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HOUSE OF REPRESENTATIVES
FISCAL RESPONSIBILITY COUNCIL
ANALYSIS

BILL #: CS/HB 1451
RELATING TO: Defense Contractors
SPONSOR(S): Fiscal Responsibility Council and Representative(s) Davis; Haridopolos; Allen; Needleman

TIED BILL(S):

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

- (1) ECONOMIC DEVELOPMENT AND INTERNATIONAL TRADE YEAS 9 NAYS 0
 - (2) FISCAL RESPONSIBILITY COUNCIL YEAS 27 NAYS 0
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

The bill revises the definition of "Department of Defense contract" to include contracts or subcontracts approved by the United States Department of Defense (DOD), the United States Department of State, or the United States Coast Guard for products or services for military use.

The bill would reduce the threshold necessary for a business to qualify for review by the Office of Tourism, Trade, and Economic Development (OTTED) for a Qualified Defense Contractor (QDC) refund. The bill provides that a business unit of the applicant must have derived at least 60 percent of its gross receipts in this state from DOD contracts in the previous fiscal year and an average of 60 percent of its gross receipts in this state from DOD contracts over the previous five years.

Over the past few years, the Legislature has appropriated an average of approximately \$350,000 from non-recurring General Revenue for the state portion of the current QDC refund program. To the extent that this bill increases eligibility for QDC refunds in future years, this bill may have a fiscal impact on state expenditures. This impact is indeterminate.

The bill would take effect upon becoming a law.

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II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

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

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Qualified Defense Contractor Tax Refund Program (QDC)

Finding that high technology jobs in the state were threatened by downsizing in the national defense budget, the Legislature in 1993 created a tax refund program to encourage defense contractors to employ Florida citizens. The Qualified Defense Contractor Tax Refund Program authorizes refunds to a certified contractor who: 1) secures a new DOD contract in Florida, 2) consolidates an existing DOD contract in Florida, 3) converts defense production jobs to non-defense production jobs, or 4) contracts for the reuse of a defense-related facility (s. 288.104, F.S., 1994 Supp.). The program was repealed effective December 1, 1994.¹ In 1996, the QDC program was recreated and codified at s. 288.1045, F.S. The next scheduled repeal is June 30, 2004.

The QDC program features a local financial support component. An applicant must secure a resolution from the county government recommending the project and indicating the necessary commitment of financial support. Local financial support means funding from local sources, public or private, which is equal to 20 percent of the annual tax refund for a qualified business. A qualified applicant may not contribute, directly or indirectly, more than 5 percent of local support funding, nor can state funds appropriated from the General Revenue Fund be used to satisfy the local financial support requirement.² Section 288.1045(5)(c), F.S., provides a mechanism for prorating tax refunds in years when the local financial support falls below 20 percent. Section 288.1045(1)(q), F.S., provides a mechanism for an applicant, which is located in a county designated under the Rural Economic Development Initiative, to apply for a local financial support exemption option. An applicant exercising this option may not receive more than 80 percent of the total tax refunds allowed under the QDC program.

Upon entering a tax refund agreement with OTTED, a qualified applicant may receive refunds from General Revenue, if appropriated by the Legislature, for the following taxes paid beginning with the first taxable year after the agreement is negotiated:

- taxes on sales, use, and other transactions paid under chapter 212, F.S.

¹ The Legislature had specified that the program would be repealed effective December 1, 1994, if no qualified applicant had entered into a valid new DOD contract or begun consolidation of an existing DOD contract, which was expected to result in the employment of at least 1,000 full-time employees. Because this condition was not satisfied by a single qualified applicant, the statute stood repealed.

² Excluding tax revenues shared with local governments pursuant to law.

- corporate income taxes paid under chapter 220, F.S.
- intangible personal property taxes paid under chapter 199, F.S.
- emergency excise taxes paid under chapter 221, F.S.
- excise taxes paid on documents under chapter 201, F.S.
- ad valorem taxes paid, as defined in s. 220.03(1)(a), F.S.

A qualified QDC applicant may not receive more than \$5,000 times the number of jobs provided in the tax refund agreement with OTTED and may not receive refunds of more than 25 percent of the total tax refunds provided in the tax refund agreement for any fiscal year. A qualified applicant may not receive more than \$2.5 million in tax refunds annually and no more than \$7.5 million in total tax refunds for all years. For the first 6 months of each fiscal year, the director of OTTED must set aside 30 percent of the amount appropriated for the QDC program for paying tax refunds to qualified applicants who employ 500 or fewer full-time Florida employees. Unencumbered funds remaining after the six-month set-aside period may be used to pay other qualified applicants.

Section 288.1045(5)(g), F.S., provides a prorated tax refund less a 5 percent penalty for a qualified QDC applicant that has satisfied all QDC requirements but has only achieved 80 percent or more of its projected employment goals.

OTTED reports that beginning with operations through December 31, 2001, the QDC program has resulted in 4 projects (active or complete) and 740 direct jobs and 718 indirect jobs which paid on average \$40,321 annually. The 4 projects accounted for \$14.2 million in capital investment and received \$3.6 million in QDC incentives.³

To qualify for review by OTTED for a QDC refund, a business unit of the applicant must have derived at least 70 percent of its gross receipts in this state from DOD contracts in the previous fiscal year and at least 80 percent of its gross receipts in this state from DOD contracts over the previous five years.

A DOD contract is currently defined in s. 288.1045(1)(e), F.S., as a competitively bid DOD or federal agency contract issued on behalf of the DOD for manufacturing, assembling, fabricating, research, development, or design with a duration of 2 or more years. Excluded are contracts to provide goods, improvements to real or tangible property, or services provided directly to or for any particular military base or installation located in the state.

C. EFFECT OF PROPOSED CHANGES:

The bill would amend the definition of "Department of Defense contract" in s. 288.1045(1)(e), F.S., to include contracts or subcontracts approved by the United States Department of Defense, the Department of State, or the United States Coast Guard for products or services for military use.

The bill would amend s. 288.1045(3)(e)5., F.S., to reduce the threshold necessary for a business to qualify for review by OTTED for a QDC refund. The bill provides that a business unit of the applicant must have derived at least 60 percent of its gross receipts in this state from DOD contracts in the previous fiscal year and an average of 60 percent of its gross receipts in this state from DOD contracts over the previous five years.

D. SECTION-BY-SECTION ANALYSIS:

See "Effect of Proposed Changes" portion of this analysis.

³ Office of Tourism, Trade, and Economic Development, statistics released February, 2002.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Over the past few years, the Legislature has appropriated an average of approximately \$350,000 from non-recurring General Revenue for the state portion of the current QDC refund program. To the extent that this bill increases eligibility for QDC refunds in future years, this bill may have a fiscal impact on state expenditures. This impact is indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The QDC program features a local financial support component. An applicant must secure a resolution from the county government recommending the project and indicating the necessary commitment of financial support. Local financial support of 20 percent of the annual refund for a qualified business must be provided prior to release of the state portion of the QDC refund.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill would reduce the threshold necessary for a business to qualify for a QDC refund. Therefore, more businesses may become eligible to participate in the QDC refund program.

D. FISCAL COMMENTS:

The annual state payment portion of the QDC refund program and the Qualified Target Industry (QTI) refund program is capped in s. 288.095, F.S. The total state share of tax refund payments for both programs scheduled in any fiscal year shall not exceed \$35 million. The House proposed General Appropriations Act for 2002-2003 provides \$24 million for the state share of QTI refunds and \$330,000 for state share of QDC refunds. To the extent that this bill increases eligibility for QDC refunds in future years, this bill may move state expenditures closer to the fiscal year payment limitation.

Under s. 288.095, F.S., the total amount of refund claims approved for payment by OTTED may not exceed the amount appropriated for such purposes for the fiscal year. In the event the Legislature does not appropriate an amount sufficient to satisfy projections for the QDC and QTI refunds in a fiscal year, OTTED shall pro-rate each refund claim for the fiscal year.

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 money.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the revenue raising authority of counties or municipalities.

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

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

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

The Committee on Economic Development & International Trade approved similar provisions as part of the Committee Substitute for House Bill 779.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 13, 2002, the Committee on Economic Development & International Trade adopted one amendment to include subcontracts within the definition of "Department of Defense contract". On February 27, 2002, the Fiscal Responsibility Council adopted an amendment to include contracts or subcontracts approved by the United State Coast Guard. The Fiscal Responsibility Council incorporated these two amendments into the Council Substitute for House Bill 1451.

VII. SIGNATURES:

COMMITTEE ON ECONOMIC DEVELOPMENT AND INTERNATIONAL TRADE:

Prepared by:

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Staff Director:

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AS REVISED BY THE FISCAL RESPONSIBILITY COUNCIL:

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