July 1, 1993.~~

464 (5) This section does not preclude an airport authority,  
 465 political subdivision or its administrative agency, or other  
 466 governing body operating a public-use airport from establishing  
 467 airport zoning regulations more restrictive than prescribed in  
 468 this section in order to protect the health, safety, and welfare

469 of the public in the air and on the ground.

470 Section 4. Section 333.04, Florida Statutes, is amended to  
471 read:

472 333.04 Comprehensive plans or policies ~~zoning regulations;~~  
473 most stringent zoning regulations to prevail where conflicts  
474 occur.-

475 (1) INCORPORATION.-~~If In the event that~~ a political  
476 subdivision ~~has adopted, or hereafter adopts,~~ a comprehensive  
477 plan or policy that regulates zoning ordinance regulating, among  
478 ~~other things,~~ the height of buildings, structures, and natural  
479 objects, and uses of property, any airport zoning regulations  
480 applicable to the same area or portion thereof may be  
481 incorporated in and made a part of such comprehensive plan or  
482 policy ~~zoning regulations,~~ and be administered and enforced in  
483 connection therewith.

484 (2) CONFLICT.-~~If there is a In the event of~~ conflict  
485 between any airport zoning regulations adopted under this  
486 chapter and any other regulations applicable to the same area,  
487 whether the conflict be with respect to the height of structures  
488 or vegetation trees, the use of land, or any other matter, and  
489 whether such regulations were adopted by the political  
490 subdivision that ~~which~~ adopted the airport zoning regulations or  
491 by some other political subdivision, the more stringent  
492 limitation or requirement shall govern and prevail.

493 Section 5. Section 333.05, Florida Statutes, is amended to  
494 read:

495           333.05 Procedure for adoption of zoning regulations.—  
 496           (1) NOTICE AND HEARING.—~~No~~ Airport zoning regulations may  
 497 not shall be adopted, amended, or repealed ~~changed~~ under this  
 498 chapter except by action of the legislative body of the  
 499 political subdivision or affected subdivisions ~~in question~~, or  
 500 the joint board provided for in s. 333.03(1)(b)2. ~~333.03(1)(b)~~  
 501 ~~by the bodies therein provided and set forth~~, after a public  
 502 hearing on the adoption, amendment, or repeal ~~in relation~~  
 503 ~~thereto~~, at which parties in interest and citizens shall have an  
 504 opportunity to be heard. Notice of the hearing shall be  
 505 published at least once a week for 2 consecutive weeks in a  
 506 newspaper ~~an official paper, or a paper~~ of general circulation,  
 507 in the political subdivision or subdivisions where ~~in which are~~  
 508 ~~located~~ the airport zoning regulations ~~areas~~ to be adopted,  
 509 amended, or deleted ~~zoned~~.  
 510           (2) AIRPORT ZONING COMMISSION.—Before ~~Prior to~~ the initial  
 511 zoning of any airport area under this chapter, the political  
 512 subdivision or joint airport zoning board that ~~which~~ is to  
 513 adopt, administer, and enforce the regulations shall appoint a  
 514 commission, to be known as the airport zoning commission, to  
 515 recommend the boundaries of the various zones to be established  
 516 and the regulations to be adopted therefor. The ~~Such~~ commission  
 517 shall make a preliminary report and hold public hearings on the  
 518 preliminary report ~~thereon~~ before submitting its final report.  
 519 ~~and~~ The legislative body of the political subdivision or the  
 520 joint airport zoning board may ~~shall~~ not hold ~~its~~ public

521 | hearings or take any action until it has received the final  
 522 | report of the ~~such~~ commission, and at least 15 days have elapsed  
 523 | ~~shall elapse~~ between the receipt of the final report of the  
 524 | commission and the hearing to be held by the legislative body or  
 525 | the ~~latter~~ board. Where a planning ~~city plan~~ commission, airport  
 526 | commission, or comprehensive zoning commission already exists,  
 527 | it may be appointed as the airport zoning commission.

528 | Section 6. Section 333.06, Florida Statutes, is amended to  
 529 | read:

530 | 333.06 Airport zoning regulation requirements.—

531 | (1) REASONABLENESS.—All airport zoning regulations adopted  
 532 | under this chapter shall be reasonable and ~~none~~ shall not impose  
 533 | any requirement or restriction that ~~which~~ is not reasonably  
 534 | necessary to effectuate the purposes of this chapter. In  
 535 | determining what regulations it may adopt, each political  
 536 | subdivision and joint airport zoning board shall consider, among  
 537 | other things, the character of the flying operations expected to  
 538 | be conducted at the airport, the nature of the terrain within  
 539 | the airport hazard area and runway protection ~~clear~~ zones, the  
 540 | character of the neighborhood, the uses to which the property to  
 541 | be zoned is put and adaptable, and the impact of any new use,  
 542 | activity, or construction on the airport's operating capability  
 543 | and capacity.

544 | (2) INDEPENDENT JUSTIFICATION.—The purpose of all airport  
 545 | zoning regulations adopted under this chapter is to provide ~~both~~  
 546 | airspace protection and land uses ~~use~~ compatible with airport

547 operations. Each aspect of this purpose requires independent  
 548 justification in order to promote the public interest in safety,  
 549 health, and general welfare. Specifically, construction in a  
 550 runway protection ~~clear~~ zone which does not exceed airspace  
 551 height restrictions is not conclusive ~~evidence per se~~ that such  
 552 use, activity, or construction is compatible with airport  
 553 operations.

554 (3) NONCONFORMING USES.—~~No~~ Airport protection zoning  
 555 regulations adopted under this chapter may not ~~shall~~ require the  
 556 removal, lowering, or other change or alteration of any  
 557 obstruction ~~structure or tree~~ not conforming to the regulations  
 558 when adopted or amended, or otherwise interfere with the  
 559 continuance of any nonconforming use, except as provided in s.  
 560 333.07(1) and (3).

561 (4) ADOPTION OF AIRPORT MASTER PLAN AND NOTICE TO AFFECTED  
 562 LOCAL GOVERNMENTS.—An airport master plan shall be prepared by  
 563 each public-use ~~publicly owned and operated~~ airport licensed by  
 564 the department ~~of Transportation~~ under chapter 330. The  
 565 authorized entity having responsibility for governing the  
 566 operation of the airport, when ~~either~~ requesting from or  
 567 submitting to a state or federal governmental agency with  
 568 funding or approval jurisdiction a "finding of no significant  
 569 impact," an environmental assessment, a site-selection study, an  
 570 airport master plan, or any amendment to an airport master plan,  
 571 shall submit simultaneously a copy of said request, submittal,  
 572 assessment, study, plan, or amendments by certified mail to all

573 affected local governments. For ~~the~~ purposes of this subsection,  
 574 "affected local government" means ~~is defined as~~ any city or  
 575 county having jurisdiction over the airport and any city or  
 576 county located within 2 miles of the boundaries of the land  
 577 subject to the airport master plan.

578 Section 7. Section 333.07, Florida Statutes, is amended to  
 579 read:

580 333.07 Local government permitting of airspace  
 581 obstructions ~~Permits and variances.-~~

582 (1) PERMITS.-

583 (a) A person proposing to construct, alter, or allow an  
 584 airport obstruction in an airport hazard area in violation of  
 585 the airport protection zoning regulations adopted under this  
 586 chapter shall apply for a permit. ~~A Any airport zoning~~  
 587 ~~regulations adopted under this chapter may require that a permit~~  
 588 ~~be obtained before any new structure or use may be constructed~~  
 589 ~~or established and before any existing use or structure may be~~  
 590 ~~substantially changed or substantially altered or repaired. In~~  
 591 ~~any event, however, all such regulations shall provide that~~  
 592 ~~before any nonconforming structure or tree may be replaced,~~  
 593 ~~substantially altered or repaired, rebuilt, allowed to grow~~  
 594 ~~higher, or replanted, a permit must be secured from the~~  
 595 ~~administrative agency authorized to administer and enforce the~~  
 596 ~~regulations, authorizing such replacement, change, or repair. No~~  
 597 ~~permit may not shall be issued granted~~ that would allow the  
 598 establishment or creation of an airport hazard or that would

599 | permit a nonconforming obstruction ~~structure or tree or~~  
 600 | ~~nonconforming use to be made or become higher or~~ to become a  
 601 | greater hazard to air navigation than ~~it was~~ when the applicable  
 602 | airport protection zoning regulation was adopted that allowed  
 603 | the establishment or creation of the obstruction or than ~~it is~~  
 604 | when the application for a permit is made.

605 |         (b) Whenever the political subdivision or its  
 606 | administrative agency determines that a nonconforming  
 607 | obstruction ~~use or nonconforming structure or tree~~ has been  
 608 | abandoned or that is more than 80 percent of the obstruction is  
 609 | torn down, destroyed, deteriorated, or decayed, a ~~no~~ permit may  
 610 | not shall be granted that would allow the obstruction ~~said~~  
 611 | ~~structure or tree~~ to exceed the applicable height limit or  
 612 | otherwise deviate from the airport protection zoning  
 613 | regulations. ~~and,~~ Regardless of whether an application is made  
 614 | for a permit under this subsection ~~or not, the said agency may~~  
 615 | ~~by appropriate action, compel~~ the owner of the nonconforming  
 616 | obstruction may be required ~~structure or tree~~, at his or her own  
 617 | expense, to lower, remove, reconstruct, alter, or equip such  
 618 | obstruction ~~object~~ as ~~may be~~ necessary to conform to the current  
 619 | airport protection zoning regulations. If the owner of the  
 620 | nonconforming obstruction fails or refuses ~~structure or tree~~  
 621 | ~~shall neglect or refuse~~ to comply with such requirement within  
 622 | ~~order for~~ 10 days after notice ~~thereof~~, the administrative ~~said~~  
 623 | agency may report the violation to the political subdivision  
 624 | involved therein, which subdivision, through its appropriate

625 agency, may proceed to have the obstruction ~~object~~ so lowered,  
 626 removed, reconstructed, altered, or equipped, and assess the  
 627 cost and expense thereof upon the owner of the obstruction  
 628 ~~object~~ or the land whereon it is or was located, and, unless  
 629 ~~such an assessment is paid within 90 days from the service of~~  
 630 ~~notice thereof on the owner or the owner's agent, of such object~~  
 631 ~~or land, the sum shall be a lien on said land, and shall bear~~  
 632 ~~interest thereafter at the rate of 6 percent per annum until~~  
 633 ~~paid, and shall be collected in the same manner as taxes on real~~  
 634 ~~property are collected by said political subdivision, or, at the~~  
 635 ~~option of said political subdivision, said lien may be enforced~~  
 636 ~~in the manner provided for enforcement of liens by chapter 85.~~

637 ~~(c) Except as provided herein, applications for permits~~  
 638 ~~shall be granted, provided the matter applied for meets the~~  
 639 ~~provisions of this chapter and the regulations adopted and in~~  
 640 ~~force hereunder.~~

641 (2) CONSIDERATIONS WHEN ISSUING OR DENYING PERMITS.—In  
 642 determining whether to issue or deny a permit, the political  
 643 subdivision or its administrative agency shall consider the  
 644 following, as applicable:

645 (a) The safety of persons on the ground and in the air.

646 (b) The safe and efficient use of navigable airspace.

647 (c) The nature of the terrain and height of existing  
 648 structures.

649 (d) The effect of the construction or alteration on the  
 650 state licensing standards for a public-use airport contained in

651 | chapter 330 and rules adopted thereunder.

652 |     (e) The character of existing and planned flight  
 653 | operations and developments at public-use airports.

654 |     (f) Federal airways, visual flight rules, flyways and  
 655 | corridors, and instrument approaches as designated by the  
 656 | Federal Aviation Administration.

657 |     (g) The effect of the construction or alteration of the  
 658 | proposed structure on the minimum descent altitude or the  
 659 | decision height at the affected airport.

660 |     (h) The cumulative effects on navigable airspace of all  
 661 | existing structures and all other known proposed structures in  
 662 | the area.

663 |     (i) Additional requirements adopted by the political  
 664 | subdivision or administrative agency pertinent to evaluation and  
 665 | protection of airspace and airport operations.

666 |     ~~(2) VARIANCES.—~~

667 |     ~~(a) Any person desiring to erect any structure, increase~~  
 668 | ~~the height of any structure, permit the growth of any tree, or~~  
 669 | ~~otherwise use his or her property in violation of the airport~~  
 670 | ~~zoning regulations adopted under this chapter or any land~~  
 671 | ~~development regulation adopted pursuant to the provisions of~~  
 672 | ~~chapter 163 pertaining to airport land use compatibility, may~~  
 673 | ~~apply to the board of adjustment for a variance from the zoning~~  
 674 | ~~regulations in question. At the time of filing the application,~~  
 675 | ~~the applicant shall forward to the department by certified mail,~~  
 676 | ~~return receipt requested, a copy of the application. The~~

677 ~~department shall have 45 days from receipt of the application to~~  
 678 ~~comment and to provide its comments or waiver of that right to~~  
 679 ~~the applicant and the board of adjustment. The department shall~~  
 680 ~~include its explanation for any objections stated in its~~  
 681 ~~comments. If the department fails to provide its comments within~~  
 682 ~~45 days of receipt of the application, its right to comment is~~  
 683 ~~waived. The board of adjustment may proceed with its~~  
 684 ~~consideration of the application only upon the receipt of the~~  
 685 ~~department's comments or waiver of that right as demonstrated by~~  
 686 ~~the filing of a copy of the return receipt with the board.~~  
 687 ~~Noncompliance with this section shall be grounds to appeal~~  
 688 ~~pursuant to s. 333.08 and to apply for judicial relief pursuant~~  
 689 ~~to s. 333.11. Such variances may only be allowed where a literal~~  
 690 ~~application or enforcement of the regulations would result in~~  
 691 ~~practical difficulty or unnecessary hardship and where the~~  
 692 ~~relief granted would not be contrary to the public interest but~~  
 693 ~~would do substantial justice and be in accordance with the~~  
 694 ~~spirit of the regulations and this chapter. However, any~~  
 695 ~~variance may be allowed subject to any reasonable conditions~~  
 696 ~~that the board of adjustment may deem necessary to effectuate~~  
 697 ~~the purposes of this chapter.~~

698 ~~(b) The Department of Transportation shall have the~~  
 699 ~~authority to appeal any variance granted under this chapter~~  
 700 ~~pursuant to s. 333.08, and to apply for judicial relief pursuant~~  
 701 ~~to s. 333.11.~~

702 (3) OBSTRUCTION MARKING AND LIGHTING.—

703           ~~(a) When issuing a~~ In granting any permit or variance  
 704 under this section, the political subdivision or its  
 705 administrative agency ~~or board of adjustment~~ shall require the  
 706 owner of the obstruction ~~structure or tree in question~~ to  
 707 install, operate, and maintain thereon, at the owner's ~~his or~~  
 708 ~~her own~~ expense, ~~such~~ marking and lighting in conformance with  
 709 the specific standards established by the Federal Aviation  
 710 Administration as may be necessary to indicate to aircraft  
 711 ~~pilots the presence of an obstruction.~~

712           ~~(b) Such marking and lighting shall conform to the~~  
 713 ~~specific standards established by rule by the Department of~~  
 714 ~~Transportation.~~

715           ~~(c) Existing structures not in compliance on October 1,~~  
 716 ~~1988, shall be required to comply whenever the existing marking~~  
 717 ~~requires refurbishment, whenever the existing lighting requires~~  
 718 ~~replacement, or within 5 years of October 1, 1988, whichever~~  
 719 ~~occurs first.~~

720           Section 8. Section 333.09, Florida Statutes, is amended to  
 721 read:

722           333.09 Administration of airport zoning regulations.—

723           (1) ADMINISTRATION.—All airport zoning regulations adopted  
 724 under this chapter shall provide for the administration and  
 725 enforcement of such regulations by the political subdivision or  
 726 its ~~an~~ administrative agency ~~which may be an agency created by~~  
 727 ~~such regulations or any official, board, or other existing~~  
 728 ~~agency of the political subdivision adopting the regulations or~~

729 ~~of one of the political subdivisions which participated in the~~  
 730 ~~creation of the joint airport zoning board adopting the~~  
 731 ~~regulations, if satisfactory to that political subdivision, but~~  
 732 ~~in no case shall such administrative agency be or include any~~  
 733 ~~member of the board of adjustment.~~ The duties of an any  
 734 administrative agency designated pursuant to this chapter shall  
 735 include ~~that of~~ hearing and deciding all permits under s. 333.07  
 736 ~~333.07(1), deciding all matters under s. 333.07(3),~~ as they  
 737 pertain to such agency, and all other matters under this chapter  
 738 applying to such said agency, ~~but such agency shall not have or~~  
 739 ~~exercise any of the powers herein delegated to the board of~~  
 740 ~~adjustment.~~

741 (2) LOCAL GOVERNMENT PROCESS.-

742 (a) A political subdivision required to adopt airport  
 743 zoning regulations under this chapter shall provide a process to:

744 1. Issue or deny permits consistent with s. 333.07.

745 2. Provide the department with a copy of a complete  
 746 application consistent with s. 333.025(4).

747 3. Enforce the issuance or denial of a permit or other  
 748 determination made by the administrative agency with respect to  
 749 airport zoning regulations.

750 (b) If a zoning board or permitting body already exists  
 751 within a political subdivision, the zoning board or permitting  
 752 body may implement the airport zoning regulation permitting and  
 753 appeals processes.

754 (3) APPEALS.-

755 (a) A person, a political subdivision or its administrative  
 756 agency, or a joint airport zoning board that contends that a  
 757 decision made by a political subdivision or its administrative  
 758 agency is an improper application of airport zoning regulations  
 759 may use the process established for an appeal.

760 (b) All appeals taken under this section must be taken  
 761 within a reasonable time, as provided by the political  
 762 subdivision or its administrative agency, by filing with the  
 763 entity from which appeal is taken a notice of appeal specifying  
 764 the grounds for appeal.

765 (c) An appeal shall stay all proceedings in the underlying  
 766 action appealed from, unless the entity from which the appeal is  
 767 taken certifies, pursuant to the rules for appeal, that by reason  
 768 of the facts stated in the certificate a stay would, in its  
 769 opinion, cause imminent peril to life or property. In such cases,  
 770 proceedings shall not be stayed except by order of the political  
 771 subdivision or its administrative agency on notice to the entity  
 772 from which the appeal is taken and for good cause shown.

773 (d) The political subdivision or its administrative agency  
 774 shall set a reasonable time for the hearing of appeals, give  
 775 public notice and due notice to the parties in interest, and  
 776 decide the issue within a reasonable time. Upon the hearing, any  
 777 party may appear in person, by agent, or by attorney.

778 (e) The political subdivision or its administrative agency  
 779 may, in conformity with this chapter, affirm, reverse, or modify  
 780 the decision on the permit or other determination from which the

781 appeal is taken.

782 Section 9. Section 333.11, Florida Statutes, is amended to  
783 read:

784 333.11 Judicial review.—

785 (1) A ~~Any person, aggrieved, or taxpayer affected, by any~~  
786 ~~decision of a board of adjustment, or any governing body of a~~  
787 ~~political subdivision, or the Department of Transportation or~~  
788 ~~any joint airport zoning board~~ affected by a decision of a  
789 political subdivision, or its ~~of any~~ administrative agency  
790 ~~hereunder,~~ may apply for judicial relief to the circuit court in  
791 the judicial circuit where the political subdivision ~~board of~~  
792 ~~adjustment~~ is located within 30 days after rendition of the  
793 decision ~~by the board of adjustment.~~ Review shall be by petition  
794 for writ of certiorari, which shall be governed by the Florida  
795 Rules of Appellate Procedure.

796 ~~(2) Upon presentation of such petition to the court, it~~  
797 ~~may allow a writ of certiorari, directed to the board of~~  
798 ~~adjustment, to review such decision of the board. The allowance~~  
799 ~~of the writ shall not stay the proceedings upon the decision~~  
800 ~~appealed from, but the court may, on application, on notice to~~  
801 ~~the board, on due hearing and due cause shown, grant a~~  
802 ~~restraining order.~~

803 ~~(3) The board of adjustment shall not be required to~~  
804 ~~return the original papers acted upon by it, but it shall be~~  
805 ~~sufficient to return certified or sworn copies thereof or of~~  
806 ~~such portions thereof as may be called for by the writ. The~~

807 ~~return shall concisely set forth such other facts as may be~~  
 808 ~~pertinent and material to show the grounds of the decision~~  
 809 ~~appealed from and shall be verified.~~

810 (2)~~(4)~~ The court has ~~shall have~~ exclusive jurisdiction to  
 811 affirm, reverse, or modify, ~~or set aside~~ the decision on the  
 812 permit or other determination from which the appeal is taken  
 813 ~~brought up for review, in whole or in part,~~ and, if appropriate  
 814 ~~need be,~~ to order further proceedings by the political  
 815 subdivision or its administrative agency ~~board of adjustment.~~  
 816 The findings of fact by the political subdivision or its  
 817 administrative agency ~~board,~~ if supported by substantial  
 818 evidence, shall be accepted by the court as conclusive, and an  
 819 ~~no~~ objection to a decision of the political subdivision or its  
 820 administrative agency may not ~~board shall~~ be considered by the  
 821 court unless such objection was raised in the underlying  
 822 proceeding ~~shall have been urged before the board, or, if it was~~  
 823 ~~not so urged, unless there were reasonable grounds for failure~~  
 824 ~~to do so.~~

825 (3)~~(5)~~ In any case in which airport zoning regulations  
 826 adopted under this chapter, ~~although generally reasonable,~~ are  
 827 held by a court to interfere with the use and enjoyment of a  
 828 particular structure or parcel of land to such an extent, or to  
 829 be so onerous in their application to such a structure or parcel  
 830 of land, as to constitute a taking or deprivation of that  
 831 property in violation of the State Constitution or the  
 832 Constitution of the United States, such holding shall not affect

833 the application of such regulations to other structures and  
 834 parcels of land, or such regulations as are not involved in the  
 835 particular decision.

836 ~~(4)(6)~~ A judicial ~~Ne~~ appeal to any court may not shall be  
 837 ~~or is~~ permitted under this section until the appellant has  
 838 exhausted all of its remedies through application for local  
 839 government permits, exceptions, and appeals, ~~to any courts, as~~  
 840 ~~herein provided, save and except an appeal from a decision of~~  
 841 ~~the board of adjustment, the appeal herein provided being from~~  
 842 ~~such final decision of such board only, the appellant being~~  
 843 ~~hereby required to exhaust his or her remedies hereunder of~~  
 844 ~~application for permits, exceptions and variances, and appeal to~~  
 845 ~~the board of adjustment, and gaining a determination by said~~  
 846 ~~board, before being permitted to appeal to the court hereunder.~~

847 Section 10. Section 333.12, Florida Statutes, is amended  
 848 to read:

849 333.12 Acquisition of air rights. ~~-If In any case which: it~~  
 850 ~~is desired to remove, lower or otherwise terminate a~~  
 851 nonconforming obstruction is determined to be an airport hazard  
 852 and the owner will not remove, lower, or otherwise eliminate it  
 853 ~~structure or use; if or~~ the approach protection necessary  
 854 cannot, because of constitutional limitations, be provided by  
 855 airport regulations under this chapter; or if it appears  
 856 advisable that the necessary approach protection be provided by  
 857 acquisition of property rights rather than by airport zoning  
 858 regulations, the political subdivision within which the property

859 or nonconforming obstruction ~~use~~ is located, or the political  
 860 subdivision owning or operating the airport or being served by  
 861 it, may acquire~~7~~ by purchase, grant, or condemnation in the  
 862 manner provided by chapter 73~~7~~ such property, air right,  
 863 avigation ~~navigation~~ easement, or other estate, portion, or  
 864 interest in the property or nonconforming obstruction ~~structure~~  
 865 ~~or use~~ or such interest in the air above such property, ~~tree,~~  
 866 ~~structure, or use, in question,~~ as may be necessary to  
 867 effectuate the purposes of this chapter, and ~~in so doing,~~ if by  
 868 condemnation, may ~~to have the right to~~ take immediate possession  
 869 of the property, interest in property, air right, or other right  
 870 sought to be condemned, at the time, ~~and~~ in the manner and form,  
 871 and as authorized by chapter 74. If the political subdivision  
 872 acquires any ~~In the case of the purchase of any property, or any~~  
 873 easement, or estate or interest therein by purchase or ~~the~~  
 874 ~~acquisition of the same~~ by the power of eminent domain, the  
 875 political subdivision ~~making such purchase or exercising such~~  
 876 ~~power~~ shall, in addition to the damages for the taking, injury,  
 877 or destruction of property, also pay the cost of the removal and  
 878 relocation of any structure or any public utility that must  
 879 ~~which is required to~~ be moved to a new location.

880 Section 11. Section 333.13, Florida Statutes, is amended  
 881 to read:

882 333.13 Enforcement and remedies.—

883 (1) A ~~Each~~ violation of this chapter or ~~of~~ any airport  
 884 zoning regulations, orders, or rulings adopted ~~promulgated~~ or

885 made under ~~pursuant to~~ this chapter is ~~shall constitute~~ a  
 886 misdemeanor of the second degree, punishable as provided in s.  
 887 775.082 or s. 775.083, and each day a violation continues to  
 888 exist constitutes ~~shall constitute~~ a separate offense.

889 (2) In addition, the political subdivision or agency  
 890 adopting the airport zoning regulations under this chapter may  
 891 institute in any court of competent jurisdiction an action to  
 892 prevent, restrain, correct, or abate a ~~any~~ violation of this  
 893 chapter, any ~~or of~~ airport zoning regulations adopted under this  
 894 chapter, or ~~of~~ any order or ruling made in connection with their  
 895 administration or enforcement, and the court shall adjudge to  
 896 the plaintiff such relief, by way of injunction (which may be  
 897 mandatory) or otherwise, as may be proper under all the facts  
 898 and circumstances of the case in order to fully effectuate the  
 899 purposes of this chapter and of the regulations adopted and  
 900 orders and rulings made pursuant thereto.

901 (3) The department ~~of Transportation~~ may institute a civil  
 902 action for injunctive relief in the appropriate circuit court to  
 903 prevent violation of ~~any provision of~~ this chapter.

904 Section 12. Section 333.135, Florida Statutes, is created  
 905 to read:

906 333.135 Transition provisions.-

907 (1) For those political subdivisions that have not adopted  
 908 airport zoning regulations pursuant to this chapter, the  
 909 department shall administer the permitting process as provided in  
 910 s. 333.025.

911           (2) By July 1, 2017:  
 912           (a) Any airport zoning regulation in effect on July 1,  
 913 2016, that includes provisions in conflict with this chapter  
 914 shall be amended to conform to the requirements of this chapter.

915           (b) Any political subdivision having an airport within its  
 916 territorial limits which has not adopted airport zoning  
 917 regulations shall adopt airport zoning regulations consistent  
 918 with this chapter.

919           Section 13. Sections 333.065, 333.08, 333.10, and 333.14,  
 920 Florida Statutes, are repealed.

921           Section 14. For the purpose of incorporating the amendment  
 922 made by this act to section 333.01, Florida Statutes, in a  
 923 reference thereto, subsection (6) of section 350.81, Florida  
 924 Statutes, is reenacted to read:

925           350.81 Communications services offered by governmental  
 926 entities.—

927           (6) To ensure the safe and secure transportation of  
 928 passengers and freight through an airport facility, as defined  
 929 in s. 159.27(17), an airport authority or other governmental  
 930 entity that provides or is proposing to provide communications  
 931 services only within the boundaries of its airport layout plan,  
 932 as defined in s. 333.01(6), to subscribers which are integral  
 933 and essential to the safe and secure transportation of  
 934 passengers and freight through the airport facility, is exempt  
 935 from this section. An airport authority or other governmental  
 936 entity that provides or is proposing to provide shared-tenant

937 service under s. 364.339, but not dial tone enabling subscribers  
938 to complete calls outside the airport layout plan, to one or  
939 more subscribers within its airport layout plan which are not  
940 integral and essential to the safe and secure transportation of  
941 passengers and freight through the airport facility is exempt  
942 from this section. An airport authority or other governmental  
943 entity that provides or is proposing to provide communications  
944 services to one or more subscribers within its airport layout  
945 plan which are not integral and essential to the safe and secure  
946 transportation of passengers and freight through the airport  
947 facility, or to one or more subscribers outside its airport  
948 layout plan, is not exempt from this section. By way of example  
949 and not limitation, the integral, essential subscribers may  
950 include airlines and emergency service entities, and the  
951 nonintegral, nonessential subscribers may include retail shops,  
952 restaurants, hotels, or rental car companies.

953 Section 15. This act shall take effect July 1, 2016.