

STORAGE NAME: h1215.ccc.doc

DATE: April 20, 2001

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE
COUNCIL FOR COMPETITIVE COMMERCE
ANALYSIS**

BILL #: HB 1215

RELATING TO: Technology and Product Transfer

SPONSOR(S): Representative(s) Andrews

TIED BILL(S):

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

- (1) ECONOMIC DEVELOPMENT AND INTERNATIONAL TRADE YEAS 11 NAYS 0
 - (2) FISCAL POLICY AND RESOURCES YEAS 11 NAYS 0
 - (3) COUNCIL FOR COMPETITIVE COMMERCE
 - (4)
 - (5)
-

I. SUMMARY:

This bill creates the "New Product Transfer Enhancement Act." It provides a mechanism for a Donor Company that has developed or holds patents to technologies or products to license those products or technologies to another company operating in Florida. The bill defines a Receiving Company as a company that has contracted the right to produce and market a product or technology owned by a Donor Company for a contracted amount (i.e., royalties). Enterprise Florida, Inc., is responsible for matching Donor and Receiving companies together and is responsible for calculating the tax credit based on documents submitted by the Receiving Company. The Department of Revenue will provide a corporate income tax credit to the Donor Company in amount equal to the royalties remitted by the Receiving Company.

The act takes effect January 1, 2002.

The bill creates ss. 288.907, 220.115, and 220.1825, F.S.

The Revenue Impact Conference has not addressed this bill.

On April 11, 2001, the Committee on Fiscal Policy and Resources adopted three amendments. The first amendment caps the corporate income tax credit to 94.5 percent. Essentially, this amendment produces a revenue neutral bill. The other two amendments give the Department of Revenue rule making authority.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

The bill establishes an additional administrative responsibility for government agencies and imposes more reporting requirements on taxpayers.

B. PRESENT SITUATION:

Section 220.11, F.S., imposes a tax on every "taxpayer" for the privilege of conducting business, earning or receiving income in this state, or being a resident or citizen of this state. For purposes of this statute, "taxpayer" means any corporation subject to the tax imposed by chapter 220, F.S., and includes all corporations for which a consolidated return is filed under s. 220.131, F.S. Sections 220.181 through 220.191, F.S., enumerate several credits available to taxpayers including the enterprise zone jobs tax credit, the community contribution tax credit, the state housing tax credit, the child care tax credit, and the capital investment tax credit. Current law does not provide a corporate income tax credit for the licensing of products or technology contemplated by this bill

C. EFFECT OF PROPOSED CHANGES:

This bill provides a credit against the corporate income tax imposed by chapter 220, F.S., to companies that own a product or technology and transfer the rights to that product or technology to another company for commercialization. The transfer is executed through a licensing contract called a "product development agreement."

Enterprise Florida, Inc., is responsible for producing an annual statement of corporate tax credit due the donor company under chapter 220, F.S., and providing a copy of that statement to the Department of Revenue and the donor company. The annual tax statement is based on documentation provided by the receiving company. The receiving company must remit to the state any licensing fees due, as well as any regular corporate income tax obligation due under chapter 220, F.S. In addition, the receiving company must file a corporate income tax return with the state even though it may not have an actual obligation to remit taxes under chapter 220, F.S.

The bill specifies that the corporate tax credit is to be equal to the amount of licensing fees due or owed by the receiving company. The credit cannot exceed the amount provided by Enterprise Florida, Inc., on the annual corporate tax credit statement. The bill allows a 5-year carry forward by the donor company of unused corporate income tax credits. The bill requires Enterprise Florida, Inc., to seek out potential donor and receiving companies and facilitate the formation of product development agreements.

D. SECTION-BY-SECTION ANALYSIS:

Section 1 Provides a title: the "New Product Transfer Enhancement Act."

Section 2 Creates s. 288.907, F.S., and states that the purpose of the bill is to promote economic growth by providing tax incentives for corporations which have developed or patented products or technologies that they do not wish to develop further to license those items to companies located in Florida for production and marketing. Provides definitions of terms used in the bill. Instructs Enterprise Florida, Inc., to seek out corporations that may be interested in becoming Donor Companies and Florida businesses that may wish to become Receiving Companies. Sets forth qualifications including that 75 percent of the jobs created through the product development agreement must be located in Florida. Specifies that the product development agreement must state the amount of compensation to be remitted by the receiving company for the license. Requires receiving companies to submit annual statement of fees to Enterprise Florida, Inc., and the Department of Revenue. Requires Enterprise Florida, Inc., to produce an annual statement of corporate tax credit for each donor company. The corporate tax credit is to be equal to the amount of licensing fees that are due or owed by the receiving company as a result of the license of a patent or technology. Sets a limit on the total amount of credits granted annually pursuant to this section. Requires Enterprise Florida, Inc., to send an annual statement of tax credit to each donor company by March 1 and to submit to the Department of Revenue a statement specifying the amount of tax credit due each donor company and the identities of the receiving companies.

Section 3 Creates s. 220.115, F.S., providing that any company that has entered into a product development agreement as a receiving company shall remit to the state the funds listed as due on the annual statement of fees in addition to its regular Florida corporate income tax obligation. Requires a receiving corporation to file a Florida corporate income tax return and pay the tax even though no separate filing would normally be required or no payment is due.

Section 4 Creates s. 220.1825, F.S., providing that a credit against tax shall be allowed to a donor company that has entered into a product development agreement. Limits the amount of the corporate tax credit allowed under the bill to the total tax credit amount stated in the annual statement provided by Enterprise Florida, Inc. Allows a 5-year carry forward of any unused corporate income tax credit.

Section 5 Amends subsection (8) of s. 220.02, F.S., specifying that the corporate credit allowed by the bill is to be taken after other credits enumerated in s. 220.185, F.S.

Section 6 Provides the effective date of January 1, 2002.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Impact Conference has not adopted an estimate.

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. **DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Companies that own viable products or technologies but lack the financial resources, the desire, or the know-how to commercialize the products or technologies will benefit from the corporate income tax credit, as well as the fees and royalties derived from transferring the products or technologies. Recipient companies could benefit from an expanded source of products and technologies that could be profitable if brought to the marketplace.

D. **FISCAL COMMENTS:**

N/A

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 to take action requiring the expenditure of funds.

B. **REDUCTION OF REVENUE RAISING AUTHORITY:**

This bill will not reduce the authority of counties and municipalities to raise total aggregate revenues.

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

This bill is not anticipated to reduce the total aggregate percent of state tax shared with counties or municipalities.

V. COMMENTS:

A. **CONSTITUTIONAL ISSUES:**

N/A

B. **RULE-MAKING AUTHORITY:**

The Department of Revenue advises that additional rulemaking authority is needed for the agency to prescribe the forms and methods for reporting this tax credit.

C. **OTHER COMMENTS:**

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 11, 2001, the Committee on Fiscal Policy and Resources adopted three amendments. The first amendment caps the corporate income tax credit to 94.5 percent. Essentially, this amendment produces a revenue neutral bill. The other two amendments give the Department of Revenue rule making authority.

STORAGE NAME: h1215.ccc.doc

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PAGE: 5

VII. SIGNATURES:

COMMITTEE ON COMMITTEE ON ECONOMIC DEVELOPMENT AND INTERNATIONAL TRADE:

Prepared by:

Lisa Munroe

Staff Director:

J. Paul Whitfield, Jr.

AS REVISED BY THE COMMITTEE ON FISCAL POLICY AND RESOURCES:

Prepared by:

Adam Shamy

Staff Director:

Greg Turbeville

AS FURTHER REVISED BY THE COUNCIL FOR COMPETITIVE COMMERCE:

Prepared by:

Rebecca R. Everhart

Staff Director:

Hubert "Bo" Bohannon