

By Senator Cowin

11-650-02

See HB 289

1 A bill to be entitled
2 An act relating to incentives to promote new
3 product development; providing a short title;
4 creating s. 288.1172, F.S.; providing
5 definitions; providing for licensing of certain
6 products or technologies by donor companies to
7 receiving companies for production and
8 marketing; providing duties of such companies,
9 the Office of Tourism, Trade, and Economic
10 Development, and the Department of Revenue;
11 providing requirements for product development
12 agreements; providing that donor companies may
13 be granted a credit which may be used to fund
14 sponsored research at a state university, as
15 reimbursement for the purchase of machinery,
16 equipment, or building supplies used in a
17 Florida manufacturing facility, or as a
18 corporate income tax credit; creating s.
19 220.115, F.S.; requiring receiving companies to
20 file a corporate tax return and remit to the
21 state certain fees in addition to any corporate
22 income tax due; providing for application of
23 administrative and penalty provisions of ch.
24 220, F.S.; creating s. 220.1825, F.S.;
25 providing for a credit against the corporate
26 income tax for donor companies that so elect;
27 providing for carryover of the credit;
28 providing for rules; amending s. 220.02, F.S.;
29 providing order of credits against the
30 corporate income tax; providing an effective
31 date.

1 Be It Enacted by the Legislature of the State of Florida:

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3 Section 1. This act may be cited as the "New Product
4 Transfer Enhancement Act."

5 Section 2. Section 288.1172, Florida Statutes, is
6 created to read:

7 288.1172 Licensing of products or technologies by
8 donor companies to receiving companies; credits and use
9 thereof.--

10 (1) The purpose of this section is to promote economic
11 growth by providing an incentive for corporations which have
12 developed or patented products or technologies they do not
13 wish to develop further to license those items to companies
14 located in Florida for production and marketing.

15 (2) As used in this section, the term:

16 (a) "Annual statement of donor credit" means the
17 statement produced by the Office of Tourism, Trade, and
18 Economic Development for each donor company listing the total
19 amount of credit available to the donor company for all of the
20 product development agreements it has entered into. This
21 statement shall also include any additional information
22 specified in the product development agreement.

23 (b) "Annual statement of fees due" means the statement
24 submitted by the receiving company to the Office of Tourism,
25 Trade, and Economic Development and the Department of Revenue
26 each year, which lists the amount of fees and royalties owed
27 by it under the product development agreement to the donor
28 company for the preceding calendar year. This statement shall
29 also contain any additional information specified in the
30 product development agreement.

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1 (c) "Donor company" means an entity subject to the tax
2 imposed by chapter 220 which has developed or holds the patent
3 for a product or technology that it does not wish to develop
4 itself and which has entered into a product development
5 agreement.

6 (d) "Product development agreement" means a contract
7 or series of contracts which provides the receiving company
8 with the right to produce and market a product or technology
9 which was developed or patented by the donor company.

10 (e) "Receiving company" means a business operating in
11 Florida which has entered into a product development agreement
12 for the purpose of obtaining the right to produce and market a
13 product or technology from a donor company.

14 (3) The Office of Tourism, Trade, and Economic
15 Development shall actively seek out corporations which may be
16 interested in becoming donor companies and Florida businesses
17 which may be interested in becoming receiving companies and
18 attempt to facilitate the formation of product development
19 agreements.

20 (4) To qualify under this section, a product
21 development agreement shall specify that a minimum of 75
22 percent of the jobs created by the production of the new
23 product or technology shall be located in Florida. In
24 addition, the agreement shall specify the amount of
25 compensation to be remitted by the receiving company for the
26 license, and the type of credit the donor company has elected
27 to receive. The agreement shall further provide for submission
28 by the receiving company of an annual statement of fees due to
29 both the Office of Tourism, Trade, and Economic Development
30 and the Department of Revenue and shall specify the
31 information to be included in the statement.

1 (5) Each receiving company shall submit an annual
2 statement of fees due to the Office of Tourism, Trade, and
3 Economic Development and the Department of Revenue by February
4 1 each year, in a format approved by the Office of Tourism,
5 Trade, and Economic Development. The Office of Tourism,
6 Trade, and Economic Development shall be responsible for
7 producing an annual statement of donor credit for each donor
8 company using the information contained in the statements. The
9 donor credit for each donor company shall equal 94.5 percent
10 of the total of the amounts specified in the annual statements
11 of fees due from all receiving companies with which it has
12 entered into a product development agreement. In any year the
13 total amount of credits granted under all annual statements of
14 donor credit shall not exceed 94.5 percent of the amount due
15 to the state under all annual statements of fees due.

16 (6) The Office of Tourism, Trade, and Economic
17 Development shall send the annual statement of donor credit to
18 each donor company by March 1 each year. These statements
19 shall contain the information specified by the product
20 development agreement. The Office of Tourism, Trade, and
21 Economic Development shall also submit to the Department of
22 Revenue a statement, in a format approved by the department,
23 which specifies the amount of credit due to each donor
24 company, the identities of the receiving companies from which
25 those credits originated, and the type of credit the donor
26 company has elected to receive.

27 (7) The donor company may elect to apply the amount
28 specified in the annual statement of donor credit as a
29 corporate income tax credit under s. 220.1825, as a payment to
30 a state university's division of sponsored research under
31 subsection (8), or as a purchase price refund under subsection

1 (9). In no case shall the combined benefits exceed the amount
2 specified in the annual statement of donor credit.
3 (8) A donor company which is providing funding for
4 sponsored research at a state university in this state may
5 elect to use its donor credit to fund such research. If the
6 donor company elects to apply its donor credit in this manner,
7 it shall submit this request to the Department of Revenue on a
8 form approved by the department. At a minimum, the form shall
9 specify the donor company, the research being sponsored, and
10 the state university at which the research is being conducted.
11 The Department of Revenue shall then request the Office of the
12 Comptroller to transfer to the appropriate university's
13 division of sponsored research the amount shown on the donor
14 company's annual statement of donor credit. The Office of the
15 Comptroller and the Department of Revenue may promulgate rules
16 to implement this subsection.
17 (9) A donor company shall be eligible to receive a
18 reimbursement for the purchase price paid on the purchase of
19 machinery and equipment which is installed in a Florida
20 manufacturing facility, or for the building materials used in
21 the construction or rehabilitation of a Florida manufacturing
22 facility. This reimbursement shall be limited to the amount
23 shown on the annual statement of donor credit which the donor
24 company has elected to apply as a purchase reimbursement.
25 Application for such reimbursement shall be made on a form
26 approved by the Department of Revenue and accompanied by any
27 supporting documentation required by the department. The
28 Department of Revenue may promulgate rules to implement this
29 subsection.
30 Section 3. Section 220.115, Florida Statutes, is
31 created to read:

1 220.115 Fees due from receiving companies pursuant to
2 s. 288.1172.--In addition to the tax imposed by this chapter,
3 any company which has entered into a product development
4 agreement pursuant to s. 288.1172 as a receiving company shall
5 remit to the state the funds listed as due on the annual
6 statement of fees due which the company has submitted to both
7 the Office of Tourism, Trade, and Economic Development and the
8 Department of Revenue. Even if no tax is due under this
9 chapter and a return would not normally be required, a Florida
10 corporate income tax return shall be filed by the receiving
11 company, and the funds listed on the annual statement of fees
12 due shall be remitted to the department, subject to all filing
13 requirements, fines, and penalties specified for returns and
14 taxes due under this chapter. The department may adopt rules
15 requiring the information that it considers necessary to
16 ensure that the funds due under this section are properly
17 reported and paid, including, but not limited to, rules
18 relating to the methods, forms (including returns to be filed
19 by the receiving companies), deadlines, and penalties for
20 providing the information required under this section.

21 Section 4. Section 220.1825, Florida Statutes, is
22 created to read:

23 220.1825 Credit for donor companies pursuant to s.
24 288.1172.--A credit against the tax imposed by this chapter
25 shall be allowed to a donor company which has entered into a
26 product development agreement pursuant to s. 288.1172, and
27 which has elected to apply its donor credit as a corporate
28 income tax credit. Such credit shall be limited to 94.5
29 percent of the amount stated in the annual statement of fees
30 due submitted to the Office of Tourism, Trade, and Economic
31 Development by the receiving companies. If any credit granted

1 under this section is not fully used in the first year for
2 which it becomes available, the unused amount may be carried
3 forward for a period not to exceed 5 years. The Department of
4 Revenue may adopt rules relating to the method of reporting
5 and claiming this credit.

6 Section 5. Subsection (8) of section 220.02, Florida
7 Statutes, is amended to read:

8 220.02 Legislative intent.--

9 (8) It is the intent of the Legislature that credits
10 against either the corporate income tax or the franchise tax
11 be applied in the following order: those enumerated in s.
12 631.828, those enumerated in s. 220.191, those enumerated in
13 s. 220.181, those enumerated in s. 220.183, those enumerated
14 in s. 220.182, those enumerated in s. 220.1895, those
15 enumerated in s. 221.02, those enumerated in s. 220.184, those
16 enumerated in s. 220.186, those enumerated in s. 220.1845,
17 those enumerated in s. 220.19, those enumerated in s. 220.185,
18 ~~and~~ those enumerated in s. 220.187, and those enumerated in s.
19 220.1825.

20 Section 6. This act shall take effect January 1, 2003.
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LEGISLATIVE SUMMARY

Creates the New Product Transfer Enhancement Act. Provides for licensing of certain products or technologies by donor companies to receiving companies for production and marketing. Provides duties of such companies, the Office of Tourism, Trade, and Economic Development, and the Department of Revenue. Provides that donor companies may be granted a credit which may be used to fund sponsored research at a state university, as reimbursement for the purchase of machinery, equipment, or building supplies used in a Florida manufacturing facility, or as a corporate income tax credit. Provides requirements for product development agreements. Requires receiving companies to file a corporate tax return and remit to the state certain fees in addition to any corporate income tax due. Provides for application of administrative and penalty provisions of ch. 220, F.S.