

**STORAGE NAME:** h0881.bdt

**DATE:** March 25, 1999

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE  
ANALYSIS**

**BILL #:** HB 881

**RELATING TO:** Economic Development Tax Refunds

**SPONSOR(S):** Representative Hart and others

**COMPANION BILL(S):** SB 1894 (S)

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

- (1) BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE
  - (2) FINANCE AND TAXATION
  - (3) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
  - (4)
  - (5)
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**I. SUMMARY:**

The bill places a cap on certain tax refund programs. It provides that the combined total amount of the state share of tax refunds that may be scheduled in all active certifications for any one fiscal year in a single fiscal year for the Qualified Target Industry Tax Refund Program and the Qualified Defense Contractor Tax Refund Program may not exceed \$35 million.

The bill provides greater flexibility to communities in meeting the local match requirement and to provide greater accessibility to the QTI program for rural and Enterprise Zone communities. It provides specific levels of awards for jobs created under the program to resolve uncertainty in the amount of QTI rewards. The bill allows OTTED to permit an expanding business to participate in the program even if the expansion results in a net increase in employment of less than 10 percent at such business, provided the expansion takes place in a rural city, a rural county, or an enterprise zone.

The fiscal impact of the bill is indeterminate.

The bill would become effective on July 1, 1999.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

**Tax Refund Programs**

The Office of Tourism, Trade, and Economic Development (OTTED) approves tax refunds for the Qualified Defense Contractor tax refund program, the Qualified Target Industry tax refund program, and for Brownfield redevelopment bonus refunds. All tax refunds are paid the first taxable year which begins after the agreement is made.

The Qualified Target Industry (QTI) Tax Refund Program, s. 288.106, F. S., allows new or expanding businesses in certain key industrial sectors or corporate headquarters to be approved for tax refunds of up to \$5,000 per job created (\$7,500 in an enterprise zone). To be eligible, a new business must create at least 10 full-time jobs, and an expansion of an existing business must result in a 10-percent increase in employment. Approved applicants may receive refunds based on the payment of sales and use taxes, corporate income taxes, intangible personal property taxes, emergency excise taxes, excise taxes on documents, ad valorem taxes paid, and insurance premium taxes. Tax refunds are approved by OTTED, with initial application evaluation being conducted by Enterprise Florida, Inc. The refunds are paid to a participating business over a period of several years. As part of the Brownfields Redevelopment Act, ch. 97-277, L.O.F., the Legislature provided that businesses eligible for tax refunds under the QTI program could receive bonus refunds for jobs created in certain abandoned, idled, or under-used industrial and commercial properties where redevelopment is complicated by environmental contamination. (See s. 288.107, F.S.)

Similar to the QTI program, the Qualified Defense Contractor (QDC) Tax Refund Program, s. 288.1045, F.S., provides for refunds based upon jobs created or saved in Florida through the conversion of defense jobs to civilian production, the acquisition of a new defense contract, or the consolidation of a defense contract.

Refunds under both the QTI and QDC programs are subject to annual appropriation by the Legislature and require a specified local government match. Prior to the 1997 legislative session, s. 288.095, F.S., which governs the Economic Development Trust Fund, specified that OTTED could not approve refunds pursuant to the QTI and QDC programs for a given fiscal year of more than \$10 million or the amount appropriated for such refunds -- whichever was less. (See s. 288.095, F.S., 1996 Supp.) Meanwhile, the QDC statute, s 288.1045(2)(d), F.S., cites a cap of \$25 million or the amount appropriated for refunds, whichever is less. The conflicting figures have resulted in confusion regarding which figure governs.

Citing increased activity under the QTI program in particular, administrators expressed concern that the state was fast approaching the \$10 million cap and would no longer be able to permit additional businesses to participate in what is one of the state's key economic development incentives. During the 1997 session, the Legislature removed the specific \$10 million cap from s. 288.095, F.S., clearing the way for additional use of the program; however, language was retained that refunds may not exceed the amount appropriated for those refunds.

For fiscal year 1998-1999, \$10.8 million in general revenue was appropriated to satisfy the state share of pledged QTI refunds payable for that year with a little more than \$3 million in local match funds appropriated for the program. Program administrators have estimated, given current activity levels, that the refund liability in future fiscal years could exceed \$35 million before beginning to plateau. If for any fiscal year the Legislature appropriates an amount less than the amount that will come due during that fiscal year, participating businesses would receive a portion of the tax refund for which they originally contracted (s. 288.095(3)(b), F.S.).

B. EFFECT OF PROPOSED CHANGES:

This bill would limit the total state share of QDC and QTI refunds payments scheduled in all active certifications for any one fiscal year to \$35m. The bill would limit the amount of *tax refund claims approved for payment based on actual project performance* to the amount appropriated for the fiscal year.

The bill would authorize OTTED to *approve applications for certification* for tax refunds for QDC and QTI. It removes the reference to brownfields refunds.

The bill adds definition of "authorized local economic development agency" and revises the definition "expansion of an existing business" to include additions to real and personal property on a site *not* co-located with a commercial or industrial operation owned by the same business.

The bill revises "local financial support exemption option" to include *a county with a population of 75,000 or less or a county with a population of 100,000 or less which is contiguous to a county with a population of 75,000 or less*. It revises the term "rural county" to include *a county with a population of 100,000 or less which is contiguous to a county with a population of 75,000 or less*.

The bill "standardizes" QTI awards as follows: \$6,000 per job in rural areas or enterprise zones and \$3,000 per job for all other areas. In addition, jobs that pay 150 percent of the prevailing wage in the area is worth an additional \$1,000 each; an additional \$2,000 per job award is paid for each job paying at least 200 percent of the prevailing wage.

Currently, all tax refunds are paid the first taxable year which begins after the agreement is made. This bill would continue that schedule for corporate income taxes and income tax premium taxes but would allow the refunds on all other tax sources to be paid upon entering into the agreement. These taxes include sales and use taxes, intangible personal property taxes, emergency excise taxes, excise taxes on documents, and ad valorem taxes paid by the business.

The bill provides greater flexibility to local governments in meeting the local match requirement. An unofficial letter from an authorized local economic development agency which endorses the proposed project and pledges that local sources of financial support exist will satisfy the requirement that a local resolution is adopted until such resolution can be passed.

The bill would provide a waiver from the requirement that an expansion project result in an increase in employment of at least ten percent for rural cities, rural counties, and enterprise zones.

OTTED may certify a business to receive QTI refunds of less than the standardized amounts if the local match is less than 20 percent. OTTED may not enter into an agreement with a QTI business if a local financial support resolution is not passed within 90 days after issuance of the letter of certification. The agreement must be signed within 120 days after the issuance of the letter of certification, but not prior to passage and receipt of the local financial support resolution.

The appraised market value of municipal or county land conveyed or provided at a discount counts as local effort. The tax refund received by a business must be reduced by the value of such land granted.

The bill revises the definition of "eligible business" with regard to the brownfield redevelopment bonus provisions.

## 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?

N/A

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

N/A

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

N/A

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?

N/A

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

N/A

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

N/A

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

N/A

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

N/A

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?

N/A

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:

N/A

E. SECTION-BY-SECTION ANALYSIS:

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

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

Indeterminate.

2. Recurring Effects:

Indeterminate.

3. Long Run Effects Other Than Normal Growth:

Indeterminate.

4. Total Revenues and Expenditures:

Indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

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

N/A

D. FISCAL COMMENTS:

N/A

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

**STORAGE NAME:** h0881.bdt

**DATE:** March 25, 1999

**PAGE 7**

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

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

N/A

V. COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE:

Prepared by:

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J. Paul Whitfield, Jr.

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