

hbd-032

Bill No. HB 743, 2nd Eng.

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Representative(s) Andrews offered the following:

Amendment to Senate Amendment (960560) (with title amendment)

On page 1, line 17, through page 6, line 28,
remove: all of said lines,

and insert:

Section 1. Effective January 1, 2003, section
288.1172, Florida Statutes, is created to read:

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

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

(2) As used in this section:

(a) "Annual statement of donor credit" means the
statement produced by the Department of Revenue for each donor

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1 company listing the total amount of credit available to the
2 donor company for all of the product development agreements it
3 has entered into. This statement shall also include any
4 additional information specified in the product development
5 agreement.

6 (b) "Annual statement of fees due" means the statement
7 submitted by the receiving company to the Department of
8 Revenue each year, which lists the amount of fees and
9 royalties owed by it under the product development agreement
10 to the donor company for the preceding tax year which it has
11 paid to the department. This statement shall also contain any
12 additional information specified in the product development
13 agreement and shall contain a copy of the product development
14 agreement.

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

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

24 (e) "Receiving company" means a business operating in
25 this state which has entered into a product development
26 agreement for the purpose of obtaining the right to produce
27 and market a product or technology from a donor company.

28 (3) To qualify under this section, a product
29 development agreement shall specify that a minimum of 75
30 percent of the jobs created by the production of the new
31 product or technology shall be located in this state. In

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1 addition, the agreement shall specify the amount of
2 compensation to be remitted by the receiving company for the
3 license, and the type of credit the donor company has elected
4 to receive. The agreement shall further provide for submission
5 by the receiving company of an annual statement of fees due to
6 both the Office of Tourism, Trade, and Economic Development
7 and the Department of Revenue and shall specify the
8 information to be included in the statement.

9 (4) Each receiving company shall submit an annual
10 statement of fees due to the Department of Revenue within 30
11 days after filing its corporate income tax return for this
12 state for the preceding tax year, in a format developed by the
13 department. The department shall be responsible for producing
14 an annual statement of donor credit for each donor company
15 using the information contained in the statements. The donor
16 credit for each donor company shall equal 94.5 percent of the
17 total of the amounts specified in the annual statements of
18 fees due from all receiving companies with which it has
19 entered into a product development agreement. In any year the
20 total amount of credits granted under all annual statements of
21 donor credit shall not exceed 94.5 percent of the amount due
22 to the state under all annual statements of fees due.

23 (5) The Department of Revenue shall send the annual
24 statement of donor credit to each donor company within 90 days
25 after the receipt of the annual statement of fees due. These
26 statements shall contain the information specified by the
27 product development agreement. The department shall specify,
28 in a format developed by the department, the amount of credit
29 due to each donor company based upon the funds paid to the
30 department by the receiving company for the preceding tax
31 year, the identities of the receiving companies from which

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1 those credits originated, and the type of credit the donor
2 company has elected to receive.

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

10 (7) A donor company which is providing funding for
11 sponsored research at a state university in this state may
12 elect to use its donor credit to fund such research. If the
13 donor company elects to apply its donor credit in this manner,
14 it shall submit this request to the Department of Revenue on a
15 form approved by the department. At a minimum, the form shall
16 specify the donor company, the research being sponsored, and
17 the state university at which the research is being conducted.
18 The Department of Revenue shall then request the Office of the
19 Comptroller to transfer to the appropriate university's
20 division of sponsored research the amount shown on the donor
21 company's annual statement of donor credit. The Office of the
22 Comptroller and the Department of Revenue may promulgate rules
23 to implement this subsection.

24 (8) A donor company shall be eligible to receive a
25 reimbursement for the purchase price paid on the purchase of
26 machinery and equipment which is installed in a Florida
27 manufacturing facility, or for the building materials used in
28 the construction or rehabilitation of a Florida manufacturing
29 facility. This reimbursement shall be limited to the amount
30 shown on the annual statement of donor credit which the donor
31 company has elected to apply as a purchase reimbursement.

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1 Application for such reimbursement shall be made on a form
2 approved by the Department of Revenue and accompanied by any
3 supporting documentation required by the department. The
4 Department of Revenue may promulgate rules to implement this
5 subsection.

6 Section 2. Effective January 1, 2003, section 220.115,
7 Florida Statutes, is created to read:

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

28 Section 3. Effective January 1, 2003, section
29 220.1825, Florida Statutes, is created to read:

30 220.1825 Credit for donor companies pursuant to s.
31 288.1172.--A credit against the tax imposed by this chapter

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1 shall be allowed to a donor company which has entered into a
2 product development agreement pursuant to s. 288.1172, and
3 which has elected to apply its donor credit as a corporate
4 income tax credit. Such credit shall be limited to 94.5
5 percent of the amount stated in the annual statement of fees
6 due submitted to the Department of Revenue by the receiving
7 companies. If any credit granted under this section is not
8 fully used in the first year for which it becomes available,
9 the unused amount may be carried forward for a period not to
10 exceed 5 years. The Department of Revenue may adopt rules
11 relating to the method of reporting and claiming this credit.

12 Section 4. Effective January 1, 2003, subsection (8)
13 of section 220.02, Florida Statutes, is amended to read:

14 220.02 Legislative intent.--

15 (8) It is the intent of the Legislature that credits
16 against either the corporate income tax or the franchise tax
17 be applied in the following order: those enumerated in s.
18 631.828, those enumerated in s. 220.191, those enumerated in
19 s. 220.181, those enumerated in s. 220.183, those enumerated
20 in s. 220.182, those enumerated in s. 220.1895, those
21 enumerated in s. 221.02, those enumerated in s. 220.184, those
22 enumerated in s. 220.186, those enumerated in s. 220.1845,
23 those enumerated in s. 220.19, those enumerated in s. 220.185,
24 ~~and~~ those enumerated in s. 220.187, and those enumerated in s.
25 220.1825.

26 Section 5. Effective January 1, 2003, paragraph (d) of
27 subsection (6) of section 212.20, Florida Statutes, is amended
28 to read:

29 212.20 Funds collected, disposition; additional powers
30 of department; operational expense; refund of taxes
31 adjudicated unconstitutionally collected.--

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

3 (d) The proceeds of all other taxes and fees imposed
4 pursuant to this chapter or remitted pursuant to s.
5 202.18(1)(b) and (2)(b) shall be distributed as follows:

6 1. In any fiscal year, the greater of \$500 million,
7 minus an amount equal to 4.6 percent of the proceeds of the
8 taxes collected pursuant to chapter 201, or 5 percent of all
9 other taxes and fees imposed pursuant to this chapter or
10 remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be
11 deposited in monthly installments into the General Revenue
12 Fund.

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

15 3. After the distribution under subparagraphs 1. and
16 2., 9.653 percent of the amount remitted by a sales tax dealer
17 located within a participating county pursuant to s. 218.61
18 shall be transferred into the Local Government Half-cent Sales
19 Tax Clearing Trust Fund.

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

24 5. For proceeds received after July 1, 2000, and after
25 the distributions under subparagraphs 1., 2., 3., and 4., 2.25
26 percent of the available proceeds pursuant to this paragraph
27 shall be transferred monthly to the Revenue Sharing Trust Fund
28 for Counties pursuant to s. 218.215.

29 6. For proceeds received after July 1, 2000, and after
30 the distributions under subparagraphs 1., 2., 3., and 4.,
31 1.0715 percent of the available proceeds pursuant to this

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1 paragraph shall be transferred monthly to the Revenue Sharing
2 Trust Fund for Municipalities pursuant to s. 218.215. If the
3 total revenue to be distributed pursuant to this subparagraph
4 is at least as great as the amount due from the Revenue
5 Sharing Trust Fund for Municipalities and the Municipal
6 Financial Assistance Trust Fund in state fiscal year
7 1999-2000, no municipality shall receive less than the amount
8 due from the Revenue Sharing Trust Fund for Municipalities and
9 the Municipal Financial Assistance Trust Fund in state fiscal
10 year 1999-2000. If the total proceeds to be distributed are
11 less than the amount received in combination from the Revenue
12 Sharing Trust Fund for Municipalities and the Municipal
13 Financial Assistance Trust Fund in state fiscal year
14 1999-2000, each municipality shall receive an amount
15 proportionate to the amount it was due in state fiscal year
16 1999-2000.

17 7. Of the remaining proceeds:

18 a. Beginning July 1, 2000, and in each fiscal year
19 thereafter, the sum of \$29,915,500 shall be divided into as
20 many equal parts as there are counties in the state, and one
21 part shall be distributed to each county. The distribution
22 among the several counties shall begin each fiscal year on or
23 before January 5th and shall continue monthly for a total of 4
24 months. If a local or special law required that any moneys
25 accruing to a county in fiscal year 1999-2000 under the
26 then-existing provisions of s. 550.135 be paid directly to the
27 district school board, special district, or a municipal
28 government, such payment shall continue until such time that
29 the local or special law is amended or repealed. The state
30 covenants with holders of bonds or other instruments of
31 indebtedness issued by local governments, special districts,

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1 or district school boards prior to July 1, 2000, that it is
2 not the intent of this subparagraph to adversely affect the
3 rights of those holders or relieve local governments, special
4 districts, or district school boards of the duty to meet their
5 obligations as a result of previous pledges or assignments or
6 trusts entered into which obligated funds received from the
7 distribution to county governments under then-existing s.
8 550.135. This distribution specifically is in lieu of funds
9 distributed under s. 550.135 prior to July 1, 2000.

10 b. The department shall distribute \$166,667 monthly
11 pursuant to s. 288.1162 to each applicant that has been
12 certified as a "facility for a new professional sports
13 franchise" or a "facility for a retained professional sports
14 franchise" pursuant to s. 288.1162. Up to \$41,667 shall be
15 distributed monthly by the department to each applicant that
16 has been certified as a "facility for a retained spring
17 training franchise" pursuant to s. 288.1162; however, not more
18 than \$208,335 may be distributed monthly in the aggregate to
19 all certified facilities for a retained spring training
20 franchise. Distributions shall begin 60 days following such
21 certification and shall continue for not more than 30 years.
22 Nothing contained in this paragraph shall be construed to
23 allow an applicant certified pursuant to s. 288.1162 to
24 receive more in distributions than actually expended by the
25 applicant for the public purposes provided for in s.
26 288.1162(6). However, a certified applicant is entitled to
27 receive distributions up to the maximum amount allowable and
28 undistributed under this section for additional renovations
29 and improvements to the facility for the franchise without
30 additional certification.

31 c. Beginning 30 days after notice by the Office of

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1 Tourism, Trade, and Economic Development to the Department of
2 Revenue that an applicant has been certified as the
3 professional golf hall of fame pursuant to s. 288.1168 and is
4 open to the public, \$166,667 shall be distributed monthly, for
5 up to 300 months, to the applicant.

6 d. Beginning 30 days after notice by the Office of
7 Tourism, Trade, and Economic Development to the Department of
8 Revenue that the applicant has been certified as the
9 International Game Fish Association World Center facility
10 pursuant to s. 288.1169, and the facility is open to the
11 public, \$83,333 shall be distributed monthly, for up to 168
12 months, to the applicant. This distribution is subject to
13 reduction pursuant to s. 288.1169. A lump sum payment of
14 \$999,996 shall be made, after certification and before July 1,
15 2000.

16 e. Within 90 days after issuance of the annual
17 statement of donor credit by the Office of Tourism, Trade, and
18 Economic Development to the Department of Revenue certifying
19 the amount to be paid to each corporation that is due a
20 purchase price refund or payment for sponsored research
21 pursuant to s. 288.1172, the department shall distribute such
22 amount to each corporation using proceeds as provided in this
23 subparagraph.

24 8. All other proceeds shall remain with the General
25 Revenue Fund.

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28 ===== T I T L E A M E N D M E N T =====

29 And the title is amended as follows:

30 On page 56, lines 4-10, of the amendment
31 remove: all of said lines,

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1 and insert:
2 creating s. 288.1172, F.S.; providing
3 definitions; providing for licensing of certain
4 products or technologies by donor companies to
5 receiving companies for production and
6 marketing; providing duties of such companies
7 and the Department of Revenue; providing
8 requirements for product development
9 agreements; providing that donor companies may
10 be granted a credit which may be used to fund
11 sponsored research at a state university, as
12 reimbursement for the purchase of machinery,
13 equipment, or building supplies used in a
14 Florida manufacturing facility, or as a
15 corporate income tax credit; requiring the
16 office to certify certain amounts to the
17 department; requiring the department to make
18 certain distributions; authorizing donor
19 companies to elect to change the type of
20 credit, payment, or reimbursement under certain
21 circumstances; providing requirements for such
22 election; creating s. 220.115, F.S.; requiring
23 receiving companies to file a corporate tax
24 return and remit to the state certain fees in
25 addition to any corporate income tax due;
26 relieving receiving companies of payments to
27 donor companies under certain circumstances;
28 providing remedies against a donor company when
29 a receiving company fails to remit funds;
30 providing for application of administrative and
31 penalty provisions of ch. 220, F.S.; creating

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1 s. 220.1825, F.S.; providing for a credit
 2 against the corporate income tax for donor
 3 companies that so elect; providing for
 4 carryover of the credit; providing for rules;
 5 amending s. 220.02, F.S.; providing order of
 6 credits against the corporate income tax;
 7 amending s. 212.20, F.S.; requiring the
 8 Department of Revenue to make certain
 9 distributions within a time certain under
 10 certain circumstances; amending s. 288.0655,

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