

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB SCGR 11-03 Government Reorganization/OTTED, DCA, & AWI

SPONSOR(S): Select Committee on Government Reorganization

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Select Committee on Government Reorganization		Croom	Tinker

SUMMARY ANALYSIS

PCB SCGR 11-03 creates the Department of Economic Opportunity. The PCB establishes the Commissioner of Economic Opportunity as head of the department. The commissioner is appointed by the Governor and subject to confirmation by the Senate. The PCB establishes the following divisions in the department: Division of Strategic Business Development, Division of Community Planning and Development, Division of Workforce Services, and Division of Finance and Administration.

The PCB maintains the functions of the current public-private partnerships, but consolidates the organizations, including VISIT Florida, the Florida Black Business Investment Board, and the Florida Sports Foundation into a single nonprofit organization, Enterprise Florida, Inc. The PCB restructures the Enterprise Florida, Inc. board of directors. In addition, the PCB establishes the board of directors of Enterprise Florida, Inc. as the board of directors for Space Florida.

The PCB makes other changes in an effort to provide consistent and coordinated implementation of programs.

- Creates a single-point of contact that will: (1) provide businesses and stakeholders a clear point of contact; and (2) establish coordination and efficient delivery of programs.
- Simplifies the current multistep, duplicative incentive approval process into a single, streamlined process where the Governor will approve or disapprove use of state incentives within 10 days.
- Requires the Governor to approve and enter into contracts for all incentive awards.
- Maintains legislative oversight and accountability for economic development incentive funds.

The following transfers are made:

- The Division of Emergency Management is transferred to the Executive Office of the Governor.
- The Florida Building Commission is transferred to the Department of Business and Professional Regulation.
- The Florida Communities Trust and the Stan Mayfield Working Waterfronts programs are transferred to the Department of Environmental Protection.
- The Special District Information Program is transferred to the Department of Financial Services.
- The Community Services Block Grant is transferred to the Department of Children and Families.

Additionally, the office of Early Learning is transferred to the Department of Economic Opportunity. The PCB requires the Auditor General to conduct an operational and performance audit of the Early Learning Coalitions. The audits reports are due before November 1, 2011. The PCB requires a joint review of the state and local governance structure of early learning programs by the Department of Economic Opportunity, the Department of Education, and the Department of Children and Families. The joint report is due to November 30, 2011.

The PCB merges all current programs and functions from the Office of Tourism, Trade and Economic Development, the Agency for Workforce Innovation, and the Department of Community Affairs into other departments and these governmental entities are repealed.

The PCB amends several statutes to conform changes made by the act, conforms cross-references, and deletes obsolete provisions.

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

STORAGE NAME: pcb03.SCGR

DATE: 4/7/2011

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

CURRENT SITUATION

Office of Tourism, Trade, and Economic Development

The Office of Tourism, Trade, and Economic Development (OTTED) within the Executive Office of the Governor assists the Governor in formulating policies and strategies designed to provide economic opportunities for all Floridians. OTTED provides executive direction and staff support to develop policies and advocate for economic diversification and improvements in Florida's business climate and infrastructure. Economic development programs are implemented by public/private partnerships under OTTED's oversight.

Florida has a number of economic development incentive programs used to recruit industry to Florida, or to persuade existing businesses to expand their operations in the state. Some of the specific financial incentive programs administered by OTTED are:

- Qualified Target Industry Tax Refund Program (QTI) – s. 288.106, F.S. This is a tax refund program providing refunds of seven state taxes and the local ad valorem tax for businesses that create higher-paying, higher-skilled jobs for Floridians. There are eight categories of target industry sectors.¹
- Quick Action Closing Fund – s. 288.1088, F.S. This incentive, known as QAC, is a grant to target industries whose projects are anticipated to achieve a \$5 to \$1 payback ratio; it is used to “close the deal” with a prospective new or expanding business.
- Economic Development Transportation Fund (Road Fund) – s. 288.063, F.S. This incentive is funded by a transfer from the State Transportation Trust Fund. The Road Fund is used to assist local governments in paying for highway or other transportation infrastructure improvements that will benefit a relocating or expanding company.
- Qualified Defense Contractor and Space Flight Business Tax Refund Program – s. 288.1045, F.S. This tax refund program is available to space flight businesses that have contracts with the Federal government, or a defense-related facility, and who agree to create jobs. Pre-approved applicants may receive tax refunds of \$3,000 per net new full-time equivalent job created or retained, and \$6,000 in an enterprise zone or rural county for every net new full-time equivalent job created or retained. An additional \$1,000 per job is available for businesses paying 150 percent of the average annual wage, and an additional \$2,000 per job is available for businesses paying 200 percent of the average annual wage. A qualified applicant may not receive more than \$2.5 million in tax refunds in any fiscal year.
- Capital Investment Tax Credit – s. 220.191, F.S. This tax credit provides eligible corporations with an annual credit on their corporate income tax liability over a 20-year period. The credit is based on a company's capital investment and is taken against the income arising from the project. Typically, a corporation must make a substantial investment in land, facilities, and equipment to qualify for the program. According to the Department of Revenue, \$11.75 million in

¹ The categories are clean tech; life sciences; information technology; aviation/aerospace; homeland security/defense; financial/professional services; emerging technologies; other manufacturing; and corporate headquarters. See Enterprise Florida, Inc., Florida Industry Clusters, for more detailed descriptions, available at <http://www.eflorida.com/ContentSubpageFull.aspx?id=52> (last visited 3/28/2011).

tax credits were claimed in 2009 through this incentive program. As of December 2010, there are 18 active projects, whose owners have committed to make total cumulative capital investments of \$2.45 billion in Florida.

- Rural Community Development Revolving Loan Fund – s. 288.065, F.S. This provides long-term loans, loan guarantees, or loan-loss protection for rural counties or economic-development agencies substantially underwritten by rural governments, to pay primarily for infrastructure needed to attract economic development. Since, 1997, 16 loans totaling \$5.62 million have been made.
- Florida Enterprise Zone Program – ss. 290.001 – 290.016, F.S. This program provides 11 different tax credits and tax exemptions for businesses (and non-business property owners, where applicable) to create jobs and make investments in economically distressed or poverty-stricken areas of the state designated by the Legislature as enterprise zones. OTTED oversees the program by approving the required documents after legislative creation of a zone, and by approving boundary changes. Businesses may receive corporate tax credits, or sales and use tax credits, refunds, or exemptions, based on the criteria established in statute for the 11 different incentives available for enterprise zones. There are 59 enterprise zones in Florida, each of which is managed by a local coordinating board selected by the applicable county or city commission.
- Rural and Urban Job Tax Credits – ss. 212.097, 212.098, and 220.1895, F.S. These tax credits are awarded based on the industry sector and the number of new employees the business project commits to hiring. The tax credits are administered through the Department of Revenue. According to Enterprise Florida, Inc., in 2009, nine businesses received \$204,000 in rural job tax credits for creating 204 jobs, while 19 businesses received tax credits totaling \$855,000 under the urban program for creating 803 jobs.
- Brownfield Redevelopment Bonus – s. 288.107, F.S. This program provides tax refunds for businesses that locate or expand in “brownfield” areas, which typically, but not in all cases, had industrial activity that led to groundwater and soil contamination. Some areas have been cleaned up so that it is safe again for commercial activity. The bonus is up to \$2,500-per-new job created. If an eligible business is in a target industry sector, it may also receive QTI tax refunds; if not a targeted industry, the business must make at least a \$500,000 investment if the site does not require cleanup or a \$2 million investment if cleanup is necessary, and hire at least 10 new employees. In FY 2009-10, there were 15 businesses approved to take advantage of both brownfield incentive programs, committing to create about 1,800 jobs and investing more than \$158 million in their operations.
- Economic Gardening Technical Assistance Pilot Program – s. 288.1082, F.S. This program, also called GrowFL, provides eligible companies with training and outreach for their infrastructure, networking, and mentoring needs. In the first year, 35 businesses were selected for the program. The technical assistance program received \$1.5 million in the initial appropriation in FY 2009-10 and \$1 million in FY 2010-11.
- High Impact Performance Incentive Grants – s. 288.108, F.S. This grant is for businesses representing the following industry sectors – clean energy, life sciences, financial services, corporate headquarters, transportation equipment manufacturing, and semiconductor manufacturing. Eligible businesses must make a capital investment of at least \$50 million and create at least 50 new jobs, although the thresholds for businesses engaged in research and development are half those amounts. The Legislature did not appropriate any funds for HIPI grants because there were no applicants in FY 2009-10. But since the program began in 1997, there have been eight projects approved for businesses who committed to invest \$472 million in Florida and create 1,745 jobs with average annual wages of \$52,246.

Incentive Process

Pursuant to s. 288.061, F.S., standard timelines exist for economic development incentive applications. The statute requires the following:

- Within 10 days after receiving an application, EFI shall determine whether it is complete.
- After the application is deemed complete, EFI has 10 business days to recommend approval or disapproval to OTTED.
- Within 10 calendar days of receiving the application, OTTED must determine whether the application is complete.
- Within 22 calendar days of receiving the recommendation, OTTED shall issue a letter to the applicant to approve or disapprove the application.

Rural designations

The Rural Economic Development Initiative (REDI) was created by the Florida Legislature to encourage and align critical state agency participation and investment around important rural issues and opportunities.² Included in this broad initiative is the Rural Area of Critical Economic Concern (RACEC) designation.³ Most of Florida's rural counties have been categorized into one of three RACECs: the North Central, the Northwest, and the South Central⁴. RACECs are defined by OTTED based on measures of economic interdependence among the rural counties in each of the three geographic regions. A RACEC designation establishes each region as a priority area in need of economic development. One of the benefits of the designation is that the Governor may waive requirements for the Qualified Target Industry Tax Refund Program, the Quick Response Training Program, and other incentives.

Public/Private Partnerships

As part of its role, OTTED oversees the activities of several public-private partnerships, created by law to encourage private sector participation and leadership in increasing trade, job creation, and critical industry development in Florida. Each partnership focuses on a unique area of economic program development. The current public-private partnerships are:

- Enterprise Florida, Inc. (EFI) serves as Florida's statewide economic development organization;
- Florida Black Business Investment Board, Inc. assists in developing and expanding black business enterprises and advises OTTED in the oversight of the Black Business Loan Program;
- Space Florida promotes and develops space-related economic development and education in Florida;
- Florida Commission on Tourism and the Florida Tourism Industry Marketing Corporation d/b/a/ VISIT Florida oversees the state's tourism efforts and markets and facilitates travel to and within Florida for the benefit of its residents, economy, and travel and tourism industries;
- Florida Sports Foundation Incorporated – serves as the official sports promotion and development organization for the State of Florida.

While part of OTTED, the Office of Film and Entertainment is a special unit that operates semi-autonomously from OTTED that develops and expands the state's motion picture and entertainment industry sectors and promotes and markets Florida as a production and filming location.

Background on EFI and OTTED

Creation of EFI

One of the early initiatives of Governor Lawton Chiles was the evaluation in 1991 of the executive agency governance structure. Chiles' transition task forces and "Government by the People Commission" developed a set of wide-ranging recommendations on agency mergers and realignment. One idea that grew from these discussions was creation of a lead entity, representing both the public and private sectors, to coordinate the state's economic development programs and policies. The idea

² Section 288.0656, F.S.

³ Section 288.0656(7), F.S.

⁴ The South Central RACEC recently expired. It has been recommended by REDI to redesignate the area as a RACEC and its application is under review by the Office of Tourism, Trade, and Economic Development.

coalesced as “Enterprise Florida,” and a 1991 report drafted by the Florida Chamber of Commerce and the Florida Department of Commerce (FDC) detailed why such an entity was necessary and how it could be fully implemented within 3 years.

The report noted EFI would not duplicate the FDC, but that the department’s units responsible for marketing, research, business assistance, and administrative functions would be transferred, over a 3-year-period, to EFI. When fully implemented, this new “public-private partnership” was envisioned to act as a catalyst for economic development in Florida, a broker for recruiting new businesses and retaining existing ones, and a coordinator for specialized entities—such as bond financing for business infrastructure or investment in new technologies—that would be at the core of efforts to diversify Florida’s economy.

EFI was created by the Legislature in 1992. The only two duties enumerated in the new law were assisting in the coordination of the state’s economic development efforts and developing a state strategic plan for economic development by December 1, 1993. EFI was to be governed by a 21-member board of directors, of which 12 were private citizens appointed by the Governor from a list submitted initially by the Enterprise Florida Nominating Council, and subsequently by the EFI board. These 12 members were subject to Senate confirmation. The other nine members were: the Governor, the Lieutenant Governor, the Commissioner of Education, the Chancellor of the State University System, the executive director of the State Community College System, the Secretary of Commerce, the Secretary of Labor and Employment Security, or their designees; a member of the Florida Senate; and a member of the Florida House of Representatives.

The next major statutory changes for EFI occurred in 1996. The legislation abolished the FDC and formally recognized EFI as the state’s lead economic development entity and broadened its responsibilities. EFI was charged with developing policies and implementing strategies to:

- Support Florida’s existing businesses and recruit new businesses worldwide to Florida;
- Seek to bolster international trade opportunities;
- Develop a comprehensive approach to workforce development; and
- Promote economic opportunities for rural communities and small or minority businesses.

The 1996 legislation also addressed funding for EFI. Consistent with the intent of creating a public-private partnership, operational funding would be shared with the private sector. Specifically, the law required an incremental increase in private funding to EFI operations, from 10 percent of state appropriations in FY 1996-97 to 50 percent of state appropriations by FY 2000-01. The Legislature in 1999 specified what qualified as private-sector support, the various categories of required support, and the overall ratio or match of the support – no less than 100 percent of the state’s operating investment. The latest significant legislative changes affecting EFI occurred in 2007, with the creation of the Florida Opportunity Fund, and in 2010, when the Florida Development Finance Corporation program was amended to allow it to leverage federal funds to issue debt for specific energy-related projects.

EFI currently is governed by a 19-member appointed board of directors. The Governor appoints six private-sector members to the board, and the Senate President and the Speaker of the House of Representatives appoint three each. The public-sector members are the Governor, the Commissioner of Education, the state’s Chief Financial Officer, the Secretary of State; the chair of the Workforce Florida, Inc., board of directors, or their designees; a member of the Florida Senate as ex officio; and a member of the Florida House of Representatives as an ex officio. In addition, the board may allow additional at-large members. As of Jan 11, 2011, the Enterprise Florida, Inc. board of directors included 32 at-large members.

Creation of OTTED

In the 1996 legislation that officially abolished FDC, OTTED was created to perform what had been FDC’s governance functions, such as providing contractual oversight of EFI and other public-private partnerships under contract.

The newly created OTTED was directed to contract with EFI to “guide, stimulate, and promote the economic and trade development of the state.” OTTED was given control of the Economic

Development Trust Fund, where the Legislature would deposit appropriations for the various incentive programs.

Department of Community Affairs

The Department of Community Affairs (DCA) is the state's land planning and community development agency. In general, DCA performs the following functions:⁵

- The Division of Community Planning works closely with local governments and other state agencies to ensure high quality growth and sustainable patterns of development across the state and administers Florida's growth management programs. These programs include the Local Government Comprehensive Planning Program, the Developments of Regional Impact Program, and the Areas of Critical State Concern Program, which protects resources of major statewide significance. It is the activities within this division that relate to the department's role as the state land planning agency.
- The Division of Housing and Community Development administers state and federal programs designed to provide community and economic development assistance to agencies at the local level. The division provides grants to eligible local governments for infrastructure, revitalization, disaster recovery, housing rehabilitation, energy assistance, and economic development, and assists citizens with meeting critical needs such as housing, transportation, and emergency utility payments.

The Small Cities Community Development Block Grant Program administers an annual federal award designed to assist small or rural local governments that are not included as part of the U.S. Department of Housing and Urban Development's Urban Entitlement Program. Projects must benefit low-to-moderate income citizens. Awards are made in four categories: commercial revitalization (downtown improvements); economic development (job creation); housing rehabilitation; and neighborhood revitalization (infrastructure).

The division staffs the Florida Building Code Commission, which implements and regulates the unified statewide code for all buildings and structures in Florida. The division administers the Special District Information Program.

This division also administers the Florida Communities Trust, which is a state land acquisition grant program providing funding to local governments and eligible non-profit environmental organizations for the acquisition of community-based parks, open space and greenways that further both outdoor recreation and natural resource protection needs identified in local government comprehensive plans.

- The Division of Emergency Management (DEM) directs and coordinates state, federal, and local efforts to deal with natural disasters, such as tornadoes and hurricanes, as well as man-made disasters and accidents. DEM is administratively housed within DCA, but is a separate budget entity and is not subject to control, supervision, or direction by DCA. However, DCA is responsible for providing DEM with finance and accounting, budgeting, personnel, purchasing, legal, inspector general, and information technology services.
- The Florida Housing Finance Corporation is a public corporation within DCA that works to increase the supply of safe, affordable housing for individuals and families with very low to moderate incomes by stimulating the investment of private capital and encouraging public and private sector housing partnerships. The corporation is a separate budget entity and is not subject to control, supervision, or direction by DCA. The corporation is governed by a nine-

⁵ The Florida Legislature, Office of Program Policy Analysis and Government Accountability, Sunset Review, *Department of Community Affairs Overview*, Report No. 08-S06, Dec. 2008, available at, <http://www.oppaga.state.fl.us/monitordocs/reports/pdf/08-S06.pdf>.

member board of directors, which includes the secretary of DCA as an ex officio voting member, and eight members appointed by the Governor.⁶

Agency for Workforce Innovation

The Agency for Workforce Innovation (AWI) was created by the Workforce Innovation Act of 2000 in an effort to better connect the state's economic development strategies with its workforce development system.⁷

The responsibilities of AWI include workforce services, unemployment compensation services, and early learning services.

Workforce Services and Workforce Florida, Inc.

AWI is Florida's lead state workforce agency. However, Workforce Florida, Inc., (WFI) sets the state's workforce development policy and guidance. Workforce services in Florida are provided by 24 regional workforce boards who deliver services through 90 One-Stop Career Centers around the state.

WFI is a nonprofit corporation providing state-level policy, planning, performance evaluation, and oversight to AWI and the 24 regional workforce boards. AWI is responsible for implementing WFI's policies. AWI assists WFI in developing and disseminating policies, providing technical assistance, and monitoring a variety of workforce programs.

AWI is the state agency which receives federal funds for employment-related programs, such as Welfare to Work, Temporary Assistance to Needy Families, and the Workforce Investment Act, and distributes these funds to the state's 24 regional workforce boards. AWI also monitors regional workforce board and One-Stop Career Center activities to ensure they comply with federal and state requirements.

Each regional workforce board develops a local plan for using the funds provided by AWI and oversees workforce development activities in the region. Each board operates under a performance contract with AWI. The boards also select contractors to operate local One-Stop Career Centers. The One-Stop Career Centers deliver employment services to job seekers and employers.

WFI also sets the policy for the Welfare Transition Program. This program helps families currently on welfare become employed and economically self-sufficient; helps prevent at-risk families from going on welfare; and assists former welfare recipients who have recently entered the workforce retain their jobs and upgrade their skills.

Unemployment Compensation Services

AWI is the current agency responsible for administering Florida's UC laws.⁸ The Workforce Innovation Act of 2000 required AWI to contract with the Department of Revenue to provide unemployment tax collections services.⁹

AWI administers Florida's UC laws through its Office of Unemployment Compensation Services.¹⁰ The Office of Unemployment Compensation Services consists of the Unemployment Compensation Benefits Section, the Benefits Payment Control Section, and the Office of Appeals. The Unemployment Compensation Benefits Section handles initial claims, questions about unemployment benefits, and other related issues. The Benefits Payment Control Section monitors the payment of unemployment benefits in an effort to detect and deter overpayment and to prevent fraud. The Office of Appeals holds hearings and issues decisions to resolve disputed issues related to eligibility and claims for

⁶ The Florida Legislature, Office of Program Policy Analysis and Government Accountability, 'Sunset Review, *Florida Housing Finance Corporation Overview*, Report No. 09-S15, Jan. 2009, available at <http://www.oppage.state.fl.us/monitordocs/reports/pdf/09-S15.pdf>.

⁷ Chapter 2000-165, L.O.F. See staff analysis for SB 2050 and HB 1135 (2000).

⁸ Sections 20.50 and 443.171, F.S.

⁹ The contract requirement and the duties of DOR were clarified by ch. 2003-36, L.O.F.

¹⁰ Section 20.50(2)(c)1., F.S.

unemployment compensation and the payment and collection of unemployment compensation taxes. The Office of Unemployment Compensation Services also administers special unemployment compensation programs, such as disaster unemployment assistance, trade adjustment assistance, and UC for ex-service members and federal civilian employees.¹¹

The Unemployment Appeals Commission is administratively housed in AWI, but is a quasi-judicial administrative appellate body independent of AWI.¹² The commission consists of a three member panel appointed by the governor. It is the highest level for administrative review of contested unemployment cases decided by the Office of Appeals referees. The Unemployment Appeals Commission can affirm, reverse, or remand the referee's decision for further proceedings. A party to the appeal who disagrees with the commission's order may seek review of the decision in the Florida district courts of appeal.¹³

Early Learning Services – School Readiness and Voluntary Pre-Kindergarten

AWI's Office of Early Learning is responsible for implementation of the state's child care resource and referral, school readiness, and voluntary prekindergarten (VPK) programs:

- School Readiness programs are required to provide the elements necessary to prepare at-risk children for school, including health screening and referral, and an appropriate educational program. These programs are designed to be developmentally appropriate, research-based, involve parents as their children's first teachers, serve as preventive measures for children at risk of future school failure, enhance the educational readiness of eligible children, and support family education. Section 411.01, F.S., provides requirements for implementing the school readiness program.
- Voluntary Prekindergarten provides a free, voluntary prekindergarten education for every Florida child 4 years of age. The state's VPK program is intended to increase children's chances of achieving future educational success and must be developmentally appropriate. Sections 1002.51-1002.79, F.S., provide requirements for implementing and assessing the VPK program.

The early learning program is designed with the Agency for Workforce Innovation, the Department of Education, and the Department of Children and Families each having a role related to implementing the programs. AWI is responsible for adopting and maintaining coordinated programmatic, administrative, and fiscal policies and standards for all early learning programs. DOE is responsible for establishing readiness standards and guidelines for VPK program content. The Department of Children and Families is responsible for the licensing and credentialing of early learning providers. In addition, 31 local early learning coalitions plan, coordinate, and implement the early learning programs, following the standards and guidelines established by AWI and DOE.

Ready to Work Certificate in Department of Education

The Florida Ready to Work program tests and scores job skills and work habits. An individual participating in the program can pass course work that provides a Ready-to-Work Credential that can then be used to help find work with prospective employers. To earn the credential, the participant must take three proctored assessments: applied mathematics, locating information, and reading for information.

¹¹ Information found at <http://www.floridajobs.org/unemployment/index.html> (last visited 3/25/2011).

¹² Section 20.50(2)(d), F.S. "The Unemployment Appeals Commission, authorized by s. 443.012, F.S., is not subject to control, supervision, or direction by the Agency for Workforce Innovation in the performance of its powers and duties but shall receive any and all support and assistance from the agency that is required for the performance of its duties." The Unemployment Appeals Commission is 100 percent federally funded.

¹³ Section 443.151(4)(c), (d), and (e), F.S.

PROPOSED CHANGES

Department of Economic Opportunity

The PCB creates the Department of Economic Opportunity to provide coordination among state programs related to economic development, workforce development, community planning and development, and affordable housing. It provides that these programs are fully integrated by moving them under a single department for consistent implementation of policies and strategies. It establishes the Commissioner of Economic Opportunity as the head of the department, and provides that the commissioner is appointed by the Governor and subject to confirmation by the Senate.

The purpose of the department is to assist the Governor in working with the Legislature, state agencies, local governments, business leaders, and economic development professionals to formulate and implement coherent and consistent policies and strategies designed to promote economic opportunities for all Floridians. To accomplish such purposes, the department shall:

- Provide linkages between economic development, workforce development, and community development goals;
- Promote community revitalization and affordable housing;
- Assist with coordination of community planning and development;
- Manage public-private partnerships;
- Promote coordinated and consistent implementation of programs; and
- Develop a strategic plan to recruit new businesses, and expand and retain business in this state.

The following divisions are established in the department:

- The Division of Strategic Business Development is responsible for analyzing business prospects for awards, administering economic incentive programs, assisting with an annual incentive report, and assisting with the development of a 5-year strategic plan. The strategic plan must address the promotion of business formation, expansion, recruitment and retention in order to create better jobs with higher wages for all geographic regions of the state, for disadvantaged communities, and for populations of the state, including rural areas, minority businesses, and urban core areas. This division will also house the Office of Film and Entertainment currently located within the Office of Tourism, Trade and Economic Development.
- The Division of Community Planning and Development is responsible for administering community programs including the community development block grant program, the local comprehensive planning process, the areas of critical state concern program, the development of regional impact program, the low-income home energy assistance program, the weatherization assistance program, the Front Porch Florida initiative, and other related programs.
- The Division of Workforce Services is responsible for coordinating with Workforce Florida, Inc., for developing and implementing workforce programs consistent with the federal Workforce Investment Act and the Wagner-Peyser Act. In addition, this division will oversee proper use of federal workforce funds, and implement unemployment compensation programs. The Office of Early Learning is also established in this division and will operate in the same manner as it does today.
- The Division of Finance and Administration is responsible for providing administrative support for the department, including finance, budget and support for personnel matters.

The PCB requires the department to:

- Submit an annual report on the condition of the business climate and economic development in the state, with assistance from Enterprise Florida, Inc., and Workforce Florida, Inc. The report

must include identification of problems and a prioritized list of recommendations. The report will be provided to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

- Establish annual performance standards for Enterprise Florida, Inc., and Space Florida, and report regularly to the Legislature on EFI's progress in meeting these performance measures through its annual report.

To this end, the PCB merges current programs and functions, by type two transfers, from the Office of Tourism, Trade and Economic Development (OTTED), Agency for Workforce Innovation (AWI), and Department of Community Affairs (DCA) into the new Department of Economic Opportunity. In a type two transfer all powers, duties, functions, records, offices, personnel, support positions, contracts, rules, appropriations, and other funds are transferred in whole. The PCB establishes the transition period for the following state government transfers to be completed by October 1, 2011.

The following programs and offices, and related trust funds, are transferred to the Department of Economic Opportunity:

- The Office of Tourism, Trade, and Economic Development currently in the Executive Office of the Governor.
- The Office of Unemployment Compensation currently in the Agency for Workforce Innovation.
- The Unemployment Appeals Commission currently in the Agency for Workforce Innovation.
- The Office of Workforce Services currently in the Agency for Workforce Innovation.
- The Office of Early Learning currently in the Agency for Workforce Innovation.
- Workforce Florida, Inc. currently in the Agency for Workforce Innovation for administrative support is transferred under the new department for continued administrative support.
- The Ready to Work Certification Program currently in the Department of Education.
- The Division of Housing and Community Development currently in the Department of Community Affairs.
- The Division of Community Planning currently in the Department of Community Affairs.
- The Florida Housing Finance Corporation is transferred and remains independent of the department.

Public-Private Partnerships

The PCB merges the current nonprofit public-private partnership—Florida Sports Foundation, VISIT Florida, and the Florida Black Business Investment Board—into the nonprofit corporation of Enterprise Florida, Inc. It maintains the functions of the current public-private partnerships, but consolidates the organizations into a single nonprofit public-private partnership, Enterprise Florida, Inc., to provide coordination in policies and strategies through a single board of directors.

The merger will be governed by ch. 617, Florida Statutes, which provides directions for merging not-for-profit corporations. The PCB requires the Governor to designate a transition coordinator. This person is responsible for submitting a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the transition plans and any difficulties experienced by the entities. The PCB establishes that each entity will continue operating independently until December 31, 2011, at which time the merger shall take place.

The PCB provides that the Commissioner of Economic Opportunity serve as the president of Enterprise Florida, Inc. In addition, the PCB provides that the board of directors of Enterprise Florida, Inc. may enter into an annual contract with the president that provides performance outcomes that would qualify the president for privately-funded bonuses, and provides for an exception in 112.313(7) for this purpose.

Board of Directors

The PCB restructures the current board of directors of Enterprise Florida, Inc. The PCB creates an 11-member appointed board of directors, in which the Governor serves as the chair of the board and appoints four other members. The Speaker of the House of Representatives and the President of the

Senate appoint three members each to this board. The Governor, President and Speaker are directed to consider certain areas of expertise when making appointments, as well as considering racial, ethnic, and gender diversity. All appointed members serve terms of 4 years except upon initial appointment for which terms are staggered. Initial appointments must be made by October 1, 2011.

In addition, the board of directors may choose to allow any number of at-large board members from the private sector, selected by the board. At-large members serve for terms of up to 3 years and are eligible for reappointment. At-large members may provide annual contributions to the partnership to help meet state required match. The amount of any private contribution would be set by the 11-member appointed board.

The PCB provides for the following ex-officio, nonvoting members: the Commissioner of Economic Opportunity, the chair of each division advisory council, the chair of the Space Florida advisory council, the president of Workforce Florida, Inc., and the chair of the Florida Housing Finance Corporation.

In addition, the PCB provides that the 11-member appointed board of directors for Enterprise Florida, Inc. is the board of directors for Space Florida.¹⁴

Divisions of Enterprise Florida, Inc.

The operations of the merged entities will remain functional and operational as divisions under Enterprise Florida, Inc. The PBC establishes the following divisions under Enterprise Florida, Inc.:

- The Division of International Trade and Business Development – responsible for business leads related to foreign investment, trade shows, financing for exports, international relations, trade assistance, and transportation planning coordination.
- The Division of Business Retention and Recruitment – responsible for business leads, and expansion and retention of Florida-based companies.
- The Division of Tourism Marketing – responsible for tourism campaign implementation, a 4-year marketing plan, also retains the brand name VISIT Florida.
- The Division of Minority Business Development – responsible for the expansion of minority businesses, the black business loan program, evaluating unmet needs for capital by black enterprises in the state, and for maintaining a network of information resources for minority businesses.
- The Division of Sports Industry Development – responsible for professional and amateur sports, the retention of sports franchises, and Sunshine State Games.

The PCB provides that each division will have an advisory council composed of 15 members appointed by the Governor. Suggestions for board members may be submitted to the Governor by the board of directors. The members serve for terms of two years and serve without compensation but can be reimbursed for expenses.

Each division is responsible to provide an annual report of activities to the board of directors by October 15th each year. The board of directors is required to include these reports with its annual operational report due to the Legislature.

Powers and Duties

The PCB provides for Enterprise Florida, Inc to inherit similar powers and duties currently provided in law for the existing public-private partnerships. It maintains the board of director's authority to enter into an annual contract with any EFI employee for incentive payments that increase the employee's total compensation level above \$130,000 using privately-funded performance bonuses. In addition, the PCB maintains current private sector match requirements, requiring Enterprise Florida operational funding to be matched one-to-one, while also maintaining the one-to-one match currently required for VISIT Florida's marketing and advertising activities.

¹⁴ Space Florida currently operates as an independent special district, subdivision of the state.

Annual Report

The PCB requires Enterprise Florida, Inc. to provide an annual report outlining operations and accomplishments to the Legislature prior to December 1 each year. In addition, the PCB requires an annual report on use of state incentives to create jobs, including a report on the return on the state's investment, to be provided to the Legislature by December 30 each year.

Single Point of Contact and Incentive Process

The PCB states that the Commissioner of Economic Opportunity is the single and best point of contact for parties interested in an economic development incentive. The commissioner is directed to provide assistance to businesses by deploying state resources from the Department of Economic Opportunity, Enterprise Florida, and state agencies, as well as coordinating with local and regional entities.

The PCB substantially rewrites the current incentive process and timeframes. The PCB provides that within 10 days of receiving an application the commissioner shall make a recommendation to the Governor to approve or disapprove the use of state incentives. The contract must specify the total amount of each incentive award, the performance conditions that must be met, the schedule for payment, and the sanctions or clawback provisions that would apply for failure to meet the performance conditions. In addition, the PCB requires legislative review for Quick Action Closing Fund projects totaling \$5 million or more. The PCB does not make changes to the incentive programs that would alter or change program criteria such as standards set currently in statute for return-on-investment, wage criteria, or capital investment requirements.

Other Type Two Transfers

The PCB merges all current programs and functions, by type two transfers, from the Office of Tourism, Trade and Economic Development, Agency for Workforce Innovation, and Department of Community Affairs into other departments and these governmental entities are repealed.

The PCB makes the following other type two transfers:

- Transfers the Division of Emergency Management, and related trust funds, to the Executive Office of the Governor.
- Transfers the Florida Communities Trust, currently in DCA, and related trust funds to the Department of Environmental Protection.
- Transfers the Stan Mayfield Working Waterfronts, currently in DCA, and related trust funds to the Department of Environmental Protection.
- Transfers the Florida Building Commission, currently in DCA, and related trust funds to the Department of Business and Professional Regulation.
- Transfers the Special District Information Program, currently in DCA, and related trust funds to the Department of Financial Services.
- Transfers the Community Services Block Grant, currently in DCA, and related trust funds to the Department of Children and Families.

The PCB amends several statutes to conform changes made by the act, conforms cross-references, and deletes obsolete provisions.

B. SECTION DIRECTORY:

- Sections 1. Creates the Department of Economic Opportunity.
- Sections 2-155. Provides changes associated with the Office of Tourism, Trade and Economic Development and Enterprise Florida, Inc.
- Sections 156-230. Provides changes associated with the Department of Community Affairs.
- Sections 231-369. Provides changes associated with the Agency for Workforce Innovation.
- Section 370. Provides a transition plan.
- Section 371. Provides an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

- 1. Revenues:
None
- 2. Expenditures:
See *FISCAL COMMENTS*.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

- 1. Revenues:
None
- 2. Expenditures:
None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

There may be one-time costs associated with the transition and mergers provided for in this proposed committee bill, however, consolidation of existing agency functions may lead to recurring savings.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The PCB transfers existing rulemaking authority, but does not create any new rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES