

STORAGE NAME: hb3351.cu

DATE: February 27, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COLLEGES AND UNIVERSITIES
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 3351

RELATING TO: Corporate Income Tax

SPONSOR(S): Representative Mike Fasano

COMPANION BILL(S): SB 742

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) COLLEGES AND UNIVERSITIES
 - (2) FINANCE & TAXATION
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

This bill provides a tax exemption, under certain conditions, for corporations entering into a sponsored research contract with a state university after July 1, 1998.

Specifically, this bill revises provisions which provide for apportionment of adjusted federal income for corporate income tax purposes. The property factor fraction is amended to exclude property certified to the Department of Revenue by the Board of Regents as dedicated solely to research and development activities performed pursuant to sponsored research through a state university. The payroll factor fraction is amended to exclude compensation paid to employees certified as dedicated exclusively to sponsored research activities. Such activities would not cause a corporation to be subject to a corporate income tax, if the corporation would otherwise not be subject to the tax levied under Chapter 220, F.S.

This bill requires that property and payroll exemptions be granted only for the duration of the sponsored research contract. This bill also requires that the reduction in tax not exceed the amount paid to the state university for the conduct of the sponsored research. The bill prohibits sponsored research contracts that were in existence prior to July 1, 1990, from participating in the tax exemption.

The bill directs the Board of Regents to monitor the various sponsored research contracts and submit a report to the Legislature by February 1, 2000, which provides information to indicate if the provisions of the act have been successful in attracting additional sponsored research.

The estimated fiscal impact of a similar proposal considered during the 1997 Legislative Session was a recurring negative fiscal impact of \$2.3 million. That proposal included community colleges as well as private institutions. This bill has not yet been reviewed by the Impact Conference.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Chapter 220, F.S., imposes the Florida corporate income tax. The tax is equal to 5.5 percent of the taxpayer's net income for the taxable year. Section 220.12, F.S., defines net income as the taxpayer's adjusted federal income, or the amount apportioned to Florida under s. 220.15, F.S., plus nonbusiness income, less child-care facility start-up costs, and less a \$5000 exemption. Section 220.15, F.S., provides that adjusted federal income shall be apportioned to Florida by taxpayers doing business within and outside the state. The statute provides for income to be multiplied by an apportionment fraction composed of sales, property, and payroll factors.

The property factor represents 25 percent of the apportionment fraction. The property factor is a fraction the numerator of which is the average value of real and tangible personal property owned or rented and used in Florida; and the denominator of which is the average value of such property owned or rented and used everywhere. Currently, the property apportionment fraction for Florida corporate income tax does not exclude real or tangible property dedicated to state university based research and development activities performed in conjunction with sponsored research contracts.

The payroll factor represents 25 percent of the apportionment fraction. The payroll factor is a fraction the numerator of which is the total amount paid by the taxpayer for compensation in this state during the taxable year, and the denominator of which is the total compensation paid everywhere during the taxable year or period. The payroll

apportionment fraction for Florida corporate income tax does not exclude compensation paid to employees in the state who are dedicated to state university based research and development activities performed in conjunction with sponsored research contracts.

According to s. 240.241, F.S., each university, with Department of Education approval, is authorized to establish divisions of sponsored research. Divisions of sponsored research are under the supervision of the president of that university. The president is authorized to employ research staff; to negotiate, enter into, and execute research contracts; to solicit and accept grants; and to fix and collect fees, other payments, and donations that may accrue. All moneys deposited or received for use in the research or related programs of the university are deposited by the university into a permanent sponsored research development fund in a depository approved and audited by the Auditor General. Each university must submit a report describing the activities of each division of research along with an estimated budget for the next fiscal year to the Board of Regents. Not less than 90 days prior to the convening of regular session, the BOR is required to submit a report to the chair of the appropriations committee in each house, as well as an estimated budget for the next fiscal year.

B. EFFECT OF PROPOSED CHANGES:

This bill creates s. 220.15(2)(c), F.S., which excludes from the property apportionment fraction, any real or tangible property located in Florida which is certified by the Board of Regents as being utilized solely for research and development activities as a result of sponsored research in conjunction with and through state universities.

This bill creates s. 220.15(4)(c), F.S., which excludes from the payroll apportionment fraction any compensation paid to employees in the state who are dedicated exclusively to state university sponsored research contacts in conjunction with and through state universities in Florida.

This bill creates s. 220.15(8), F.S., in which no research and development activities certified by the BOR and conducted through a state university may cause a corporation to be subject to the corporate income tax if the corporation would otherwise not be subject to the tax. The bill grants property and payroll exemptions to corporations only for the duration of the contractual period specified in the sponsored research contract. The reduction in tax due as a result of the property and payroll exemptions cannot exceed the amount paid to the state university for the conduct of sponsored research. These exemptions are not applicable to sponsored research contracts that were in existence prior to July 1, 1998.

The bill directs the Department of Revenue (DOR) to adopt any rules necessary to administer the provisions in s. 220.15(8), F.S. DOR staff have recommended that this section include authority for the DOR to adopt rules to administer provisions in ss. 220.15(2)(c), 220.15(4)(c), and 220.15(8), F.S., rather than just s. 220.15(8), F.S.

This bill also directs the BOR to submit a report to the Legislature that will demonstrate whether or not the exemption has been effective in recruiting corporate-sponsored research in Florida.

This bill, while requiring BOR staff to certify corporations whose sole purpose in Florida is sponsored research and development, does not define the term "certified", nor does it give guidelines for BOR to follow for the certification process.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Yes. The Department of Revenue is directed to adopt necessary rules for administering certain provisions in s. 220.15, F.S.

- (2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The Board of Regents is required to develop and administer a certification process for corporations wanting to qualify for sponsored research contracts. The BOR must monitor the sponsored research contracts and submit a report to the Legislature which provides information to indicate if the provisions of the act have been successful.

- (3) any entitlement to a government service or benefit?

No.

- b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

- (2) what is the cost of such responsibility at the new level/agency?

N/A

- (3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

- d. Does the bill reduce total fees, both rates and revenues?

No.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

S. 220.15, F.S.

E. SECTION-BY-SECTION RESEARCH:

This section need be completed only in the discretion of the Committee.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

See FISCAL COMMENTS.

2. Recurring Effects:

See FISCAL COMMENTS.

3. Long Run Effects Other Than Normal Growth:

See FISCAL COMMENTS.

4. Total Revenues and Expenditures:

See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

Corporations who qualify realize a reduction in corporate income tax.

3. Effects on Competition, Private Enterprise and Employment Markets:

Encouraging more corporate sponsored research and development in Florida could potentially increase high wage/high skill job opportunities in Florida.

D. FISCAL COMMENTS:

A similar proposal was addressed in the 1997 Legislative Session and was estimated at Impact Conference to have a negative recurring fiscal impact of \$2.3 million for FY 1997-98. That proposal included not only corporate sponsored research with state universities, but also private universities, private colleges, and community colleges. Therefore, the fiscal impact for HB 3351 which is exclusively for state universities within Florida, has the potential to be lower. However, costs to the State University System to

administer the certification, monitoring, and reporting provisions, should be taken into consideration when estimating the fiscal impact and may or may not change the fiscal.

According to Finance & Taxation Committee staff in the House of Representatives, this bill will be reviewed at the 1998 Impact Conference.

This bill could potentially attract research and development corporations to the state, therefore generating more high wage/high skill job opportunities in Florida. Additionally, this bill could generate new revenue for the State University System through sponsored research contracts.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

Department of Revenue staff have recommended that the term "state university" be clarified to include only State University System institutions. They also expressed concern that the terms "research and development" and "sponsored research" were not defined, nor was there guidance as to what specific activities qualify.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

STORAGE NAME: hb3351.cu

DATE: February 27, 1998

PAGE 9

VII. SIGNATURES:

COMMITTEE ON COLLEGES AND UNIVERSITIES:

Prepared by:

Legislative Research Director:

Kimberly R. Allen

Betty Tilton Ph. D.