

By Senator Sobel

33-00557A-14

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1 A bill to be entitled
2 An act relating to economic incentive programs;
3 amending s. 20.055, F.S.; revising definitions;
4 amending s. 288.075, F.S.; providing that certain
5 information disclosed or published in a specified
6 manner is no longer confidential and exempt from
7 public record requirements; amending s. 288.076, F.S.;
8 requiring the Department of Economic Opportunity to
9 contract with an independent third party to verify
10 compliance with economic development incentive
11 requirements; requiring the department to publish
12 results of the independent third party review within a
13 specified period; amending s. 288.901, F.S.; deleting
14 a provision excluding the board of directors of
15 Enterprise Florida, Inc., from a provision prohibiting
16 solicitation and acceptance of certain gifts; amending
17 s. 288.9015, F.S.; requiring a two-thirds vote for
18 certain contracts executed by Enterprise Florida,
19 Inc.; amending s. 288.904, F.S.; reducing state
20 operational funding to Enterprise Florida, Inc., under
21 certain circumstances; amending s. 288.905, F.S.;
22 requiring a person appointed president of the board of
23 directors of Enterprise Florida, Inc., to be confirmed
24 by the Senate; providing requirements for incentive
25 payments made to employees of Enterprise Florida,
26 Inc.; providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:
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30 Section 1. Paragraphs (a) and (b) of subsection (1) of
31 section 20.055, Florida Statutes, are amended to read:

32 20.055 Agency inspectors general.—

33 (1) For the purposes of this section:

34 (a) "State agency" means each department created pursuant
35 to this chapter, and also includes the Executive Office of the
36 Governor, the Department of Military Affairs, the Fish and
37 Wildlife Conservation Commission, the Office of Insurance
38 Regulation of the Financial Services Commission, the Office of
39 Financial Regulation of the Financial Services Commission, the
40 Public Service Commission, the Board of Governors of the State
41 University System, the Florida Housing Finance Corporation,
42 Enterprise Florida, Inc., and the state courts system.

43 (b) "Agency head" means the Governor, a Cabinet officer, a
44 secretary as defined in s. 20.03(5), or an executive director as
45 defined in s. 20.03(6). It also includes the chair of the Public
46 Service Commission, the Director of the Office of Insurance
47 Regulation of the Financial Services Commission, the Director of
48 the Office of Financial Regulation of the Financial Services
49 Commission, the board of directors of the Florida Housing
50 Finance Corporation, the chairperson of the board of directors
51 of Enterprise Florida, Inc., and the Chief Justice of the State
52 Supreme Court.

53 Section 2. Present subsection (7) of section 288.075,
54 Florida Statutes, is redesignated as subsection (8), and a new
55 subsection (7) is added to that section, to read:

56 288.075 Confidentiality of records.—

57 (7) INFORMATION REQUIRED TO BE PUBLISHED.—Any information
58 deemed confidential and exempt from s. 119.07(1) and s. 24(a),

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59 Art. I of the State Constitution by subsections (2), (4), and
60 (6) which is thereafter published or disclosed by the department
61 pursuant to s. 288.076 is no longer confidential or exempt,
62 regardless of whether other information related to the same
63 business or project remains confidential and exempt.

64 Section 3. Present subsections (9) and (10) of section
65 288.076, Florida Statutes, are redesignated as subsections (10)
66 and (11), respectively, and a new subsection (9) is added to
67 that section, to read:

68 288.076 Return on investment reporting for economic
69 development programs.—

70 (9) The department shall procure and execute a contract for
71 an independent third party to annually verify that each business
72 that receives an economic development incentive satisfies the
73 requirements of the incentive agreement. The independent third-
74 party contractor shall perform the functions and conduct the
75 activities necessary to verify compliance with the performance
76 terms of each economic development incentive contract. The
77 department shall publish on its website the results of each
78 audit performed by the independent third party within 48 hours
79 after receiving the results.

80 Section 4. Paragraph (c) of subsection (1) of section
81 288.901, Florida Statutes, is amended to read:

82 288.901 Enterprise Florida, Inc.—

83 (1) CREATION.—

84 (c) The Legislature determines that it is in the public
85 interest for the members of Enterprise Florida, Inc., board of
86 directors to be subject to the requirements of ss. 112.3135,
87 112.3143(2), and 112.313, ~~excluding s. 112.313(2),~~

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88 notwithstanding the fact that the board members are not public
89 officers or employees. For purposes of those sections, the board
90 members shall be considered to be public officers or employees.
91 The exemption set forth in s. 112.313(12) for advisory boards
92 applies to the members of Enterprise Florida, Inc., board of
93 directors. Further, each member of the board of directors who is
94 not otherwise required to file financial disclosures pursuant to
95 s. 8, Art. II of the State Constitution or s. 112.3144~~7~~ shall
96 file disclosure of financial interests pursuant to s. 112.3145.

97 Section 5. Paragraph (c) of subsection (2) of section
98 288.9015, Florida Statutes, is amended to read:

99 288.9015 Powers of Enterprise Florida, Inc.; board of
100 directors.—

101 (2) The board of directors of Enterprise Florida, Inc.,
102 may:

103 (c) Make and enter into contracts and other instruments
104 necessary or convenient for the exercise of its powers and
105 functions. A contract executed by Enterprise Florida, Inc., with
106 a person or organization under which such person or organization
107 agrees to perform economic development services or similar
108 business assistance services on behalf of Enterprise Florida,
109 Inc., or the state must include provisions requiring a
110 performance report on the contracted activities and must account
111 for the proper use of funds provided under the contract,
112 coordinate with other components of state and local economic
113 development systems, and avoid duplication of existing state and
114 local services and activities. A contract executed by Enterprise
115 Florida, Inc., with an organization must be approved by a two-
116 thirds vote of the entire board of directors of Enterprise

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117 Florida, Inc., if one or more employees, agents, officers,
118 directors, shareholders, principals, or consultants of the
119 organization is a member of the board of directors of Enterprise
120 Florida, Inc., or if one or more employees, agents, officers,
121 directors, shareholders, principals, or consultants of an
122 affiliate or subsidiary of the organization is a member of the
123 board of directors of Enterprise Florida, Inc. A board member of
124 Enterprise Florida, Inc., so affiliated may not vote on such
125 contract.

126 Section 6. Paragraph (c) is added to subsection (2) of
127 section 288.904, Florida Statutes, to read:

128 288.904 Funding for Enterprise Florida, Inc.; performance
129 and return on the public's investment.—

130 (2)

131 (c) For any fiscal year in which private sector support in
132 operating Enterprise Florida, Inc., and its divisions does not
133 equal at least 100 percent of the state operational funding,
134 Enterprise Florida, Inc., may not receive 100 percent of the
135 state operational funding. Instead, Enterprise Florida, Inc.,
136 shall receive the larger of:

137 1. Fifty percent of the state operational funding
138 appropriated; or

139 2. State operational funding in an amount equal to private
140 sector support.

141 Section 7. Subsections (1) and (4) of section 288.905,
142 Florida Statutes, are amended, and subsection (5) is added to
143 that section, to read:

144 288.905 President and employees of Enterprise Florida,
145 Inc.—

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146 (1) The board of directors of Enterprise Florida, Inc.,
147 shall appoint a president, subject to confirmation by the
148 Senate, who shall serve at the pleasure of the Governor. The
149 president shall also be known as the "secretary of commerce" and
150 shall serve as the Governor's chief negotiator for business
151 recruitment and business expansion.

152 (4) An ~~No~~ employee of Enterprise Florida, Inc., may not
153 receive compensation for employment which ~~that~~ exceeds the
154 salary paid to the Governor, unless the board of directors and
155 the employee have executed a contract that specifies ~~prescribes~~
156 ~~specific~~, measurable performance outcomes for the employee, the
157 satisfaction of which provides the basis for the award of
158 incentive payments that increase the employee's total
159 compensation to a level above the salary paid to the Governor.

160 (5) Enterprise Florida, Inc., may award an employee
161 incentive payments for reaching goals or obtaining specified
162 results. However, such goals or results must be quantifiable,
163 measureable, and verifiable. An employee may not earn an
164 incentive payment based on projected or unconfirmed results. In
165 addition, Enterprise Florida, Inc., may not award any employee
166 an incentive payment for results related to a contract requiring
167 a two-thirds vote under s. 288.9015(2)(c).

168 Section 8. This act shall take effect July 1, 2014.