



May 27, 2011

To keep you informed of legislative changes resulting from the 2011 Florida Regular Legislative Session, Carlton Fields' **Government Law and Consulting** practice group is pleased to provide you with our latest legislative summary concerning changes to Florida's economic development programs and the creation of the Department of Economic Opportunity resulting from Senate Bill 2156 (SB 2156) enacted by the 2011 Florida Legislature.¹ As of this writing, SB 2156 is under review by the Governor and is subject to his veto authority. Therefore, the reader is encouraged to check the ultimate status of SB 2156 by visiting the Legislature's web site (www.leg.state.fl.us). Please select the "Enrolled" (ER) version of the bill.

ECONOMIC DEVELOPMENT CHANGES IN 2011 SESSION

The attached chart identifies the organization of the State's economic development agencies as a result of the re-organization authorized in the 2011 session. A common criticism of the Florida economic development programs was how de-centralized they had become into various agencies and public-private partnerships. In this session, the administrative functions and programs were centralized into the newly formed Department of Economic Opportunity (DEO). The DEO will also manage the state's growth management programs, which were formerly in the Department of Community Affairs (DCA). Below is a summary of the purpose and functions of DEO:

1. DEO Responsibilities:

- Oversight and coordination of economic development, housing, growth management, community development programs, and unemployment compensation.
- Develop a single, statewide 5-year strategic plan to address the promotion of business formation, expansion, recruitment, and retention in order to create jobs for all regions of the state. The plan must address economic development, marketing and infrastructure development for rural communities.

¹ This report was compiled in substantial part using public records from the Florida Senate.

- Submit an annual report on the condition of the business climate and economic development in the state, with assistance from Enterprise Florida (EFI) and Workforce Florida (WFI).
 - Manage the activities of the public-private partnerships.
 - Establish annual performance standards for EFI, WFI, VISIT Florida, and Space Florida and report annually on how these performance measures are being met.
2. Streamlined incentive process:
- Incentives for economic development projects must be approved or denied within 10 days of submitting an application to the department.
 - The release of funds for the incentive or incentives awarded to the applicant depends upon the statutory requirements of the particular incentive program.
 - Quick Action Closing Fund projects require recommendation to the Governor in 7 days. In addition, the Governor can approve projects under \$2 million. Projects ranging from \$2 million - \$5 million require notification to the chairs and vice chairs of the Legislative Budget Commission (LBC). Projects totaling more than \$5 million must be approved by the LBC.
3. Business plan required by September 1, 2011, in conjunction with EFI, must outline:
- Strategies to be used by department and EFI for business recruitment and expansion.
 - Benchmarks related to: business recruitment, business expansion, number of jobs created or retained.
 - Tools, financial and otherwise, needed to achieve benchmarks, and timeframes necessary to achieve standards.
 - By Jan. 1, 2012, the department must make recommendations for any further reorganization and streamlining of economic development and workforce functions.

Enterprise Florida, the public-private partnership and growth management arm of the state, has been re-organized to house all of the various public-private partnerships that had been formed to address tourism marketing, sports and minority businesses. Below is a summary of the purpose and functions of EFI also taken from the SB 2156 Legislative report:

1. Responsibilities of EFI
- Must enter a performance-based contract with the DEO.
 - Acts as primary economic agency for the state; chief negotiator for business recruitment and business expansion.
 - Increase private investment in Florida.
 - Advance international and domestic trade opportunities.
 - Market the state as a pro-business location for new investment and as a tourist destination.

- Revitalize Florida’s space and aerospace industries.
- Promote opportunities for minority-owned businesses.
- Assist and market professional and amateur sports teams and sporting events.
- Assist and promote economic opportunities in rural and urban communities.

2. Annual incentive report must include:

- Description of incentive programs.
- Amount of awards granted, by year, since inception.
- Economic benefits including actual amount of private capital invested, actual number of jobs created, actual wages paid for incentive agreements, annual average wage.
- The number of applications submitted, and the number of projects approved and denied by the department.
- Federal and local incentives provided.
- The number of projects that did not fulfill the terms of their agreements and consequently did not receive incentives.
- Trends related to usage of the various incentives, including the number of minority-owned businesses receiving incentives.

Below is our summary of the changes in economic development programs adopted in the 2011 session:

| Topic | SB 2156 |
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| Establishment of Department of Economic Opportunity – Merging of Divisions from other Agencies | |
| Department of Economic Opportunity (DEO) established | <p>The following divisions within existing state agencies were transferred to the newly formed DEO:</p> <ol style="list-style-type: none"> 1. From Agency for Workforce Innovation (AWI) - Office of Unemployment Compensation and Workforce Services 2. From the Department of Community Affairs (DCA) - Florida Housing Finance Corporation, Division of Housing and Community Development and Division of Community Planning (DCP is the growth management division of DCA) 3. The Governor’s Office of Tourism Trade and Economic Development (OTTED) |

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| | <p>Provides transition period from July 1st to October 1st for AWI, DCA and OTTED to transfer functions and duties to DEO</p> <p>DEO directed to submit a report to the Legislature to streamline economic development and workforce functions by 1/1/12.</p> |
| Agency for Workforce Innovation (AWI) | <p>AWI eliminated and the following divisions transferred to the following agencies:</p> <ul style="list-style-type: none"> • Department of Education – Office of Early Learning Services • DEO - Office of Unemployment Compensation and Workforce Services |
| Department of Community Affairs (DCA) | <p>DCA eliminated and the following divisions transferred to the following agencies:</p> <ul style="list-style-type: none"> • DEO – Florida Housing Finance Corporation, Division of Housing and Community Development and Division of Community Planning (DCP is the growth management division of DCA) • Office of the Governor – Division of Emergency Management • Department of Business and Professional Regulation – Florida Building Commission • Department of Environmental Protection – Florida Communities Trust and Working Waterfronts |
| Office of Tourism, Trade and Economic Development (OTTED) | OTTED eliminated and all functions and trust funds transferred to DEO |
| Merging of Public Private Partnerships into Enterprise Florida | |
| Enterprise Florida merged with other public/private partnerships | <p>Directed the merger of the following public private partnerships with Enterprise Florida</p> <ul style="list-style-type: none"> • Florida Sports Foundation Incorporated • Florida Tourism Industry Marketing Corporation (Visit Florida) • Florida Black Business Investment |

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| | <p style="text-align: center;">Board</p> <p>Provides transition period for merger July 1st to December 31st for functions and duties to Enterprise Florida.</p> |
| <p>Enterprise Florida – roles and responsibilities</p> | <p>Specifies the duties of the partnership (newly formed Enterprise Florida), managing the Florida Opportunity Fund, Florida Development Finance Corporation, the Small Business Technology Growth Program and the Cypress Fund.</p> <p>Establishes the following divisions within the Partnership:</p> <ul style="list-style-type: none"> • Division of International Trade and Business Development • Division of Tourism Promotion • Division of Black Business development • Division of Sports Industry Development • Space Florida |
| <p>Changes to Economic Development Programs in SB 2156</p> | |
| <p>Significant reduction in review time for applying for state economic incentives. Addition modifications to approval process.</p> | <p>DEO directed to coordinate with Enterprise Florida to review all applications.</p> <p>Evaluation expanded from a completeness check to an evaluation of what state and local permits may be required, permits which can be waived, what type and amount of state incentives might be available.</p> <p>Review time reduced from 34 to 10 days as follows:</p> <p>Within 10 days applicant receives confirmation of a complete application, discussion of permitting issues, types of incentives available and amounts.</p> <p>DEO will issue letter of approval or denial unless application is incomplete. DEO has 5 days to notify applicant if application is incomplete.</p> |

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| | <p>One agreement may be entered into for all incentives offered.</p> <p>Release of incentive funds is guided by statutory requirements for each incentive program.</p> |
| Trust Funds | <p>Transfers up to \$75 million annually beginning in 2014 (begins at \$50 million this year and gradually increases) to the State Economic Enhancement and Development (SEED) Trust Fund from the State Transportation Trust Fund.</p> <p>Transfers up to \$75 million to the SEED Trust Fund from State Housing Trust Fund.</p> |
| Economic Development Trust Fund | <p>Adds the federal funds from the Incumbent Worker Training Program but limits use of those funds for specific permitted uses.</p> |
| Enterprise Zones Modified | <p>Existing Enterprise Zones expanded by 3 miles in Columbia County, Pahokee and South Bay in Palm Beach County, and Suwannee County.</p> <p>Creates enterprise zone in Martin County but specifically excludes residential condominiums from receiving benefits.</p> |
| Disproportionately Affected County | <p>Based on impacts from oil spill, North Florida coastal counties receive benefits to encourage economic development including:</p> <p>Waiving of high impact sector status for the Capital Investment Tax credit.</p> <p>DEO has authority to waive all wage or local financial support eligibility requirements for a target industry business tax refund program if the business is relocating from another state.</p> |
| Quick Action Closing Fund | <p>Review time reduced from 22 days to 7 days.</p> <p>Governor can approve projects requiring less than \$2million. For projects requiring more than \$2 million but less than \$5 million, the Governor must provide in writing to the chair and vice chair of the Legislative Budget</p> |

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| | <p>Commission the reasons for authorization 10 days in advance of the closing. The chair or vice chair has the authority to block the release of funds.</p> <p>For projects requiring more than \$5 million must be approved by the Legislative Budget Commission.</p> |
| Tolling and extension of permits and DRI approvals | <p>If the Governor declares a state of emergency the developer can request an extension of permits and DRI approvals by six months and the tolled period during the emergency declaration. This extension applies to local government development orders, building permits, ERP permits and DRI buildout dates and other relevant dates.</p> <p>The permit holder must notify the permitting agency within 90 days in writing after the termination of the emergency declaration of the request for extension.</p> |

| Topic | HB 143 |
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| Corporate Income Tax Credits for Space Flight Projects | <p>Establishes the Florida Space Business Incentives Act.</p> <p>Identifies corporate income tax credits for space flight projects for up to 50% of nontransferable business tax liability and an annual maximum of \$1 million and no more than \$3 million in total tax credits. The maximum transferable tax credit is \$2.5 million. No more than \$7 million in total tax credits.</p> <p>Establishes the eligibility and application requirements.</p> |
| Special Impact Estimating Conference meeting process | <p>Adds process and provisions for Special Impact Estimating Conference meetings and the principals at the conference.</p> |
| Emergency Excise Tax Credit | <p>Beginning in 2012, a taxpayer who has earned, but not taken, a credit for emergency excise tax paid may take this credit. If the credit granted is not fully used for taxable years ending in 2012, the unused amount may be carried forward but not for</p> |

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| | more than 5 years. |
| Tax Credits for Research and Development | <p>Establishes Research and Development Tax Credit as 10% of the excess qualified research expenses over the base amount.</p> <p>Establishes definitions and requirements.</p> <p>Credit taken in any taxable year may not exceed 50% of the business enterprise's remaining net income tax liability after all other credits have been applied.</p> |
| Apportionment of Adjusted Federal Income | <p>Qualifications for a taxpayer to apportion by sales factor.</p> <p>Definition added for Qualified Capital Expenditures.</p> |
| Increasing tax credit cap for contaminated site rehabilitation | Tax credit cap increased from \$2 million to \$5 million annually. |
| Entertainment industry financial incentive | <p>Adds definitions for qualified digital media production facility, qualified production facility, regional population ratio, regional tax credit ratio and underutilized region.</p> <p>Adds requirements for a certified high-impact television series.</p> <p>Determines the amount of tax credits available to productions, high-impact television series and digital media projects.</p> <p>Establishes regions in the state for providing tax credits.</p> <p>Establishes bonuses for tax credits such as employing students enrolled in state film schools and filming the majority of the production within the state.</p> |
| Enterprise Zones (extension, Martin and Lake Counties and Palm Bay) | Enterprise Zones established in Martin County and extended by 3 square miles in Lake County and Palm Bay. |
| Florida Defense Support Task Force | <p>Creates the Florida Defense Support Task Force whose mission is as follows:</p> <ul style="list-style-type: none"> • Help state to compete in any federal base realignment and closure action. |

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| | <ul style="list-style-type: none"> • Support state's research and development position from military missions and contracting. • Continue to make state friendly to military. <p>Establishes the mission and composition of the task force and requirements for reporting.</p> |
| Establishes budget for economic development funds | <p>\$15 million for Innovation Incentive Fund.</p> <p>\$42 million for Quick Action Closing Fund with 20% local match.</p> <p>\$10 million for Institute for Commercialization of Public Research.</p> <p>\$5 million for Florida Defense Support Task Force.</p> |

| Topic | HB 879 |
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| Revises the Qualified Target Industry (QTI) list | Adds special consideration for industries that strengthen state's position as global trade and logistics hub. |
| Implements Energy Economic Zone Pilot program | <p>HB 879 establishes the requirements for the Energy Economic Zone program.</p> <p>Benefits capped at \$300,000 per year for each economic zone.</p> <p>Beginning 7/1/12, all incentives and benefits provided in the Enterprise Zone (EZ) program available to the two designated energy economic zones (Miami Beach and Sarasota County).</p> <p>Local government may exempt any development in a designated energy economic zone from DRI review.</p> |
| Special benefit to North Florida Gulf counties | Due to gulf oil spill, local financial support requirements reduced by half in Bay, Escambia, Franklin, Gadsden, Gulf, Jefferson, Leon, Okaloosa, Santa Rosa, Wakulla or Walton Counties. Benefit expires 6/30/2014. |

| Topic | SB 2106 |
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| Florida Energy and Climate Commission | <p>Transfers responsibilities to the Department of Agriculture and Consumer Services.</p> <p>Eliminates the Florida Energy and Climate Commission.</p> <p>Transfers duties for petroleum allocation and energy emergency contingency plans to the Division of Emergency Management in the Governor's Office.</p> |
| Renewable Energy Technologies Investment Tax Credit and Innovative Incentive Program and all other grants and funds managed by the Florida Energy and Climate Commission. | Tax credit administration transferred to the Department of Agriculture and Consumer Services. |

| Topic | HB 287 |
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| Summary of Current Local Government Option Tax Exemption requirements | |
| <p>Process established in 1980 approved as a constitutional amendment by Florida electorate.</p> <p>Tax exemptions may be available for new or expanding businesses as follows:</p> <ul style="list-style-type: none"> • Issuing tax exemptions requires approval from local electorate through a local referendum. If passed, the City or County Commission has authority to issue exemptions for 10 years. May be renewed through a succeeding referendum. • Tax exemptions are approved by the City or County Commission through ordinance at discretion of local government. • To be eligible the new or expanding business must produce 10 or more jobs. | |
| Modifications to Local Government Option to grant economic development ad valorem tax exemptions | |
| New definition for business | Adds organizations to the definition for "business" |
| Adds wage criteria | Any new jobs created by an eligible business or organization must pay a wage above the average wage of the locality. |
| Eligibility for tax exemptions expanded | Eligibility expanded to Qualified Target Industry businesses. |
| Criteria for exemptions and criteria for approving exemption | An application for an exemption must include the expected number of new jobs, |

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| | <p>the average wage of such jobs, whether jobs are full or part time, expected time schedule for job creation.</p> <p>Local Government determination based upon</p> <ul style="list-style-type: none"> • Number of jobs created • Average wage of jobs • Capital investment by applicant • Whether business is targeted industry of local government • Economic impact of business • Extent supplies and materials are purchased locally • Any other locally deemed criteria |
| Local government authorization | New requirements can be authorized pursuant to voter approved referendum after July 1, 2011. |
| 10 year cap | Any locally authorized exemption capped at 10 years. |
| Local government agreement | <p>Local Government authorized to enter into agreement with approved applicants. Agreement may include:</p> <p>Specific performance criteria. Any agreement must require applicant to report at a specific time before the expiration of the agreement the amount of jobs created and their average wage.</p> |

| Topic | HB 7205 |
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| Establish SEED Trust Fund | Managed by DEO For infrastructure and job creation including transportation facilities that meet a strategic and essential state interest, affordable housing, economic development incentives, workforce training for locating a new business or expanding existing business, tourism promotion and marketing. |
| Funding | Doc stamps, local financial support funds, |

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| | interest earnings and cash advances from other trust funds. |
| | Funds expended only by legislative appropriation or DEO's operating budget. |
| Termination | Trust fund terminated on July 1, 2015. |

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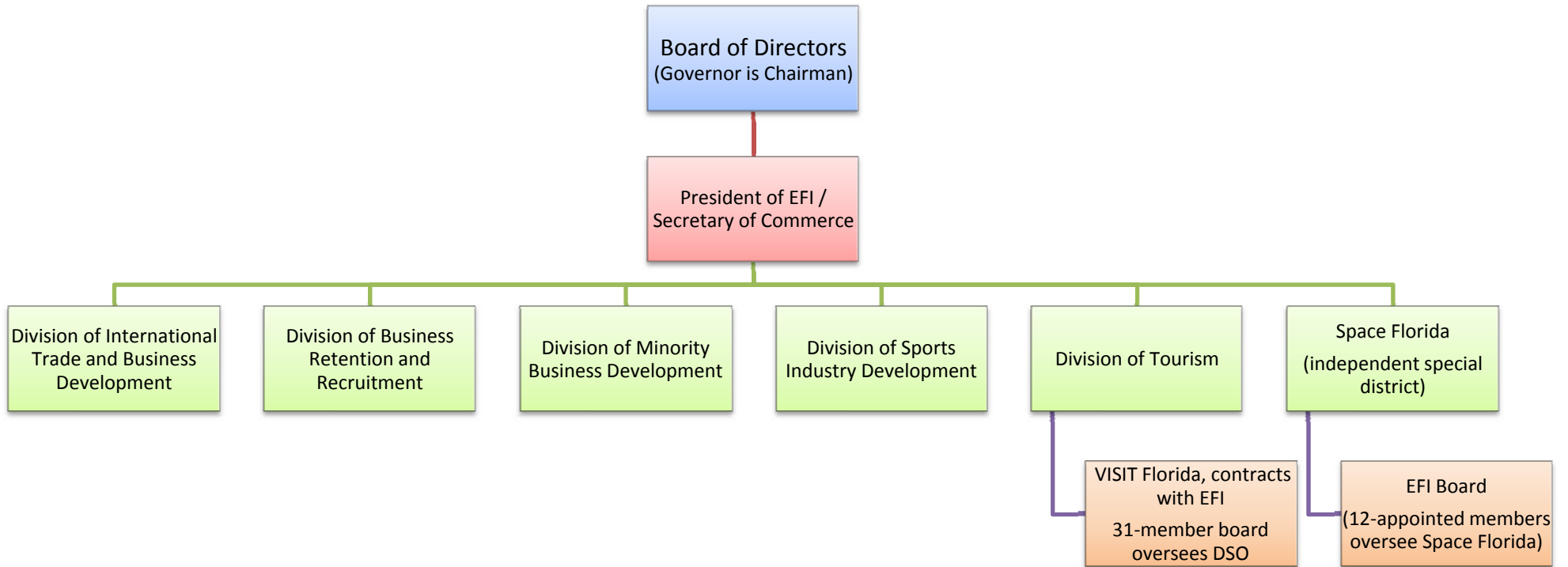
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Enterprise Florida, Inc.



Department of Economic Opportunity

