



ENROLLED
HB 0691, Engrossed 1

2003 Legislature

A bill to be entitled

An act relating to economic development incentive programs; amending s. 220.191, F.S.; including certain financial services facilities as a qualified project for purposes of the capital investment tax credit; providing for future repeal; amending s. 288.1045, F.S.; revising a definition; amending s. 288.106, F.S.; revising a definition of target industry business to include defense and homeland security businesses; extending a deadline for application for a prorated tax refund under an economic stimulus exemption; amending s. 288.1088, F.S.; deleting a function of the Executive Office of the Governor relating to project approval recommendations and release of certain funds; authorizing the Governor to reallocate unencumbered funds in the Quick Action Closing Fund to supplement certain economic development programs and operations in emergency or special circumstances; providing for reallocation approval and fund release recommendations by the Executive Office of the Governor; providing an effective date.

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

Section 1. Section 220.191, Florida Statutes, is amended to read:

220.191 Capital investment tax credit.--

(1) DEFINITIONS.--For purposes of this section:

(h) "Qualifying project" means:



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1. A new or expanding facility in this state which creates at least 100 new jobs in this state and is in one of the high-impact sectors identified by Enterprise Florida, Inc., and certified by the office pursuant to s. 288.108(6), including, but not limited to, aviation, aerospace, automotive, and silicon technology industries; or

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 This subparagraph is repealed June 30, 2004.

Section 2. Paragraph (e) of subsection (1) of section 288.1045, Florida Statutes, is amended to read:

288.1045 Qualified defense contractor tax refund program.--

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

(e) "Department of Defense contract" means a competitively bid Department of Defense contract or subcontract or a competitively bid federal agency contract or subcontract issued on behalf of the Department of Defense for manufacturing, assembling, fabricating, research, development, or design with a duration of 2 or more years, but excluding any contract or subcontract to provide goods, improvements to real or tangible property, or services directly to or for any particular military base or installation in this state. The term includes contracts or subcontracts for products or services for military use or homeland security which contracts or subcontracts are approved by the United States Department of Defense, the United States



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Department of State, or the United States Department of Homeland Security Coast Guard.

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

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

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

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

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

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

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

4. Market and resource independent.--The location of industry businesses should not be dependent on Florida markets



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or resources as indicated by industry analysis. Special consideration should be given to the development of strong industrial clusters which include defense and homeland security businesses.

5. Industrial base diversification and strengthening.--The industry should contribute toward expanding or diversifying the state's or area's economic base, as indicated by analysis of employment and output shares compared to national and regional trends. Special consideration should be given to industries that strengthen regional economies by adding value to basic products or building regional industrial clusters as indicated by industry analysis.

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

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

(4) TAX REFUND AGREEMENT.--



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

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

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



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

4. A qualified target industry business may submit a request for an economic-stimulus exemption to the office in lieu of any tax refund claim scheduled to be submitted after January 1, 2001, but before June 30, 2004 ~~July 1, 2003~~.

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

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

288.1088 Quick Action Closing Fund.--

(3)

(b) Upon receipt of the evaluation and recommendation from Enterprise Florida, Inc., the director shall recommend approval or disapproval of a project for receipt of funds from the Quick



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Action Closing Fund to the Governor. In recommending a project, the director shall include proposed performance conditions that the project must meet to obtain incentive funds. The Governor shall consult with the President of the Senate and the Speaker of the House of Representatives before giving final approval for a project. ~~The Executive Office of the Governor shall recommend approval of a project and release of funds pursuant to the legislative consultation and review requirements set forth in s. 216.177. The recommendation must include proposed performance conditions the project must meet to obtain funds.~~

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

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