

STORAGE NAME: h3351s2.gg

DATE: April 20, 1998

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
GENERAL GOVERNMENT APPROPRIATIONS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/CS/HB 3351

RELATING TO: Corporate Income Tax

SPONSOR(S): Committees on Finance & Taxation, Colleges & Universities, and Representative Fasano and others

COMPANION BILL(S): CS/CS/SB 742 (s), 1ST ENG/HB 2109 (s)

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

- (1) COLLEGES AND UNIVERSITIES YEAS 11 NAYS 0
- (2) FINANCE AND TAXATION YEAS 14 NAYS 0
- (3) GENERAL GOVERNMENT APPROPRIATIONS
- (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 and certain nonpublic universities 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 (DOR) as dedicated solely to research and development activities performed pursuant to sponsored research through a state university and certain nonpublic universities. The Board of Regents (BOR) must certify the contracts for members of the State University System and the president of the university must certify the contracts for a nonpublic 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 or applicable nonpublic universities for the conduct of the sponsored research. The bill prohibits sponsored research contracts that were in existence prior to July 1, 1998, from participating in the tax exemption.

The bill directs the BOR and the president of a nonpublic university 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 bill is projected to reduce General Revenue receipts by (\$2.8) million in FY 1998-99 and (\$2.8) million in FY 1999-00.

STORAGE NAME: h3351s2.gg

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PAGE 2

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 section 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 of which the numerator is the average value of real and tangible personal property owned or rented and used in Florida; and the denominator is the average value of such property owned or rented and used everywhere. Currently, the property factor 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 of which the numerator is the total amount paid by the taxpayer for compensation in this state during the taxable year, and the denominator is the total compensation paid everywhere during the taxable year or period. The payroll factor 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 section 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 excludes from the property factor fraction, any real or tangible property located in Florida which is certified to the DOR as being utilized solely for research and development activities as a result of sponsored research in conjunction with and through a university that is a member of the State University System or a nonpublic university that is chartered in Florida and conducts graduate programs at the professional or doctoral

level. The BOR must certify the contracts for members of the State University System, and the president of the university must certify the contracts for a nonpublic university.

This bill also excludes from the payroll factor fraction any compensation paid to employees in the state who are dedicated exclusively to state university or applicable nonpublic university sponsored research contracts in conjunction with and through a state university or an applicable nonpublic university in Florida.

This bill provides that no research and development activities conducted through a state university or applicable nonpublic university (certified by the BOR or the president respectively) 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 DOR to adopt any rules necessary to administer the provisions in the bill. It also directs the BOR and the president of each nonpublic university 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. A "sponsored research contract" is defined as an agreement executed by parties that include at least the university and the taxpayer.

This bill, while requiring BOR staff and the president of each nonpublic university 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 section 220.15, F.S.

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

The BOR and the president of each nonpublic university is required to develop and administer a certification process for corporations wanting to qualify for sponsored research contracts. The BOR and the president of each nonpublic university 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:

Section 220.15, F.S.

E. SECTION-BY-SECTION RESEARCH:

See Effect of Proposed Changes section.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

- 1. Non-recurring Effects:

None.

- 2. Recurring Effects:

Revenues:

General Revenue Fund

FY 98-99

FY 99-00

(\$2.8M)

(\$2.8M)

Expenditures:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

See 1. and 2. above.

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:

None.

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:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

CS/HB 3351 authorizes the Department of Revenue to implement rules pursuant to section 220.15 (2)(c), (4)(c), and (8), Florida Statutes, unlike HB 3351 which directed the Department of Revenue to implement rules pursuant only to section 220.15(8), F.S.

On March 18, 1998, the Committee on Finance & Taxation adopted four amendments to CS/HB 3351 and rolled them into the bill as a committee substitute thereby creating CS/CS/HB 3351. The amendments change CS/HB 3351 as follows:

Amendment one requires the Board of Regents to certify the sponsored research contracts for property and payroll for members of the state university system. These are the 10 public universities. It requires the president of a private university to certify the contracts for their sponsored research projects. It also clarifies which private universities are eligible. They must be: chartered in Florida and authorized to offer professional programs or graduate programs at the doctoral level. Currently, only three nonpublic universities meet those criteria, Nova Southeastern, the University of Miami, and the Florida Institute of Technology.

Amendment two is a technical amendment in preparation for the above amendment. It deletes a responsibility of the Board of Regents that amendment one restates in a different location in the bill.

Amendment three is a technical amendment. It adds that the president of a nonpublic university has the same responsibility for overseeing their contracts as the Board of Regents has for public universities.

Amendment four provides a definition of "sponsored research." It requires the activities to be covered by a contract between a university and a taxpayer and allows funding from either public or private sources.

STORAGE NAME: h3351s2.gg

DATE: April 20, 1998

PAGE 10

VII. SIGNATURES:

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