

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Transportation and Economic Development Appropriations Committee

BILL: CS/CS/SB 2728

SPONSOR: Transportation and Economic Development Appropriations Committee, Commerce and Consumer Services Committee and Senator Fasano

SUBJECT: Innovation Incentive Program

DATE: April 18, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Barrett</u>	<u>Cooper</u>	<u>CM</u>	<u>Fav/CS</u>
2.	<u>Martin</u>	<u>Martin</u>	<u>TA</u>	<u>Fav/CS</u>
3.	_____	_____	<u>WM</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This committee substitute (CS) creates the Innovation Incentive Program. The purpose of the program is to provide resources for significant economic development projects, including the location or expansion of research and development entities and innovation businesses in Florida.

For purposes of carrying out this act, this committee substitute appropriates \$150 million of non-recurring funds from General Revenue Fund to the Economic Development Trust Fund within the Office of Tourism, Trade, and Economic Development (OTTED) for fiscal year 2006-07. These funds must be placed in reserve by the Executive Office of the Governor on July 1, 2006. The Office of Tourism, Trade, and Economic Development may request the release of funds as needed to implement the provisions of this act through the Legislative Budget Commission. Funds not expended in fiscal year 2006-07, will be subject to annual appropriation.

The CS requires Enterprise Florida, Inc. (EFI) to evaluate applications for innovation incentive funds and to recommend eligible businesses to OTTED. OTTED must certify the applicants as qualified businesses, and then recommend qualified businesses to the Governor for approval. The Governor is required to consult with the Legislature and receive approval prior to releasing innovation incentive funds to qualified businesses.

The Innovation Incentive Program is set to expire July 1, 2011.

The CS also makes changes to the Quick Action Closing Fund (QACF), as follows:

- Adds criteria for project eligibility for QACF awards;

- Requires that the evaluation of the QACF proposals submitted by Enterprise Florida to OTTED include an evaluation of the quality and value of the company;
- Requires that the Governor provide the evaluation of projects recommended for QACF awards to the President of the Senate and the Speaker of the House of Representatives, and to consult directly with them;
- Requires that contracts awarding QACF funds must provide that payments are contingent upon legislative appropriation of sufficient funds and sufficient release of funds by the Legislative Budget Commission; and
- Deletes authority of the Governor to reallocate unencumbered QACF appropriations to supplement other statutorily created economic development programs.

The CS appropriates \$10 million of non-recurring funds from General Revenue Fund for the Quick Action Closing Fund for the 2006-2007 fiscal year.

The CS creates section 288.1089 and amends sections 288.1088 and 403.973 of the Florida Statutes.

II. Present Situation:

Quick Action Closing Fund

In 1999, the Legislature created the Quick Action Closing Fund (QACF)¹ within the Office of Tourism, Trade, and Economic Development (OTTED) for the purpose of helping Florida compete for high-impact business facilities, critical private infrastructure in rural areas, and key businesses in economically distressed urban or rural communities.² Enterprise Florida, Inc.(EFI), evaluates proposals for the use of the QACF, and makes recommendations to OTTED.³

After EFI completes its evaluation and makes recommendations to OTTED, the director of OTTED must make a recommendation of approval or disapproval to the Governor. OTTED must provide the Governor with proposed performance conditions that the project must meet in order to obtain the incentive funds.

The Governor must consult with the Legislature before giving final approval to distribute funds from the QACF for the project. The Governor must recommend approval of the project and release of moneys from the QACF pursuant to legislative consultation and review requirements of s. 216.177, F.S.

After a project is approved by the Governor, OTTED enters into a performance contract with the business and establishes the conditions for payment of monies from the QACF. EFI must verify the business' performance and provide a report regarding such performance to the Governor, the

¹ Section 288.1088, F.S.

² The 1996 Legislature created the Office of Tourism, Trade, and Economic Development (OTTED) in the Executive Office of the Governor. OTTED is responsible for promoting economic development, tourism, and international trade. OTTED oversees the activities of public-private partnerships, including Enterprise Florida, Inc. (s. 14.2015, F.S.).

³In 1992, the Legislature created Enterprise Florida, Inc. (EFI), to assist in the coordination of the state's economic development efforts and to develop a strategic plan for economic development for Florida (s. 288.901, F.S.).

President of the Senate, and the Speaker of the House of Representatives, within 6 months after completion of the contract.

The Governor may, in an emergency or special circumstance, and in consultation with the Legislature pursuant to s. 216.177, F.S., reallocate unencumbered funds appropriated to the QACF to supplement statutorily created economic development programs and operations.

The Scripps Florida Funding Corporation

The creation of the Scripps Florida Funding Corporation is another example of the state providing an incentive for a high impact business to locate in Florida. Chapter 2003-420, L.O.F., provided for the creation of the Scripps Florida Funding Corporation, which entered into a contract with The Scripps Research Institute (TSRI)⁴, to establish a state-of-the-art biomedical research institute and campus in Palm Beach County. The funding for the contract is provided by \$310 million of the \$543.5 million in federal funds provided to Florida under the Jobs and Growth Tax Reconciliation Act of 2003. TSRI is required to reinvest \$155 to \$200 million in the Biomedical Research Trust Fund from a portion of its revenues generated from royalties and naming rights. Palm Beach County has also invested or committed over \$300 million to provide TSRI with satisfactory land, temporary facilities, and permanent laboratory facilities for new operations in the county.

III. Effect of Proposed Changes:

Section 1 amends s. 288.1088, F.S., to make the following modifications to the Quick Action Closing Fund (QACF) program:

- Adds criteria for project eligibility for QACF awards relating to targeted industries, payback ratio, average wage, and community support. It provides that the Office of Tourism, Trade and Economic Development (OTTED) may waive these criteria based on extraordinary circumstances if the project would significantly benefit the local or regional economy;
- Requires that the evaluation of the QACF proposals submitted by Enterprise Florida to OTTED include an evaluation of the quality and value of the company, to include a financial analysis of the company, the historical market performance of the company, and reviews of evaluations and audits of the company;
- Requires that the Governor provide the evaluation of projects recommended for QACF awards to the President of the Senate and the Speaker of the House of Representatives, and to consult directly with them;
- Requires that contracts awarding QACF funds must provide that payments are contingent upon legislative appropriation of sufficient funds and sufficient release of funds by the Legislative Budget Commission; and

⁴ The Scripps Research Institute (TSRI), located in La Jolla California, is one of the world's largest private, non-profit biomedical research organizations in the world. Researchers at TSRI focus primarily on the following seven fields of study: cell biology, chemistry, immunology, molecular biology, molecular and experimental medicine, neurobiology, and neuropharmacology

- Deletes authority of the Governor to reallocate unencumbered QACF appropriations to supplement other statutorily created economic development programs.

Section 2 creates s. 288.1089, F.S., to create the Innovation Incentive Program. The purpose of the program is to provide resources for significant economic development projects, including the location or expansion of research and development entities and innovation businesses in Florida.

Definitions

This section includes the following definitions:

- Average wage - the statewide private sector average wage or the average of all private sector wages and salaries in the county or in the standard metropolitan area in which the applicant is located as determined by the Agency for Workforce Innovation.
- Brownfield area – an area designated as a brownfield area pursuant to s. 376.80, F.S.
- Cumulative investment – cumulative capital investment and all eligible capital costs as defined in s. 220.191, F.S.
- Enterprise zone – an area designated as an enterprise zone pursuant to s. 290.0065, F.S.
- Innovation business – a business that expands or locates in Florida that is likely to serve as a catalyst for the growth of an existing or emerging technology cluster or will significantly impact the regional economy in which it is to expand or locate.
- Jobs - full-time equivalent positions, as that term is consistent with terms used by the Agency for Workforce Innovation and the United States Department of Labor for purposes of unemployment compensation tax administration and employment estimation, resulting directly from a project in this state. The term does not include temporary construction jobs involved in the construction of a project facility.
- Match - funding from local sources, public or private, which is paid to the qualified business and which is equal to 100 percent of an award. Eligible match funding may include any tax abatement granted to that business under s. 196.1995, F.S., or the appraised market value of land, buildings, infrastructure, or equipment conveyed or provided at a discount to that business.
- Project – the location to or expansion in Florida by an innovation business or research and development applicant approved for an award under the program.
- Research and development - basic and applied research in the sciences or engineering, as well as the design, development, and testing of prototypes or processes of new or improved products. Research and development does not include market research, routine consumer product testing, sales research, research in the social sciences or psychology, non-technological activities, or technical services.
- Research and development facility - facility that is predominately engaged in research and development activities. Predominately is defined as at least 51 percent of the time.
- Rural area – a rural city, a rural community, or a rural county as defined in s. 288.106, F.S.

Application

An innovation business or research and development entity must submit an application to EFI, prior to deciding to locate or expand in Florida. The application must include:

- The applicants' Federal Employer Identification Number, unemployment account number, and state sales tax registration number;⁵
- The proposed location of a project within Florida;
- A description of the type of business activity, product, or research and development undertaken by the project, including NAICS codes;
- The applicant's projected investment in the project;
- The total investment from all sources in the project;
- The anticipated number of net new full-time equivalent jobs created as of December 31st of each year in Florida and the average wage of such jobs;
- The total number of full-time equivalent employees currently employed by the applicant in Florida;
- The anticipated project commencement date;
- An explanation of why the award is needed to induce an applicant to locate or expand in Florida; and
- An estimate of the proportion of revenues from the project that will be generated outside Florida, if applicable.

Eligibility

To be eligible, an applicant must establish to the satisfaction of EFI and OTTED that the proposed jobs will pay at least 130 percent of the average private sector wage in either the anticipated location or statewide. OTTED may waive this requirement at the request of EFI for a project located in a brownfield area, in a rural city or county, or in an enterprise zone if the merits of the individual project or the specific circumstances of the community in relationship to the project warrant such action. A recommendation for waiver by Enterprise Florida, Inc., must include a specific justification supporting the waiver and be transmitted in writing to OTTED.

For *research and development projects*, the project must:

- Serve as a catalyst for an emerging or evolving cluster;
- Demonstrate a plan for significant higher education collaboration;
- Provide the state at least a break-even return on investment within a 20-year period; and
- Receive a one- to-one match from the local community.⁶

For *innovation business projects*:

- The project must create at least 1,000 direct, new jobs at the business; or if the project is located in a rural city or county, the project must create at least 750 direct, new jobs;
- The activity or product for the applicant's project must be within an industry or industries that have been designated as a target industry under s. 288.106, F.S., or a high-impact sector under s. 288.108, F.S.; and

⁵ These items must be provided at the time of application, if available. However, they must be provided prior to disbursement.

⁶ The match requirement may be reduced or waived in rural areas of critical economic concern or reduced in rural communities, brownfields, and enterprise zones within an urban county.

- The cumulative investment in the project is at least \$500 million within a 5-year period; or if the project is located in a rural city or county, or enterprise zone, the cumulative investment in the project must exceed \$375 million within a 5-year period.

Evaluation

EFI is required to evaluate proposals for innovation incentive projects and recommend use of appropriated funds to OTTED. In its recommendation to OTTED, EFI must:

- Describe the type of operation, its required facilities, and the associated product, service, or research and development associated with the project;
- Provide the number of full-time equivalent jobs that will be created by the project, the total estimated average annual wages of such jobs, and the types of business activities and jobs stimulated by the investment;
- Provide the amount of the cumulative investment to be dedicated to the project within 3 years and the total investment expected in the project if more than 3 years;
- Describe the economic and fiscal impacts on the local and state economies relative to the investment;
- Describe any special impacts the project is expected to stimulate in a particular business sector in the state or regional economy or in the state's universities and community colleges;
- Describe any anticipated or proposed relationships with state universities;
- Describe the role the incentive is expected to play in the decision of the applicant to locate or expand in this state;
- Recommend the amount of the innovation incentive that is needed to close a competitive gap, including an explanation of why an incentive of that amount is needed to induce the applicant to expand or locate in this state;
- Describe the efforts and commitments made by the local community in which the project is to be located to induce the project location or expansion, taking into consideration local resources and abilities;
- Recommend specific performance criteria the applicant would be expected to achieve to receive any payments from the fund and penalties or sanctions for failure to meet or maintain performance conditions; and
- For *research and development facility projects*, EFI's evaluation and recommendation must include:
 - A description of the project's potential to serve as a catalyst for an emerging or evolving technology cluster;
 - The percentage of match provided for the project;
 - A description of the extent to which the project has or could have a long-term collaborative research and development relationship with a state university or community college;
 - A description of the existing or projected impact of the project on established technology clusters or targeted industry sectors;
 - A description of the project's contribution to the diversity and resiliency of the innovation economy of Florida; and

- A description of the project's impact on special needs communities, including rural areas, distressed urban areas, and enterprise zones.

Incentive Amount and Approval

OTTED may negotiate the proposed award for any eligible applicant, after consultation with EFI. Emphasis must be given to those projects that may stimulate additional private investment and high-quality employment opportunities.

After EFI completes its evaluation and recommends eligible businesses to OTTED, OTTED must certify applicants as qualified businesses and recommend approval or disapproval to the Governor. The Governor must consult with the President of the Senate and Speaker of the House of Representatives before approving the distribution of innovation incentive funds. The Governor may release funds pursuant to the requirements of s. 216.177, F.S.

After the project is approved by the Governor, OTTED must enter into a contract with the business, which establishes the conditions for payment of incentives. The contract must include the amount of funds awarded, performance requirements, sanctions for not meeting performance requirements, and provisions for repayment of incentive payments. EFI must verify the performance of the qualified business.

Section 3 amends s. 403.973, F.S., to require the agencies involved in the project to work with OTTED to review sites proposed for the location of facilities eligible for the Innovation Incentive Program. Within 20 days of the request for the review by OTTED, the agencies must provide the office with a statement as to each site's necessary permits under local, state and federal law and a statement identifying any significant permitting issues, which may result in a denial or significant delay in issuing a permit or approval.

Section 4 provides an appropriation, for fiscal year 2006-07, of \$10 million of non-recurring funds from General Revenue Fund for the Quick Action Closing Fund. These funds must be placed in reserve by the Executive Office of the Governor on July 1, 2006. OTTED may request the release of funds as needed to implement the provisions of this act through the Legislative Budget Commission.

Section 5 provides an appropriation, for fiscal year 2006-07, of \$150 million of non-recurring funds from General Revenue Fund to the Economic Development Trust Fund within OTTED. These funds are not subject to the service charge set out in s. 215.20, F.S.⁷ The funds are appropriated, for fiscal year 2006-07, from the Economic Development Trust Fund to be used to implement the innovation incentive program. These funds in the Economic Development Trust Fund must be placed in reserve by the Executive Office of the Governor on July 1, 2006. OTTED may request the release of funds as needed to implement the provisions of this act through the Legislative Budget Commission. Funds not expended during the 2006-07 fiscal year

⁷ Section 215.20, F.S., imposes a service charge of 7 percent on all monies held in trust funds, except for: trust funds listed in s. 215.20(2), F.S., which are required to pay a 3 percent service charge; trust funds listed in s. 215.20(4), F.S., must pay a service charge of 0.3 percent in addition to the 7 percent service charge; and trust funds listed in 215.22 are exempt from a service charge.

may be used in future fiscal years as appropriated in the General Appropriations Act or other law.

Section 6 provides that the Innovation Incentive Program will expire on July 1, 2011. On that date, any unobligated funds remaining in the Economic Development Trust Fund from the transfer made pursuant to section 5 of this bill, must be transferred back to the General Revenue Fund. Any funds remaining in the trust fund which are obligated to a properly approved project but only partially disbursed will remain in the trust fund to be disbursed by OTTED.

Section 7 provides an effective date of July 1, 2006.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Qualified businesses or research and development entities will benefit, as they will be eligible to receive innovation incentive funds.

C. Government Sector Impact:

The CS appropriates \$160 million of non-recurring funds from General Revenue Fund.

OTTED may incur administrative costs related to implementation of this program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
