

By the Committee on Commerce, Economic Opportunities, and Consumer Services; and Senator Garcia

310-2134-03

1 A bill to be entitled
2 An act relating to economic development
3 incentive programs; amending s. 220.191, F.S.;
4 redefining the term "qualifying project" for
5 purposes of capital investment tax credits;
6 amending s. 288.1045, F.S.; revising the
7 definition of "Department of Defense contract"
8 under the tax refund program for qualified
9 defense contractors; extending the period
10 applicable to a program exemption under certain
11 conditions; amending s. 288.106, F.S.;
12 providing for special consideration to be given
13 to defense and homeland security under the tax
14 refund program for qualified target industry
15 businesses; extending the period applicable to
16 a program exemption under certain conditions;
17 amending s. 288.1088, F.S.; revising
18 requirements and providing powers of the
19 Governor with respect to using funds in the
20 Quick Action Closing Fund; providing an
21 effective date.

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

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25 Section 1. Paragraph (h) of subsection (1) of section
26 220.191, Florida Statutes, is amended to read:
27 220.191 Capital investment tax credit.--
28 (1) DEFINITIONS.--For purposes of this section:
29 (h) "Qualifying project" means:
30 1. A new or expanding facility in this state which
31 creates at least 100 new jobs in this state and is in one of

1 the high-impact sectors identified by Enterprise Florida,
2 Inc., and certified by the office pursuant to s. 288.108(6),
3 including, but not limited to, aviation, aerospace,
4 automotive, and silicon technology industries; or.

5 2. A new financial services facility in this state
6 which creates at least 2,000 new jobs in this state, pays an
7 average annual wage of at least \$50,000, and makes a capital
8 investment of at least \$30 million. This subparagraph expires
9 June 30, 2004.

10 Section 2. Paragraph (e) of subsection (1) and
11 paragraph (b) of subsection (4) of section 288.1045, Florida
12 Statutes, are amended to read:

13 288.1045 Qualified defense contractor tax refund
14 program.--

15 (1) DEFINITIONS.--As used in this section:

16 (e) "Department of Defense contract" means a
17 competitively bid Department of Defense contract or
18 subcontract or a competitively bid federal agency contract or
19 subcontract issued on behalf of the Department of Defense for
20 manufacturing, assembling, fabricating, research, development,
21 or design with a duration of 2 or more years, but excluding
22 any contract or subcontract to provide goods, improvements to
23 real or tangible property, or services directly to or for any
24 particular military base or installation in this state. The
25 term includes contracts or subcontracts for products or
26 services for military or homeland security use which contracts
27 or subcontracts are approved by the United States Department
28 of Defense, the United States Department of State, or the
29 United States Department of Homeland Security ~~Coast Guard~~.

30 (4) QUALIFIED DEFENSE CONTRACTOR TAX REFUND
31 AGREEMENT.--

1 (b) Compliance with the terms and conditions of the
2 agreement is a condition precedent for receipt of tax refunds
3 each year. The failure to comply with the terms and conditions
4 of the agreement shall result in the loss of eligibility for
5 receipt of all tax refunds previously authorized pursuant to
6 this section, and the revocation of the certification as a
7 qualified applicant by the director, unless the qualified
8 applicant is eligible to receive and elects to accept a
9 prorated refund under paragraph (5)(g) or the office grants
10 the qualified applicant an economic-stimulus exemption.

11 1. A qualified applicant may submit, in writing, a
12 request to the office for an economic-stimulus exemption. The
13 request must provide quantitative evidence demonstrating how
14 negative economic conditions in the qualified applicant's
15 industry, or specific acts of terrorism affecting the
16 qualified applicant, have prevented the qualified applicant
17 from complying with the terms and conditions of its tax refund
18 agreement.

19 2. Upon receipt of a request under subparagraph 1.,
20 the director shall have 45 days to notify the requesting
21 qualified applicant, in writing, if its exemption has been
22 granted or denied. In determining if an exemption should be
23 granted, the director shall consider the extent to which
24 negative economic conditions in the requesting qualified
25 applicant's industry, or specific acts of terrorism affecting
26 the qualified applicant, have prevented the qualified
27 applicant from complying with the terms and conditions of its
28 tax refund agreement.

29 3. As a condition for receiving a prorated refund
30 under paragraph (5)(g) or an economic-stimulus exemption under
31 this paragraph, a qualified applicant must agree to

1 renegotiate its tax refund agreement with the office to, at a
2 minimum, ensure that the terms of the agreement comply with
3 current law and office procedures governing application for
4 and award of tax refunds. Upon approving the award of a
5 prorated refund or granting an economic-stimulus exemption,
6 the office shall renegotiate the tax refund agreement with the
7 qualified applicant as required by this subparagraph. When
8 amending the agreement of a qualified applicant receiving an
9 economic-stimulus exemption, the office may extend the
10 duration of the agreement for a period not to exceed 1 year.

11 4. A qualified applicant may submit a request for an
12 economic-stimulus exemption to the office in lieu of any tax
13 refund claim scheduled to be submitted after January 1, 2001,
14 but before June 30, 2004 ~~July 1, 2003~~. However, a qualified
15 applicant that has received at least one economic-stimulus
16 exemption may not apply for an additional exemption.

17 5. A qualified applicant that receives an
18 economic-stimulus exemption may not receive a tax refund for
19 the period covered by the exemption.

20 Section 3. Paragraph (o) of subsection (1) and
21 paragraph (b) of subsection (4) of section 288.106, Florida
22 Statutes, are amended to read:

23 288.106 Tax refund program for qualified target
24 industry businesses.--

25 (1) DEFINITIONS.--As used in this section:

26 (o) "Target industry business" means a corporate
27 headquarters business or any business that is engaged in one
28 of the target industries identified pursuant to the following
29 criteria developed by the office in consultation with
30 Enterprise Florida, Inc.:

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1 1. Future growth.--Industry forecasts should indicate
2 strong expectation for future growth in both employment and
3 output, according to the most recent available data. Special
4 consideration should be given to Florida's growing access to
5 international markets or to replacing imports.

6 2. Stability.--The industry should not be subject to
7 periodic layoffs, whether due to seasonality or sensitivity to
8 volatile economic variables such as weather. The industry
9 should also be relatively resistant to recession, so that the
10 demand for products of this industry is not necessarily
11 subject to decline during an economic downturn.

12 3. High wage.--The industry should pay relatively high
13 wages compared to statewide or area averages.

14 4. Market and resource independent.--The location of
15 industry businesses should not be dependent on Florida markets
16 or resources as indicated by industry analysis.

17 5. Industrial base diversification and
18 strengthening.--The industry should contribute toward
19 expanding or diversifying the state's or area's economic base,
20 as indicated by analysis of employment and output shares
21 compared to national and regional trends. Special
22 consideration should be given to industries that strengthen
23 regional economies by adding value to basic products or
24 building regional industrial clusters as indicated by industry
25 analysis. Special consideration also should be given to
26 developing strong industrial clusters, including defense and
27 homeland security.

28 6. Economic benefits.--The industry should have strong
29 positive impacts on or benefits to the state and regional
30 economies.

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1 The office, in consultation with Enterprise Florida, Inc.,
2 shall develop a list of such target industries annually and
3 submit such list as part of the final agency legislative
4 budget request submitted pursuant to s. 216.023(1). A target
5 industry business may not include any industry engaged in
6 retail activities; any electrical utility company; any
7 phosphate or other solid minerals severance, mining, or
8 processing operation; any oil or gas exploration or production
9 operation; or any firm subject to regulation by the Division
10 of Hotels and Restaurants of the Department of Business and
11 Professional Regulation.

12 (4) TAX REFUND AGREEMENT.--

13 (b) Compliance with the terms and conditions of the
14 agreement is a condition precedent for the receipt of a tax
15 refund each year. The failure to comply with the terms and
16 conditions of the tax refund agreement results in the loss of
17 eligibility for receipt of all tax refunds previously
18 authorized under this section and the revocation by the
19 director of the certification of the business entity as a
20 qualified target industry business, unless the business is
21 eligible to receive and elects to accept a prorated refund
22 under paragraph (5)(d) or the office grants the business an
23 economic-stimulus exemption.

24 1. A qualified target industry business may submit, in
25 writing, a request to the office for an economic-stimulus
26 exemption. The request must provide quantitative evidence
27 demonstrating how negative economic conditions in the
28 business's industry, or specific acts of terrorism affecting
29 the qualified target industry business, have prevented the
30 business from complying with the terms and conditions of its
31 tax refund agreement.

1 2. Upon receipt of a request under subparagraph 1.,
2 the director shall have 45 days to notify the requesting
3 business, in writing, if its exemption has been granted or
4 denied. In determining if an exemption should be granted, the
5 director shall consider the extent to which negative economic
6 conditions in the requesting business's industry, or specific
7 acts of terrorism affecting the qualified target industry
8 business, have prevented the business from complying with the
9 terms and conditions of its tax refund agreement.

10 3. As a condition for receiving a prorated refund
11 under paragraph (5)(d) or an economic-stimulus exemption under
12 this paragraph, a qualified target industry business must
13 agree to renegotiate its tax refund agreement with the office
14 to, at a minimum, ensure that the terms of the agreement
15 comply with current law and office procedures governing
16 application for and award of tax refunds. Upon approving the
17 award of a prorated refund or granting an economic-stimulus
18 exemption, the office shall renegotiate the tax refund
19 agreement with the business as required by this subparagraph.
20 When amending the agreement of a business receiving an
21 economic-stimulus exemption, the office may extend the
22 duration of the agreement for a period not to exceed 1 year.

23 4. A qualified target industry business may submit a
24 request for an economic-stimulus exemption to the office in
25 lieu of any tax refund claim scheduled to be submitted after
26 January 1, 2001, but before June 30, 2004 ~~July 1, 2003~~.
27 However, a qualified target industry business that has
28 received at least one economic-stimulus exemption may not
29 apply for an additional exemption.

1 5. A qualified target industry business that receives
2 an economic-stimulus exemption may not receive a tax refund
3 for the period covered by the exemption.

4 Section 4. Paragraph (b) of subsection (3) of section
5 288.1088, Florida Statutes, is amended, and subsection (4) is
6 added to that section, to read:

7 288.1088 Quick Action Closing Fund.--

8 (3)

9 (b) Upon receipt of the evaluation and recommendation
10 from Enterprise Florida, Inc., the director shall recommend
11 approval or disapproval of a project for receipt of funds from
12 the Quick Action Closing Fund to the Governor. In recommending
13 a project, the director shall include proposed performance
14 conditions that the project must meet to obtain incentive
15 funds. The Governor shall consult with the President of the
16 Senate and the Speaker of the House of Representatives before
17 giving final approval for a project. ~~The Executive Office of~~
18 ~~the Governor shall recommend approval of a project and release~~
19 ~~of funds pursuant to the legislative consultation and review~~
20 ~~requirements set forth in s. 216.177.~~The recommendation must
21 include proposed performance conditions the project must meet
22 to obtain funds.

23 (4) The Governor may, in an emergency or special
24 circumstance and with the approval of the President of the
25 Senate and the Speaker of the House of Representatives,
26 reallocate unencumbered funds appropriated to the Quick Action
27 Closing Fund to supplement statutorily created economic
28 development programs and operations. The Executive Office of
29 the Governor shall recommend approval of the transfer and
30 release of funds pursuant to the legislative consultation and
31 review requirements set forth in s. 216.177.

1 Section 5. This act shall take effect upon becoming a
2 law.

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4 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
5 COMMITTEE SUBSTITUTE FOR
6 Senate Bill 2410

7 The committee substitute makes the following changes to the
8 bill:

- 9 1. The committee substitute extends the deadline to June 30,
10 2004, to apply for an economic-stimulus exemption for
11 certain businesses participating in a tax refund program
12 for qualified defense contractors which have not received
13 an exemption by the effective date of this committee
14 substitute.
- 15 2. The committee substitute extends the deadline to June 30,
16 2004, to apply for an economic-stimulus exemption for
17 certain businesses participating in a tax refund program
18 for qualified target industry businesses which have not
19 received an exemption by the effective date of this
20 committee substitute.
- 21 3. The committee substitute requires the Governor to have
22 the approval of the President of the Senate and the
23 Speaker of the House of Representatives in requesting a
24 budget amendment from the Legislative Budget Commission
25 to reallocate unencumbered funds in the Quick Action
26 Closing Fund to other economic development programs and
27 operations in an emergency or special circumstance.
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