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HOUSE OF REPRESENTATIVES
COMMITTEE ON
BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE
BILL RESEARCH & ECONOMIC IMPACT STATEMENT

BILL #: HB 3681

RELATING TO: Capital Investment Tax Credits

SPONSOR(S): Representative Ball

COMPANION BILL(S): SB 1314 (i)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE YEAS 9 NAYS 0
(2) FINANCE AND TAXATION
(3) GENERAL GOVERNMENT APPROPRIATIONS
(4)
(5)

I. SUMMARY:

This bill creates s. 220.191, F.S., establishing the capital Investments tax credit program that allows a tax credit against the corporate tax liability of “qualifying businesses” for “qualifying projects” employing at least 100 full-time employees. Allowable tax credits of 100 percent of the “eligible capital costs “ may be applied in annual amounts equal to five percent of the total “eligible capital costs” over a 20 year period beginning with the commencement of operations of the project. The credit is applied to the corporate income tax liability *generated by the qualifying project*. Qualifying projects that result in less than $25 million in cumulative capital investment are not eligible for the capital investment tax credit program. Definitions, qualifying criteria and other limitations are provided in the newly created section.

The Office of Tourism Trade and Economic Development (OTTED) in the Governor’s office is authorized to develop the necessary guidelines for certifying “qualifying businesses” and “qualifying projects.” The Department of Revenue (DOR) is authorized to enter into written agreements with “qualifying business” specifying at a minimum, the method to be used to determine income generated by the newly created project.

The Revenue Estimating conference has not yet reviewed this bill for fiscal impact on state and local governments.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Chapter 220, Florida Statutes provides the income tax code for corporations and organizations doing business in Florida. The tax is for the privilege of conducting business, deriving income, or existing within Florida and it is based on the net income of the organization at 5.5 percent less a $5,000 exemption as provided for in Article VII, section 5(b), Florida Constitution. Net income, along with other significant terms, is defined in this chapter. The corporate income tax was enacted by the 1971 legislature in response to a Constitutional amendment providing for its authorization. In fiscal year 1997-98, estimated net revenue collections for corporate income taxes were $1,143,400,000 (as reported in the 1997 Florida Tax Handbook).

Chapter 220, Florida Statutes, also provides various exemptions, credits and deductions for businesses against their corporate income tax liability. Tax incentives are used to generate the support of private-sector business for economic development such as investing in the economy of blighted areas and hiring WAGES participants (Work and Gain Economic Self-sufficiency). Annually, these credits to the corporate tax liability amount to millions of dollars, however; private sector businesses' participation in the adopted programs results in valuable economic activity often hard to quantify monetarily. A simple example: for every WAGES participant hired or business expansion undertaken that requires hiring from the local labor force, there may be an increase in the local sales tax revenue collected if new wages are spent in the local economy.

Examples of Corporate Tax Incentives Found in Chapter 220, Florida Statutes:

- *Enterprise zone job credits* - Created in s. 220.181, F.S., grants a credit against the corporate tax liability to an eligible business located in an enterprise zone. The credit is based on 10 percent of a new employee's monthly wages, the new employee must reside in the enterprise zone and work in the enterprise zone. Credits are given for the employment of WAGES program participants at 15 percent of the first $1500 in monthly wages.

- *Community contribution tax credit* - Created in s. 220.183, F.S., grants a credit of 50 percent of any community contribution against the tax liability of a corporation that contributes resources to public redevelopment organizations for the revitalization of enterprise zones. Community contribution is defined as a cash or other liquid asset, real property, goods or inventory and other physical resources.

- *Export finance corporation investment credit* - Created in s. 220.188, F.S., grants a tax credit to eligible corporations making qualified investments in export finance corporations. The credit is at a rate of 20 percent of the qualified investment.

Chapter law 96-320, L.O.F., restructured the state's domestic and international economic development operations and placed these responsibilities under Enterprise Florida Inc., (EFI) and the Florida Tourism Commission. Administrative oversight over these public/private entities and other fundamentally public-sector programs, was placed with
the Office of Tourism, Trade and Economic Development (OTTED) in the office of the Governor.

Section 288.108, F.S., provides that EFI identify “high-impact business” based on certain criteria including a minimum dollar amount for cumulative investment coupled with a minimum number of full-time jobs created. The OTTED is charged with certifying these “high-impact businesses” once they are identified by EFI. This section is based upon the legislative finding that attracting, retaining, and providing favorable conditions for the growth of certain high-impact facilities provides widespread economic benefits through employment opportunities and an increased tax base.

B. EFFECT OF PROPOSED CHANGES:

This bill would create s. 220.191, F.S., establishing the capital investment tax credit program for certain qualifying businesses expanding or creating a new facility in Florida that generates at least 100 new full-time jobs as defined by the US Department of Labor and Florida’s Department of Labor. Allowable tax credits of 100 percent of the “eligible capital costs “ may be applied in annual amounts equal to five percent of the total “eligible capital costs” over a 20 year period beginning with the commencement of operations of the project. The credit is applied to the corporate income tax liability *generated by the qualifying project*.

Eligible projects include high-impact businesses identified by EFI pursuant to s. 288.108(6), F.S., such as: aviation; aerospace; automotive and silicon technology industries. Eligible capital costs include *all* expenses incurred in connection with acquisition, construction, installation and equipping of the new project from the period of beginning the project to the commencement of operation for which the project was undertaken. Eligible capital costs do not include the cost of property previously owned or leased by the qualifying business.

Definitions are provided along with certain tax-credit limitations based on the amount of cumulative capital investment of a project. The annual tax credit granted shall not exceed the following percentages of the annual corporate income tax liability generated by or arising from the qualifying project:

- 100 percent for projects resulting in a cumulative capital investment of at least $100 million.
- 75 percent for projects resulting in a cumulative capital investment of at least $50 million.
- 50 percent for projects resulting in a cumulative capital investment of at least $25 million but less than $50 million.

Projects resulting in a cumulative capital investment of less than $25 million are not eligible for the capital investment tax credit. Businesses must maintain the minimum employment goals beginning with the commencement of operations and continuing each year thereafter during which tax credits are available.

The OTTED is responsible for certifying to the Department of Revenue that a business is eligible to receive the tax credit created herein. The Department of Revenue is directed to enter into written agreements with the qualifying businesses specifying, at a minimum, the method by which income generated by or arising out of the qualifying project will be determined. Furthermore, OTTED is authorized to develop the necessary guidelines and application materials 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?

The OTTED is directed to develop guidelines for the certification of "qualifying business" and "qualifying projects."

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

Yes. Business interested in pursuing the tax credit would be required to go through the application process developed by OTTED.

The Department of Revenue (DOR) would be required to apply the tax credit when notified by OTTED of a qualifying business, and to enter into written agreements specifying the method by which income generated by or arising out of the qualifying project will be determined.

(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?

The bill provides a tax credit, however; the credit is only allowed against the tax liability “generated by or *arising* out of the qualifying project.”

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?

N/A

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. <u>Family Empowerment:</u>

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:

Chapter 220, Florida Statutes.

E. SECTION-BY-SECTION RESEARCH:

Section 1 - Creates s. 220.191, F.S., establishing the capital investment tax credit program.

Section 2 - Provides an effective date of July 1, of the year enacted.

III. <u>FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT</u>:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. <u>Non-recurring Effects</u>:

The Revenue Estimating Conference has not reviewed this bill. OTTED may incur costs associated with implementing this bill.

2. <u>Recurring Effects</u>:

The Revenue Estimating Conference has not reviewed this bill.

3. <u>Long Run Effects Other Than Normal Growth</u>:

None.

4. <u>Total Revenues and Expenditures</u>:

See A.1. and A.2., above.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. <u>Non-recurring Effects</u>:

This bill may increase ad valorem tax revenues for local governments and generate local option sales tax revenue.

2. Recurring Effects:

   The Revenue Estimating Conference has not reviewed this bill.

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:

   Qualifying businesses would receive a corporate tax credit for qualifying projects.

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

   To the extent that this bill induces economic activity, the bill would have a positive impact on these markets.

D. FISCAL COMMENTS:

The Revenue Estimating Conference has not yet addressed HB 3681 or SB 1314.

The Department of Revenue has estimated an impact of $60,000 for their implementation.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

HB 3681 does not require counties or municipalities to spend funds or to take action which requires the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

HB 3681 does not reduce the authority of counties or municipalities to raise revenues.

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

HB 3681 does not reduce the percentage of state tax shared with counties and municipalities.

V. COMMENTS:

This bill does not amend s. 220.02(10), F.S., which provides the order corporate tax credits are intended by the legislature to be applied.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE:

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