

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 691 CS Economic Development Incentive Program  
**SPONSOR(S):** Hasner  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 2410

---

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Workforce and Economic Development (Sub)</u>	<u>4 Y, 0 N</u>	<u>Ken Winker</u>	<u>Paul Whitfield</u>
2) <u>Commerce</u>	<u>14 Y, 0 N w/CS</u>	<u>Winker</u>	<u>Whitfield</u>
3) <u>Commerce &amp; Local Affairs Apps. (Sub)</u>	<u>11 Y, 0 N</u>	<u>Belcher</u>	<u>Belcher</u>
4) <u>Appropriations</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

---

### SUMMARY ANALYSIS

HB 691 amends s. 220.191, F.S., relating to the capital investment tax credit, by expanding the definition of a "qualifying project" to include a new financial services facility in the state which creates at least 2,000 new jobs, pays an annual average salary of \$50,000 for these jobs, and makes a cumulative capital investment of at least \$30 million. This provision is repealed on June 30, 2004.

The bill amends the definition of a "Department of Defense" contract to include the newly created federal Department of Homeland Security for purposes of the qualified defense contractor tax refund program in s. 288.1045, F.S. The bill adds defense and homeland security businesses as part of the development of industrial clusters for purposes of the tax refund program for the qualified target industry businesses program in s. 228.106, F.S. The bill extends the deadline for application for a prorated tax refund under an economic stimulus exemption for a qualified target industry business in s. 228.106, F.S., to June 30, 2004.

The bill deletes the requirement in s. 288.1088(3)(b), F.S., that the Governor recommend approval of a project eligible for moneys from the Quick Action Closing Fund through the legislative consultation and review process and requirements pursuant to s. 216.177, F.S.

The bill also creates a new subsection (4) in s. 288.1088, F.S., which authorizes the Governor, in "an emergency or special circumstance" and after consultation with the President of the Senate and the Speaker of the House, to reallocate unencumbered funds appropriated to the Quick Action Closing Fund to "supplement statutorily created economic development programs and operations." The Governor would have to recommend approval of the transfer and release of unencumbered QACF funds pursuant to the legislative consultation and review requirements of s. 216.177, F.S.

The bill may facilitate the closing of a deal to bring a new business to or expand a current business in Florida which could have a significant positive economic impact.

The bill goes into effect upon becoming law.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h0691d.ap.doc  
**DATE:** April 9, 2003

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |   |                             |   |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government?                | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | 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. EFFECT OF PROPOSED CHANGES:

HB 691 amends s. 220.191, F.S., relating to the capital investment tax credit, by expanding the definition of a "qualifying project" to include a new financial services facility in the state which creates at least 2,000 new jobs, pays an annual average salary of \$50,000 for these jobs, and makes a cumulative capital investment of at least \$30 million. This provision is repealed on June 30, 2004.

The bill amends the definition of a "Department of Defense" contract to include the newly created federal Department of Homeland Security for purposes of the qualified defense contractor tax refund program in s. 288.1045, F.S. The bill adds defense and homeland security businesses as part of the development of industrial clusters for purposes of the tax refund program for the qualified target industry businesses program in s. 228.106, F.S. The bill extends the deadline for application for a prorated tax refund under an economic stimulus exemption for a qualified target industry business in s. 228.106, F.S., to June 30, 2004.

The bill deletes the requirement in s. 288.1088(3)(b), F.S., that the Governor recommend approval of a project eligible for moneys from the QACF through the legislative consultation and review process and requirements pursuant to s. 216.177, F.S.

The bill also creates a new subsection (4) in s. 288.1088, F.S., which authorizes the Governor, in "an emergency or special circumstance" and after consultation with the President of the Senate and the Speaker of the House, to reallocate unencumbered funds appropriated to the Quick Action Closing Fund to "supplement statutorily created economic development programs and operations." The Governor would have to recommend approval of the transfer and release of unencumbered QACF funds pursuant to the legislative consultation and review requirements of s. 216.177, F.S.

#### **Enterprise Florida, Inc.**

In 1992, the Legislature created Enterprise Florida, Inc. (EFI), to assist in the coordination of the state's economic development efforts and to develop a strategic plan for economic development for Florida [s. 288.901, F.S.].

Enterprise Florida, Inc., is a not-for-profit government-business partnership established to guide the development of Florida's economy. Its mission is to maintain a business-friendly climate conducive to the creation and retention of jobs. While not a state agency, Enterprise Florida receives funds from the Legislature and is one of several public-private partnerships that reports to the Office of Tourism, Trade, and Economic Development within the Office of the Governor.

The goals of Enterprise Florida are to provide leadership for business development in Florida by establishing a unified approach to international trade, marketing the state as a pro-business location for potential new investment, and assisting businesses with the creation and retention of jobs.

EFI assists businesses considering locating or expanding in Florida by providing information on potential sites, assisting businesses in applying for state financial incentives, and assisting businesses with regulatory and permitting issues.

EFI assists Florida businesses in the exportation of their products and services by providing market information, export counseling, and trade leads. EFI also sponsors and actively participates in international trade events and missions.

EFI promotes and conducts activities intended to help recruit businesses to distressed rural and urban areas by helping local economic development organizations with marketing efforts and generating leads.

As a public-private partnership, EFI obtains private sector support to help pay for its cost of operation.

### **Office of Tourism, Trade, and Economic Development**

The 1996 Legislature created the Office of Tourism, Trade, and Economic Development (OTTED) in the Executive Office of the Governor when the Department of Commerce was abolished. OTTED is responsible for promoting economic development, tourism, and international trade and is also responsible for assisting the Governor in formulating policies and strategies designed to provide economic opportunities for the state.

OTTED oversees the activities of five public-private partnerships intended to increase trade, job creation and retention, and "critical industry" development. These partnerships are Enterprise Florida, Inc., the Black Business Investment Board, the Florida Commission on Tourism (and its direct support organization, VISIT FLORIDA, Inc.), the Florida Sports Foundation, Inc., and the Florida Space Authority.

OTTED provides administrative oversight of the Office of Film and Entertainment and the Office of Urban Opportunity (Front Porch). OTTED administers several economic development programs and advocacy programs related to industry sector such as defense, space, and transportation. OTTED approves and certifies business expansion and retention incentive programs as well as manages community development programs, such as enterprise zones, community contribution tax credits, and defense grant programs. OTTED serves as the lead agency for expediting permitting processes on economic development projects. Finally, OTTED is responsible for maintaining relationships and interaction with business, economic development, and community organizations and leaders to advocate on their behalf on issues before the Governor and the Legislature.

### **Tax Refund Program for Qualified Defense Contractors**

Finding that high technology jobs in the state were threatened by downsizing in the national defense budget, the Legislature during a special session in 1993 created a tax refund program designed to facilitate the employment of Florida citizens by defense contractors. The Qualified Defense Contractor Tax Refund Program (QDC Program) authorized tax refunds to a certified contractor that: 1) secured a new Department of Defense (DOD) contract, 2) consolidated an existing DOD contract in Florida, 3) converted defense production jobs to non-defense production jobs, or 4) contracted for the reuse of a defense-related facility (s. 288.104, F.S., 1994 Supp.). The program was repealed effective December 1, 1994.

In 1996, the QDC Program was re-created and codified in s. 288.1045, F.S. (See s. 1, ch. 96-348, L.O.F.) In order to participate in the program and be eligible to receive tax refunds, a business must apply to the Office of Tourism, Trade, and Economic Development for certification. The statute prescribes information that must be submitted by a defense contractor in order to be certified (s. 288.1045(3), F.S.). The QDC Program features a local financial support component, under which an eligible business must secure a resolution adopted by county government which recommends the project and which indicates that the necessary commitments of local financial support for the business exist. 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 (s. 288.1045(1)(o) and (3), F.S.).

## **Tax Refund Program for Qualified Target Industry Businesses**

The Qualified Target Industry Tax Refund Program (QTI Program), s. 288.106, F.S., is one of the state's economic development incentives. Under the program, eligible businesses may receive refunds of previously paid taxes, based upon the creation of jobs at a certain salary level.

### **Quick Action Closing Fund**

The 1999 Legislature created the Quick Action Closing Fund [s. 288.1088, F.S.] within OTTED for the purpose of helping Florida to compete for high-impact business facilities, critical private infrastructure in rural areas, and key businesses in economically distressed urban or rural communities. Enterprise Florida, Inc., evaluates proposals for the use of the Quick Action Closing Fund (QACF), makes recommendations to OTTED, and describes the nature of the business and its products or services, the number of jobs created and the annual average wages of the jobs, the cumulative amount of investment, the impacts of the business at the regional or state level or upon the state's universities and community colleges, and what role the incentive is expected to play in the businesses' decision to locate or expand in the state or for a private investor to provide critical rural infrastructure.

Once EFI makes its evaluation and recommendation to OTTED, the director of OTTED must make a recommendation of approval or disapproval to the Governor. OTTED must also provide the Governor with proposed performance conditions the project must meet to obtain the incentive funds.

The Governor must consult with the Legislature before giving final approval for using the QACF for the project and must recommend approval of the project and release of moneys from the QACF pursuant to legislative consultation and review requirements of s. 216.177, F.S. This requires notice to the Legislative Budget Commission which must meet and approve the funding request. This process takes between 3-14 days.

Once approved by the Governor, OTTED enters into a contract with the business and establishes the conditions and the payment of moneys from the QACF. Conditions in the contract include those factors identified by EFI in its request to OTTED and also include sanctions for not meeting performance conditions. EFI is responsible for validating the performance of the contract and reporting to the Governor and the Legislature within 6 months after the contract expires.

According to EFI's 2002 Incentives Report, the QACF was recommended and approved for five projects in FY 2002. Four of these projects entered into a contract for QACF moneys (one project selected another state) with new capital investments of \$265 million, 1,400 new jobs with an average annual wage of \$40,136, and the retention of 3,500 existing jobs.

Since the inception of the QACF, there are a total of eight approved active projects with capital investments of \$416 million and 7,100 created or retained jobs with an average annual wage of \$47,252.

### **C. SECTION DIRECTORY:**

SECTION 1: Amends s. 220.191, F.S., relating to the capital investment tax credit, by expanding the definition of a "qualifying project" to include a new financial services facility in the state which creates at least 2,000 new jobs, pays an annual average salary of \$50,000 for these jobs, and makes a cumulative capital investment of at least \$30 million. Repeals this section on June 30, 2004.

SECTION 2: Amends s. 288.1045, F.S., relating to the qualified defense contractor tax refund program by adding the newly created federal Department of Homeland Security to the definition of a "Department of Defense contract."

SECTION 3: Amends s. 228.106, F.S., by authorizing that special consideration be given to the development of strong industrial clusters which include defense and homeland security businesses for purposes of the tax refund program for qualified target industry businesses.

SECTION 4: Extends the deadline for application of the prorated tax refund to June 30, 2004, under an economic stimulus exemption pursuant to s. 288.106(4), F.S.

SECTION 5: Amends paragraph (b) of subsection (3) of section 288.1088 by deleting the requirement that the Governor utilize the legislative consultation and review requirements set forth in s. 216.177, F.S., for seeking approval to use moneys from the Quick Action Closing fund; adds a new subsection (4) authorizing the Governor, in an emergency or special circumstance, to seek approval through the legislative consultation and review requirements set forth in s. 216.177, F.S. to reallocate unencumbered funds to the Quick Action Closing Fund to supplement statutorily created economic development programs and operations.

SECTION 6: The bill takes effect upon becoming law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

See Fiscal Comments below.

#### 2. Expenditures:

See Fiscal Comments below.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

See Fiscal Comments below.

#### 2. Expenditures:

See Fiscal Comments below.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments below.

### D. FISCAL COMMENTS:

Accelerating the process by which moneys from the Quick Action Closing Fund can be used to close a deal and bring a new business to Florida could have a significant positive economic impact upon the state should a business decide to move to Florida based upon a number of financial incentive and other factors including the recipient of moneys from the Quick Action Closing Fund. Information from Enterprise Florida indicates that the potential return-on-investment for bringing a business to Florida meeting the specifications in HB 691 would be \$17 in revenues for each \$1 invested in incentives. The Agency for Workforce Innovation reports that, currently, there are three financial services' employers at multiple locations in the state that meet the specifications in HB 691.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds, does not reduce a county's authority to raise revenue, and does not reduce the percentage of a state tax shared with counties or municipalities.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

None.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

With regards to Section 5 of HB 691, deleting the current requirement that the Governor seek approval for using moneys from the Quick Action Closing Fund pursuant to the legislative consultation and review requirements of s. 216.177 will, according to House Appropriations staff, eliminate a 3-14 day process. If made into law, this provision of HB 691 could accelerate the decision-making process whereby moneys in the Quick Action Closing Fund could be used to "close a deal" and help bring a new business to or expand an existing one in Florida.

Section 2 of HB 691 also authorizes the Governor, "in an emergency or special circumstance" to seek approval to reallocate unencumbered funds appropriated to the Quick Action Closing Fund to supplement "statutorily created economic development programs and operations" through the legislative consultation and review requirements set forth in s. 216.177, F.S. The phrases "emergency or special circumstance" and "statutorily created economic development programs and operations" are undefined and lack specificity.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 24, 2003, the Workforce and Economic Development Subcommittee adopted a strike-all amendment to HB 691. The amendment differed from the original bill by amending s. 220.191.1, F.S., relating to the capital investment tax credit, and expanding the definition of a "qualifying project" to include a new financial services facility in the state which creates at least 2,000 new jobs, pays an annual average salary of \$50,000 for these jobs, and makes a cumulative capital investment of at least \$30 million. This provision is repealed on June 30, 2004. The original bill placed this provision in the Quick Action Closing Fund section of statutes (s. 228.1088, F.S.)

The amendment changes the definition of a "Department of Defense" contract to include the newly created federal Department of Homeland Security for purposes of the qualified defense contractor tax refund program in s. 288.1045, F.S. The amendment adds defense and homeland security businesses as part of the development of industrial clusters for purposes of the tax refund program for the qualified target industry businesses program in s. 228.106, F.S. The amendment extends the deadline for application for a prorated tax refund under an economic stimulus exemption for a qualified target industry business in s. 228.106, F.S., to June 30, 2004. These provisions were not in the original bill.

On March 31, 2003, the Committee on Commerce passed HB 691 with a CS and incorporated the amendment adopted by the subcommittee. The committee also adopted a technical amendment to the strike-all amendment to correct a drafting error and make the bill consistent in terms of adding the phrase "homeland security" to the bill.