

By the Committees on Ways and Means, Commerce and Economic Opportunities and Senators Bronson and Grant

301-1980-98

1 A bill to be entitled
 2 An act relating to capital investment tax
 3 credits; amending s. 220.02, F.S.; revising
 4 legislative intent on the order of application
 5 of certain credits; creating s. 220.191, F.S.;
 6 providing definitions; providing for a credit
 7 against the corporate income tax for certain
 8 capital costs; providing requirements;
 9 providing limitations; providing for
 10 certification of eligibility by the Office of
 11 Tourism, Trade, and Economic Development;
 12 providing duties of the Department of Revenue;
 13 authorizing the office to develop certification
 14 guidelines and application materials; providing
 15 a responsibility for qualifying businesses;
 16 authorizing the Department of Revenue to adopt
 17 rules; providing an effective date.

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

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 21 Section 1. Subsection (10) of section 220.02, Florida
 22 Statutes, is amended to read:

23 220.02 Legislative intent.--

24 (10) It is the intent of the Legislature that credits
 25 against either the corporate income tax or the franchise tax
 26 be applied in the following order: those enumerated in s.
 27 220.68, those enumerated in s. 631.719(1), those enumerated in
 28 s. 631.705, those enumerated in s. 220.18, those enumerated in
 29 s. 631.828, those enumerated in s. 220.191, those enumerated
 30 in s. 220.181, those enumerated in s. 220.183, those
 31 enumerated in s. 220.182, those enumerated in s. 220.1895,

1 those enumerated in s. 221.02, those enumerated in s. 220.184,
2 those enumerated in s. 220.186, and those enumerated in s.
3 220.188.

4 Section 2. Section 220.191, Florida Statutes, is
5 created to read:

6 220.191 Capital investment tax credit.--

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

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

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

16 (c) "Eligible capital costs" means all expenses
17 incurred by a qualifying business in connection with the
18 acquisition, construction, installation, and equipping of a
19 qualifying project during the period from the beginning of
20 construction of the project to the commencement of operations,
21 including, but not limited to:

22 1. The costs of acquiring, constructing, installing,
23 equipping, and financing a qualifying project, including all
24 obligations incurred for labor and obligations to contractors,
25 subcontractors, builders, and materialmen.

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

28 3. The costs of architectural and engineering
29 services, including test borings, surveys, estimates, plans
30 and specifications, preliminary investigations, environmental
31 mitigation, and supervision of construction, as well as the

1 performance of all duties required by or consequent to the
2 acquisition, construction, installation, and equipping of a
3 qualifying project.

4 4. The costs associated with the installation of
5 fixtures and equipment; surveys, including archeological and
6 environmental surveys; site tests and inspections; subsurface
7 site work and excavation; removal of structures, roadways, and
8 other surface obstructions; filling, grading, paving, and
9 provisions for drainage, storm water retention, and
10 installation of utilities, including water, sewer, sewage
11 treatment, gas, electricity, communications, and similar
12 facilities; and offsite construction of utility extensions to
13 the boundaries of the property.

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15 Eligible capital costs shall not include the cost of any
16 property previously owned or leased by the qualifying
17 business.

18 (d) "Income generated by or arising out of the
19 qualifying project" means the qualifying project's annual
20 taxable income as determined by generally accepted accounting
21 principles and under s. 220.13.

22 (e) "Jobs" means full-time equivalent positions, as
23 such term is consistent with terms used by Department of Labor
24 and Employment Security and the United States Department of
25 Labor for purposes of unemployment tax administration and
26 employment estimation, resulting directly from a project in
27 this state. Such term does not include temporary construction
28 jobs involved in the construction of the project facility.

29 (f) "Office" means the Office of Tourism, Trade and
30 Economic Development.

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1 (g) "Qualifying business" means a business which
2 establishes a qualifying project in this state and which is
3 certified by the office to receive tax credits pursuant to
4 this section.

5 (h) "Qualifying project" means a new or expanding
6 facility in this state which creates at least 100 new jobs in
7 this state and is in one of the high-impact sectors identified
8 by Enterprise Florida, Inc., and certified by the office
9 pursuant to s. 288.108(6), including, but not limited to,
10 aviation, aerospace, automotive, and silicon technology
11 industries.

12 (2) An annual credit against the tax imposed by this
13 chapter shall be granted to any qualifying business in an
14 amount equal to 5 percent of the eligible capital costs
15 generated by a qualifying project, for a period not to exceed
16 20 years beginning with the commencement of operations of the
17 project. The tax credit shall be granted against only the
18 corporate income tax liability generated by or arising out of
19 the qualifying project, and the sum of all tax credits
20 provided pursuant to this section shall not exceed 100 percent
21 of the eligible capital costs of the project. In no event may
22 any credit granted under this section be carried forward or
23 backward by any qualifying business with respect to a
24 subsequent or prior year. The annual tax credit granted under
25 this section shall not exceed the following percentages of the
26 annual corporate income tax liability generated by or arising
27 out of a qualifying project:

28 (a) One hundred percent for a qualifying project which
29 results in a cumulative capital investment of at least \$100
30 million.

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1 (b) Seventy-five percent for a qualifying project
2 which results in a cumulative capital investment of at least
3 \$50 million but less than \$100 million.

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

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

11 (3) Prior to receiving tax credits pursuant to this
12 section, a qualifying business must achieve and maintain the
13 minimum employment goals beginning with the commencement of
14 operations at a qualifying project and continuing each year
15 thereafter during which tax credits are available pursuant to
16 this section.

17 (4) The office, upon a recommendation by Enterprise
18 Florida, Inc., shall first certify a business as eligible to
19 receive tax credits pursuant to this section prior to the
20 commencement of operations of a qualifying project and such
21 certification shall be transmitted to the Department of
22 Revenue. Upon receipt of the certification, the Department of
23 Revenue shall enter into a written agreement with the
24 qualifying business specifying, at a minimum, the method by
25 which income generated by or arising out of the qualifying
26 project will be determined.

27 (5) The office, in consultation with Enterprise
28 Florida, Inc., is authorized to develop the necessary
29 guidelines and application materials for the certification
30 process described in subsection (4).

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1 (6) It shall be the responsibility of the qualifying
2 business to affirmatively demonstrate to the satisfaction of
3 the Department of Revenue that such business meets the job
4 creation and capital investment requirements of this section.

5 (7) The Department of Revenue may specify by rule the
6 methods by which a project's pro forma annual taxable income
7 is determined.

8 Section 3. This act shall take effect July 1, 1998.

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10 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
11 COMMITTEE SUBSTITUTE FOR
12 CS/SB 1314

13 The committee substitute clarifies the provisions of the
14 capital investment tax credit by declaring that "income
15 generated by or arising out of the qualifying project" means
16 the qualifying project's annual taxable income as determined
17 by generally accepted accounting principles and under s.
18 220.13, Florida Statutes. It provides that the qualifying
19 business is responsible for demonstrating to the satisfaction
20 of the Department of Revenue that it meets the job creation
21 and capital investment requirements of the law, and the
22 department is authorized to adopt rules to determine a
23 project's annual taxable income.
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