

By the Committee on Commerce and Economic Opportunities and  
Senators Bronson and Grant

310-1814-98

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A bill to be entitled  
An act relating to capital investment tax  
credits; creating s. 220.191, F.S.; providing  
definitions; providing for a credit against the  
corporate income tax for certain capital costs;  
providing requirements; providing limitations;  
providing for certification of eligibility by  
the Office of Tourism, Trade, and Economic  
Development; providing duties of the Department  
of Revenue; authorizing the office to develop  
certification guidelines and application  
materials; amending s. 220.02, F.S.; providing  
legislative intent on the order in which the  
capital investment tax credits are to be  
applied; providing an effective date.

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

Section 1. Section 220.191, Florida Statutes, is  
created to read:

220.191 Capital investment tax credit.--

(1) DEFINITIONS.--For purposes of this section:

(a) "Commencement of operations" means the beginning  
of active operations by a qualifying business of the principal  
function for which a qualifying project was constructed.

(b) "Cumulative capital investment" means the total  
capital investment in land, buildings, and equipment made in  
connection with a qualifying project during the period from  
the beginning of construction of the project to the  
commencement of operations.

1           (c) "Eligible capital costs" means all expenses  
2 incurred by a qualifying business in connection with the  
3 acquisition, construction, installation, and equipping of a  
4 qualifying project during the period from the beginning of  
5 construction of the project to the commencement of operations,  
6 including, but not limited to:

7           1. The costs of acquiring, constructing, installing,  
8 equipping, and financing a qualifying project, including all  
9 obligations incurred for labor and obligations to contractors,  
10 subcontractors, builders, and materialmen.

11           2. The costs of acquiring land or rights to land and  
12 any cost incidental thereto, including recording fees.

13           3. The costs of architectural and engineering  
14 services, including test borings, surveys, estimates, plans  
15 and specifications, preliminary investigations, environmental  
16 mitigation, and supervision of construction, as well as the  
17 performance of all duties required by or consequent to the  
18 acquisition, construction, installation, and equipping of a  
19 qualifying project.

20           4. The costs associated with the installation of  
21 fixtures and equipment; surveys, including archeological and  
22 environmental surveys; site tests and inspections; subsurface  
23 site work and excavation; removal of structures, roadways, and  
24 other surface obstructions; filling, grading, paving, and  
25 provisions for drainage, storm water retention, and  
26 installation of utilities, including water, sewer, sewage  
27 treatment, gas, electricity, communications, and similar  
28 facilities; and offsite construction of utility extensions to  
29 the boundaries of the property.

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1 Eligible capital costs shall not include the cost of any  
2 property previously owned or leased by the qualifying  
3 business.

4 (d) "Jobs" means full-time equivalent positions, as  
5 such term is consistent with terms used by Department of Labor  
6 and Employment Security and the United States Department of  
7 Labor for purposes of unemployment tax administration and  
8 employment estimation, resulting directly from a project in  
9 this state. Such term does not include temporary construction  
10 jobs involved in the construction of the project facility.

11 (e) "Office" means the Office of Tourism, Trade and  
12 Economic Development.

13 (f) "Qualifying business" means a business which  
14 establishes a qualifying project in this state and which is  
15 certified by the office to receive tax credits pursuant to  
16 this section.

17 (g) "Qualifying project" means a new or expanding  
18 facility in this state which creates at least 100 new jobs in  
19 this state and is in one of the high-impact sectors identified  
20 by Enterprise Florida, Inc., pursuant to s. 288.108(6),  
21 including, but not limited to, aviation, aerospace,  
22 automotive, and silicon technology industries.

23 (2) An annual credit against the tax imposed by this  
24 chapter shall be granted to any qualifying business in an  
25 amount equal to 5 percent of the eligible capital costs  
26 generated by a qualifying project, for a period not to exceed  
27 20 years beginning with the commencement of operations of the  
28 project. The tax credit shall be granted against only the  
29 corporate income tax liability generated by or arising out of  
30 the qualifying project, and the sum of all tax credits  
31 provided pursuant to this section shall not exceed 100 percent

1 of the eligible capital costs of the project. In no event may  
2 any credit granted under this section be carried forward or  
3 backward by any qualifying business with respect to a  
4 subsequent or prior year. The annual tax credit granted under  
5 this section shall not exceed the following percentages of the  
6 annual corporate income tax liability generated by or arising  
7 out of a qualifying project:

8 (a) One hundred percent for a qualifying project which  
9 results in a cumulative capital investment of at least \$100  
10 million.

11 (b) Seventy-five percent for a qualifying project  
12 which results in a cumulative capital investment of at least  
13 \$50 million but less than \$100 million.

14 (c) Fifty percent for a qualifying project which  
15 results in a cumulative capital investment of at least \$25  
16 million but less than \$50 million.

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18 A qualifying project which results in a cumulative capital  
19 investment of less than \$25 million is not eligible for the  
20 capital investment tax credit.

21 (3) Prior to receiving tax credits pursuant to this  
22 section, a qualifying business must achieve and maintain the  
23 minimum employment goals beginning with the commencement of  
24 operations at a qualifying project and continuing each year  
25 thereafter during which tax credits are available pursuant to  
26 this section.

27 (4) The office, upon a recommendation by Enterprise  
28 Florida, Inc., shall first certify a business as eligible to  
29 receive tax credits pursuant to this section prior to the  
30 commencement of operations of a qualifying project and such  
31 certification shall be transmitted to the Department of

1 Revenue. Upon receipt of the certification, the Department of  
2 Revenue shall enter into a written agreement with the  
3 qualifying business specifying, at a minimum, the method by  
4 which income generated by or arising out of the qualifying  
5 project will be determined.

6 (5) The office, in consultation with Enterprise  
7 Florida, Inc., is authorized to develop the necessary  
8 guidelines and application materials for the certification  
9 process described in subsection (4).

10 Section 2. Subsection (10) of section 220.02, Florida  
11 Statutes, is amended to read:

12 220.02 Legislative intent.--

13 (10) It is the intent of the Legislature that credits  
14 against either the corporate income tax or the franchise tax  
15 be applied in the following order: those enumerated in s.  
16 220.68, those enumerated in s. 631.719(1), those enumerated in  
17 s. 631.705, those enumerated in s. 220.18, those enumerated in  
18 s. 631.828, those enumerated in s. 220.191, those enumerated  
19 in s. 220.181, those enumerated in s. 220.183, those  
20 enumerated in s. 220.182, those enumerated in s. 220.1895,  
21 those enumerated in s. 221.02, those enumerated in s. 220.184,  
22 those enumerated in s. 220.186, and those enumerated in s.  
23 220.188.

24 Section 3. This act shall take effect July 1 of the  
25 year in which enacted.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
SB 1314

The committee substitute differs substantially from Senate Bill 1314 by, as a companion provision to the provision creating the capital investment tax credit, amending s. 220.02(10), F.S., to specify the legislative intent on the order in which the new tax credit should be applied relative to other credits against the corporate income tax or the franchise tax.