

By the Committee on Commerce and Economic Opportunities; and
Senator Cowin

310-2328-02

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 and the Department of Revenue; providing
10 requirements for product development
11 agreements; providing that donor companies may
12 be granted a credit which may be used to fund
13 sponsored research at a state university, as
14 reimbursement for the purchase of machinery,
15 equipment, or building supplies used in a
16 Florida manufacturing facility, or as a
17 corporate income tax credit; requiring the
18 department to certify certain amounts and make
19 certain distributions; authorizing donor
20 companies to elect to change the type of
21 credit, payment, or reimbursement under certain
22 circumstances; providing requirements for such
23 election; providing for rules; creating s.
24 220.115, F.S.; requiring receiving companies to
25 file a corporate tax return and remit to the
26 state certain fees in addition to any corporate
27 income tax due; relieving receiving companies
28 of payments to donor companies under certain
29 circumstances; providing remedies against a
30 donor company when a receiving company fails to
31 remit funds; providing for application of

1 administrative and penalty provisions of ch.
2 220, F.S.; providing for rules; creating s.
3 220.1825, F.S.; providing for a credit against
4 the corporate income tax for donor companies
5 that so elect; providing for carryover of the
6 credit; providing for rules; amending s.
7 220.02, F.S.; providing order of credits
8 against the corporate income tax; amending s.
9 212.20, F.S.; requiring the Department of
10 Revenue to make certain distributions within a
11 time certain under certain circumstances;
12 providing an effective date.

13

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

15

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

18 Section 2. Section 288.1172, Florida Statutes, is
19 created to read:

20 288.1172 Licensing of products or technologies by
21 donor companies to receiving companies; credits and use
22 thereof.--

23 (1) The purpose of this section is to promote economic
24 growth by providing an incentive for corporations that have
25 developed or patented products or technologies they do not
26 wish to develop further to license those items to companies
27 located in Florida for production and marketing.

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

29 (a) "Annual statement of donor credit" means the
30 statement produced by the department for each donor company
31 listing the total amount of credit available to the donor

1 company for all of the product development agreements it has
2 entered into. This statement shall also include any additional
3 information specified in the product development agreement.

4 (b) "Annual statement of fees due" means the statement
5 submitted by the receiving company to the department each
6 year, which lists the amount of fees and royalties owed by it
7 under the product development agreement to the donor company
8 for the preceding calendar year. This statement shall also
9 contain any additional information specified in the product
10 development agreement.

11 (c) "Department" means the Department of Revenue.

12 (d) "Donor company" means an entity subject to the tax
13 imposed by chapter 220 which has developed or holds the patent
14 for a product or technology that it does not wish to develop
15 itself and which has entered into a product development
16 agreement.

17 (e) "Product development agreement" means a contract
18 or series of contracts which provides the receiving company
19 with the right to produce and market a product or technology
20 which was developed or patented by the donor company.

21 (f) "Receiving company" means a business operating in
22 Florida which has entered into a product development agreement
23 for the purpose of obtaining the right to produce and market a
24 product or technology from a donor company.

25 (3) To qualify under this section, a product
26 development agreement shall specify that a minimum of 75
27 percent of the jobs created by the production of the new
28 product or technology shall be located in Florida. In
29 addition, the agreement shall specify the amount of
30 compensation to be remitted by the receiving company for the
31 license, and the type of credit the donor company has elected

1 to receive. The agreement shall further provide for submission
2 by the receiving company of an annual statement of fees due to
3 the department and shall specify the information to be
4 included in the statement.

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

18 (5)(a) By March 1 each year, the department shall
19 certify the amount of corporate income tax credit, purchase
20 price reimbursement, or payment of sponsored research due each
21 donor company.

22 (b) Within 30 days after certification under paragraph
23 (a), the department shall send an annual statement of donor
24 credit to each donor company. This statement shall contain the
25 information specified by the product development agreement.
26 The type of credit, payment, or reimbursement specified in the
27 product development agreement may not be changed for the
28 initial tax year. A donor company may elect to change the type
29 of credit, payment, or reimbursement in subsequent tax years
30 by filing a written election with the department in a format
31 specified by the department. The department must receive such

1 election at least 30 days before the due date for the annual
2 statement of fees due for that tax year. A donor company may
3 elect only one type of credit, payment, or reimbursement for a
4 tax year.

5 (c) Within 90 days after certification under paragraph
6 (a), the department shall distribute purchase price
7 reimbursements and sponsored research payments pursuant to s.
8 212.20(6)(d)7.e.

9 (6) The donor company may elect to apply the amount
10 specified in the annual statement of donor credit as a
11 corporate income tax credit under s. 220.1825, as a payment to
12 a state university's division of sponsored research under
13 subsection (7), or as a purchase price reimbursement under
14 subsection (8). In no case shall the combined benefits exceed
15 the amount specified in the annual statement of donor credit.

16 (7) A donor company which is providing funding for
17 sponsored research at a state university in this state may
18 elect to use its donor credit to fund such research. If the
19 donor company elects to apply its donor credit in this manner,
20 it shall submit this request to the department on a form
21 approved by the department. At a minimum, the form shall
22 specify the donor company, the research being sponsored, and
23 the state university at which the research is being conducted.
24 The department shall then request the Office of the
25 Comptroller to transfer to the appropriate university's
26 division of sponsored research the amount shown on the donor
27 company's annual statement of donor credit. The Office of the
28 Comptroller may adopt rules necessary to administer this
29 subsection.

30 (8) A donor company shall be eligible to receive a
31 reimbursement for the purchase price paid on the purchase of

1 machinery and equipment which is installed in any of its
2 Florida manufacturing facilities, or for the building
3 materials used in the construction or rehabilitation of any of
4 its Florida manufacturing facilities. This reimbursement
5 shall be limited to the amount shown on the annual statement
6 of donor credit which the donor company has elected to apply
7 as a purchase reimbursement. Application for such
8 reimbursement shall be made on a form approved by the
9 department and accompanied by any supporting documentation
10 required by the department.

11 (9) The department may adopt rules necessary to
12 administer this section.

13 Section 3. Section 220.115, Florida Statutes, is
14 created to read:

15 220.115 Fees due from receiving companies pursuant to
16 s. 288.1172.--In addition to the tax imposed by this chapter,
17 any company which has entered into a product development
18 agreement pursuant to s. 288.1172 as a receiving company shall
19 remit to the state the funds listed as due on the annual
20 statement of fees due which the company has submitted to the
21 department. Even if no tax is due under this chapter and a
22 return would not normally be required, a Florida corporate
23 income tax return shall be filed by the receiving company, and
24 the funds listed on the annual statement of fees due shall be
25 remitted to the department, subject to all filing
26 requirements, fines, and penalties specified for returns and
27 taxes due under this chapter. The payment to the state of the
28 funds listed as due on the annual statement of fees shall
29 discharge the receiving company from the payment to the donor
30 company of these same funds. If a receiving company fails to
31 timely remit to the department the funds listed as due on the

1 annual statement of fees due, neither a corporate income tax
2 credit, a payment for sponsored research, nor a purchase price
3 reimbursement shall be allowed to the donor company for that
4 tax year. The department may adopt rules requiring the
5 information that it considers necessary to ensure that the
6 funds due under this section are properly reported and paid,
7 including, but not limited to, rules relating to the methods,
8 forms (including returns to be filed by the receiving
9 companies), deadlines, and penalties for providing the
10 information required under this section.

11 Section 4. Section 220.1825, Florida Statutes, is
12 created to read:

13 220.1825 Credit for donor companies pursuant to s.
14 288.1172.--A credit against the tax imposed by this chapter
15 shall be allowed to a donor company which has entered into a
16 product development agreement pursuant to s. 288.1172, and
17 which has elected to apply its donor credit as a corporate
18 income tax credit. Such credit shall be limited to 94.5
19 percent of the amount stated in the annual statement of fees
20 due submitted to the department by the receiving companies. If
21 any credit granted under this section is not fully used in the
22 first year for which it becomes available, the unused amount
23 may be carried forward for a period not to exceed 5 years. The
24 department may adopt rules relating to the method of reporting
25 and claiming this credit.

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

28 220.02 Legislative intent.--

29 (8) It is the intent of the Legislature that credits
30 against either the corporate income tax or the franchise tax
31 be applied in the following order: those enumerated in s.

1 631.828, those enumerated in s. 220.191, those enumerated in
2 s. 220.181, those enumerated in s. 220.183, those enumerated
3 in s. 220.182, those enumerated in s. 220.1895, those
4 enumerated in s. 221.02, those enumerated in s. 220.184, those
5 enumerated in s. 220.186, those enumerated in s. 220.1845,
6 those enumerated in s. 220.19, those enumerated in s. 220.185,
7 ~~and~~ those enumerated in s. 220.187, and those enumerated in s.
8 220.1825.

9 Section 6. Paragraph (d) of subsection (6) of section
10 212.20, Florida Statutes, is amended to read:

11 212.20 Funds collected, disposition; additional powers
12 of department; operational expense; refund of taxes
13 adjudicated unconstitutionally collected.--

14 (6) Distribution of all proceeds under this chapter
15 and s. 202.18(1)(b) and (2)(b) shall be as follows:

16 (d) The proceeds of all other taxes and fees imposed
17 pursuant to this chapter or remitted pursuant to s.
18 202.18(1)(b) and (2)(b) shall be distributed as follows:

19 1. In any fiscal year, the greater of \$500 million,
20 minus an amount equal to 4.6 percent of the proceeds of the
21 taxes collected pursuant to chapter 201, or 5 percent of all
22 other taxes and fees imposed pursuant to this chapter or
23 remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be
24 deposited in monthly installments into the General Revenue
25 Fund.

26 2. Two-tenths of one percent shall be transferred to
27 the Solid Waste Management Trust Fund.

28 3. After the distribution under subparagraphs 1. and
29 2., 9.653 percent of the amount remitted by a sales tax dealer
30 located within a participating county pursuant to s. 218.61
31

1 shall be transferred into the Local Government Half-cent Sales
2 Tax Clearing Trust Fund.

3 4. After the distribution under subparagraphs 1., 2.,
4 and 3., 0.065 percent shall be transferred to the Local
5 Government Half-cent Sales Tax Clearing Trust Fund and
6 distributed pursuant to s. 218.65.

7 5. For proceeds received after July 1, 2000, and after
8 the distributions under subparagraphs 1., 2., 3., and 4., 2.25
9 percent of the available proceeds pursuant to this paragraph
10 shall be transferred monthly to the Revenue Sharing Trust Fund
11 for Counties pursuant to s. 218.215.

12 6. For proceeds received after July 1, 2000, and after
13 the distributions under subparagraphs 1., 2., 3., and 4.,
14 1.0715 percent of the available proceeds pursuant to this
15 paragraph shall be transferred monthly to the Revenue Sharing
16 Trust Fund for Municipalities pursuant to s. 218.215. If the
17 total revenue to be distributed pursuant to this subparagraph
18 is at least as great as the amount due from the Revenue
19 Sharing Trust Fund for Municipalities and the Municipal
20 Financial Assistance Trust Fund in state fiscal year
21 1999-2000, no municipality shall receive less than the amount
22 due from the Revenue Sharing Trust Fund for Municipalities and
23 the Municipal Financial Assistance Trust Fund in state fiscal
24 year 1999-2000. If the total proceeds to be distributed are
25 less than the amount received in combination from the Revenue
26 Sharing Trust Fund for Municipalities and the Municipal
27 Financial Assistance Trust Fund in state fiscal year
28 1999-2000, each municipality shall receive an amount
29 proportionate to the amount it was due in state fiscal year
30 1999-2000.

31 7. Of the remaining proceeds:

1 a. Beginning July 1, 2000, and in each fiscal year
2 thereafter, the sum of \$29,915,500 shall be divided into as
3 many equal parts as there are counties in the state, and one
4 part shall be distributed to each county. The distribution
5 among the several counties shall begin each fiscal year on or
6 before January 5th and shall continue monthly for a total of 4
7 months. If a local or special law required that any moneys
8 accruing to a county in fiscal year 1999-2000 under the
9 then-existing provisions of s. 550.135 be paid directly to the
10 district school board, special district, or a municipal
11 government, such payment shall continue until such time that
12 the local or special law is amended or repealed. The state
13 covenants with holders of bonds or other instruments of
14 indebtedness issued by local governments, special districts,
15 or district school boards prior to July 1, 2000, that it is
16 not the intent of this subparagraph to adversely affect the
17 rights of those holders or relieve local governments, special
18 districts, or district school boards of the duty to meet their
19 obligations as a result of previous pledges or assignments or
20 trusts entered into which obligated funds received from the
21 distribution to county governments under then-existing s.
22 550.135. This distribution specifically is in lieu of funds
23 distributed under s. 550.135 prior to July 1, 2000.

24 b. The department shall distribute \$166,667 monthly
25 pursuant to s. 288.1162 to each applicant that has been
26 certified as a "facility for a new professional sports
27 franchise" or a "facility for a retained professional sports
28 franchise" pursuant to s. 288.1162. Up to \$41,667 shall be
29 distributed monthly by the department to each applicant that
30 has been certified as a "facility for a retained spring
31 training franchise" pursuant to s. 288.1162; however, not more

1 than \$208,335 may be distributed monthly in the aggregate to
2 all certified facilities for a retained spring training
3 franchise. Distributions shall begin 60 days following such
4 certification and shall continue for not more than 30 years.
5 Nothing contained in this paragraph shall be construed to
6 allow an applicant certified pursuant to s. 288.1162 to
7 receive more in distributions than actually expended by the
8 applicant for the public purposes provided for in s.
9 288.1162(6). However, a certified applicant is entitled to
10 receive distributions up to the maximum amount allowable and
11 undistributed under this section for additional renovations
12 and improvements to the facility for the franchise without
13 additional certification.

14 c. Beginning 30 days after notice by the Office of
15 Tourism, Trade, and Economic Development to the Department of
16 Revenue that an applicant has been certified as the
17 professional golf hall of fame pursuant to s. 288.1168 and is
18 open to the public, \$166,667 shall be distributed monthly, for
19 up to 300 months, to the applicant.

20 d. Beginning 30 days after notice by the Office of
21 Tourism, Trade, and Economic Development to the Department of
22 Revenue that the applicant has been certified as the
23 International Game Fish Association World Center facility
24 pursuant to s. 288.1169, and the facility is open to the
25 public, \$83,333 shall be distributed monthly, for up to 168
26 months, to the applicant. This distribution is subject to
27 reduction pursuant to s. 288.1169. A lump sum payment of
28 \$999,996 shall be made, after certification and before July 1,
29 2000.

30 e. Within 90 days after certifying the amount of
31 purchase price reimbursement or payment of sponsored research

1 due each donor company pursuant to s. 288.1172, the department
2 shall distribute such amount using proceeds as provided in
3 this subparagraph.

4 8. All other proceeds shall remain with the General
5 Revenue Fund.

6 Section 7. This act shall take effect January 1, 2003.

7
8 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
9 COMMITTEE SUBSTITUTE FOR
10 Senate Bill 562

11 The committee substitute substantively differs from SB 562 in
12 the following ways:

13 1) Provides for the Department of Revenue to administer all
14 provisions of the act, instead of sharing those duties with
the Office of Tourism, Trade, and Economic Development.

15 2) Deletes the provision requiring the Office of Tourism,
16 Trade, and Economic Development to market the provisions of
the act and facilitate the formation of product development
agreements between donor and receiving companies.

17 3) Establishes procedures for the Department of Revenue to
18 certify and disburse certain payments relating to donor
companies.

19 4) Provides for a donor company to elect to receive only one
20 type of compensation per year.

21 5) Specifies that a qualifying donor company may receive a
22 reimbursement for the purchase price paid on the purchase of
machinery and equipment that is installed in "its," instead of
any, Florida manufacturing facility.

23 6) Provides that a receiving company, upon payment to the
24 state of the funds listed on its annual statement of fees due,
is discharged from its obligation to pay such funds to a donor
company.

25 7) Provides that a donor company may not receive any
26 compensation from the state unless the receiving company with
27 which it has a product development agreement remits the funds
28 listed on its annual statement of fees due to the state in a
timely matter.