

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative Kyle offered the following:

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3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Paragraphs (b) and (c) of subsection (3) of
6 section 288.095, Florida Statutes, are amended to read:

7 288.095 Economic Development Trust Fund.--

8 (3)

9 (b) The total amount of tax refund claims approved for
10 payment by the Office of Tourism, Trade, and Economic
11 Development based on actual project performance may not exceed
12 the amount appropriated to the Economic Development Incentives
13 Account for such purposes for the fiscal year. Claims for tax
14 refunds under ss. 288.1045 and 288.106 shall be paid in the
15 order the claims are approved by the Office of Tourism, Trade,
16 and Economic Development. In the event the Legislature does not

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17 appropriate an amount sufficient to satisfy the estimates by the
18 ~~office for~~ tax refunds under ss. 288.1045 and 288.106 in a
19 fiscal year, the unsatisfied tax refunds shall have first claim
20 to any appropriations made for the following fiscal year. By
21 March 1 of each year, the Office of Tourism, Trade, and Economic
22 Development shall notify the legislative appropriations
23 committees of any anticipated shortfall in the amount of funds
24 needed to satisfy claims for tax refunds from the appropriation
25 for the current fiscal year ~~Office of Tourism, Trade, and~~
26 ~~Economic Development shall, not later than July 15 of such year,~~
27 ~~determine the proportion of each refund claim which shall be~~
28 ~~paid by dividing the amount appropriated for tax refunds for the~~
29 ~~fiscal year by the estimated total of refund claims for the~~
30 ~~fiscal year. The amount of each claim for a tax refund shall be~~
31 ~~multiplied by the resulting quotient. If, after the payment of~~
32 ~~all such refund claims, funds remain in the Economic Development~~
33 ~~Incentives Account for tax refunds, the office shall recalculate~~
34 ~~the proportion for each refund claim and adjust the amount of~~
35 ~~each claim accordingly.~~

36 (c) By December 31 of each year, Enterprise Florida, Inc.,
37 shall submit a complete and detailed report to the Governor, the
38 President of the Senate, the Speaker of the House of
39 Representatives, and the director of the Office of Tourism,
40 Trade, and Economic Development of all applications received,
41 recommendations made to the Office of Tourism, Trade, and
42 Economic Development, final decisions issued, tax refund
43 agreements executed, and tax refunds paid or other payments made
44 under all programs funded out of the Economic Development

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45 Incentives Account, including analyses of benefits and costs,
46 types of projects supported, and employment and investment
47 created. Enterprise Florida, Inc., shall also include a separate
48 analysis of the impact of such tax refunds on state enterprise
49 zones designated pursuant to s. 290.0065, rural communities,
50 brownfield areas, and distressed urban communities. The report
51 must discuss whether the authority and moneys appropriated by
52 the Legislature to the Economic Development Incentives Account
53 were managed and expended in a prudent, fiducially sound manner.
54 The report shall also discuss the efforts made by the Office of
55 Tourism, Trade, and Economic Development to amend tax refund
56 agreements to require tax refund claims to be submitted by
57 January 31 for the net new full-time equivalent Florida jobs as
58 of December 31 of the preceding calendar year. The Office of
59 Tourism, Trade, and Economic Development shall assist Enterprise
60 Florida, Inc., in the collection of data related to business
61 performance and incentive payments.

62 Section 2. Paragraph (g) of subsection (1), paragraphs
63 (b), (c), and (d) of subsection (3), and subsection (7) of
64 section 288.1045, Florida Statutes, are amended to read:

65 288.1045 Qualified defense contractor tax refund
66 program.--

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

68 (g) "Jobs" means full-time equivalent positions,
69 consistent with the use of such terms by the Agency for
70 Workforce Innovation for the purpose of unemployment
71 compensation tax, created or retained as a direct result of
72 ~~resulting directly from~~ a project in this state. This number

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73 does not include temporary construction jobs involved with the
74 construction of facilities for the project.

75 (3) APPLICATION PROCESS; REQUIREMENTS; AGENCY
76 DETERMINATION.--

77 (b) Applications for certification based on the
78 consolidation of a Department of Defense contract or a new
79 Department of Defense contract must be submitted to the office
80 as prescribed by the office and must include, but are not
81 limited to, the following information:

82 1. The applicant's federal employer identification number,
83 the applicant's Florida sales tax registration number, and a
84 notarized signature of an officer of the applicant.

85 2. The permanent location of the manufacturing,
86 assembling, fabricating, research, development, or design
87 facility in this state at which the project is or is to be
88 located.

89 3. The Department of Defense contract numbers of the
90 contract to be consolidated, the new Department of Defense
91 contract number, or the "RFP" number of a proposed Department of
92 Defense contract.

93 4. The date the contract was executed or is expected to be
94 executed, and the date the contract is due to expire or is
95 expected to expire.

96 5. The commencement date for project operations under the
97 contract in this state.

98 6. The number of net new full-time equivalent Florida jobs
99 included in the project as of December 31 of each year and the
100 average wage of such jobs.

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101 7. The number of full-time equivalent Florida jobs to be
102 retained by the project.

103 ~~8.7.~~ The total number of full-time equivalent employees
104 employed by the applicant in this state.

105 ~~9.8.~~ The percentage of the applicant's gross receipts
106 derived from Department of Defense contracts during the 5
107 taxable years immediately preceding the date the application is
108 submitted.

109 ~~10.9.~~ The amount of:

- 110 a. Taxes on sales, use, and other transactions paid
111 pursuant to chapter 212;
112 b. Corporate income taxes paid pursuant to chapter 220;
113 c. Intangible personal property taxes paid pursuant to
114 chapter 199;
115 d. Emergency excise taxes paid pursuant to chapter 221;
116 e. Excise taxes paid on documents pursuant to chapter 201;
117 and
118 f. Ad valorem taxes paid

119
120 during the 5 fiscal years immediately preceding the date of the
121 application, and the projected amounts of such taxes to be due
122 in the 3 fiscal years immediately following the date of the
123 application.

124 ~~11.10.~~ The estimated amount of tax refunds to be claimed
125 for each fiscal year.

126 ~~12.11.~~ A brief statement concerning the applicant's need
127 for tax refunds, and the proposed uses of such refunds by the
128 applicant.

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129 ~~13.12.~~ A resolution adopted by the county commissioners of
130 the county in which the project will be located, which
131 recommends the applicant be approved as a qualified applicant,
132 and which indicates that the necessary commitments of local
133 financial support for the applicant exist. Prior to the adoption
134 of the resolution, the county commission may review the proposed
135 public or private sources of such support and determine whether
136 the proposed sources of local financial support can be provided
137 or, for any applicant whose project is located in a county
138 designated by the Rural Economic Development Initiative, a
139 resolution adopted by the county commissioners of such county
140 requesting that the applicant's project be exempt from the local
141 financial support requirement.

142 ~~14.13.~~ Any additional information requested by the office.

143 (c) Applications for certification based on the conversion
144 of defense production jobs to nondefense production jobs must be
145 submitted to the office as prescribed by the office and must
146 include, but are not limited to, the following information:

147 1. The applicant's federal employer identification number,
148 the applicant's Florida sales tax registration number, and a
149 notarized signature of an officer of the applicant.

150 2. The permanent location of the manufacturing,
151 assembling, fabricating, research, development, or design
152 facility in this state at which the project is or is to be
153 located.

154 3. The Department of Defense contract numbers of the
155 contract under which the defense production jobs will be
156 converted to nondefense production jobs.

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157 4. The date the contract was executed, and the date the
158 contract is due to expire or is expected to expire, or was
159 canceled.

160 5. The commencement date for the nondefense production
161 operations in this state.

162 6. The number of net new full-time equivalent Florida jobs
163 included in the nondefense production project as of December 31
164 of each year and the average wage of such jobs.

165 7. The number of full-time equivalent Florida jobs to be
166 retained by the project.

167 ~~8.7.~~ The total number of full-time equivalent employees
168 employed by the applicant in this state.

169 ~~9.8.~~ The percentage of the applicant's gross receipts
170 derived from Department of Defense contracts during the 5
171 taxable years immediately preceding the date the application is
172 submitted.

173 ~~10.9.~~ The amount of:

174 a. Taxes on sales, use, and other transactions paid
175 pursuant to chapter 212;

176 b. Corporate income taxes paid pursuant to chapter 220;

177 c. Intangible personal property taxes paid pursuant to
178 chapter 199;

179 d. Emergency excise taxes paid pursuant to chapter 221;

180 e. Excise taxes paid on documents pursuant to chapter 201;

181 and

182 f. Ad valorem taxes paid
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184 during the 5 fiscal years immediately preceding the date of the
185 application, and the projected amounts of such taxes to be due
186 in the 3 fiscal years immediately following the date of the
187 application.

188 ~~11.10.~~ The estimated amount of tax refunds to be claimed
189 for each fiscal year.

190 ~~12.11.~~ A brief statement concerning the applicant's need
191 for tax refunds, and the proposed uses of such refunds by the
192 applicant.

193 ~~13.12.~~ A resolution adopted by the county commissioners of
194 the county in which the project will be located, which
195 recommends the applicant be approved as a qualified applicant,
196 and which indicates that the necessary commitments of local
197 financial support for the applicant exist. Prior to the adoption
198 of the resolution, the county commission may review the proposed
199 public or private sources of such support and determine whether
200 the proposed sources of local financial support can be provided
201 or, for any applicant whose project is located in a county
202 designated by the Rural Economic Development Initiative, a
203 resolution adopted by the county commissioners of such county
204 requesting that the applicant's project be exempt from the local
205 financial support requirement.

206 ~~14.13.~~ Any additional information requested by the office.

207 (d) Applications for certification based on a contract for
208 reuse of a defense-related facility must be submitted to the
209 office as prescribed by the office and must include, but are not
210 limited to, the following information:

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- 211 1. The applicant's Florida sales tax registration number
212 and a notarized signature of an officer of the applicant.
- 213 2. The permanent location of the manufacturing,
214 assembling, fabricating, research, development, or design
215 facility in this state at which the project is or is to be
216 located.
- 217 3. The business entity holding a valid Department of
218 Defense contract or branch of the Armed Forces of the United
219 States that previously occupied the facility, and the date such
220 entity last occupied the facility.
- 221 4. A copy of the contract to reuse the facility, or such
222 alternative proof as may be prescribed by the office that the
223 applicant is seeking to contract for the reuse of such facility.
- 224 5. The date the contract to reuse the facility was
225 executed or is expected to be executed, and the date the
226 contract is due to expire or is expected to expire.
- 227 6. The commencement date for project operations under the
228 contract in this state.
- 229 7. The number of full-time equivalent Florida jobs to be
230 retained by the project.
- 231 ~~8.7.~~ The number of net new full-time equivalent Florida
232 jobs included in the project as of December 31 of each year and
233 the average wage of such jobs.
- 234 ~~9.8.~~ The total number of full-time equivalent employees
235 employed by the applicant in this state.
- 236 10.9. The amount of:
- 237 a. Taxes on sales, use, and other transactions paid
238 pursuant to chapter 212.

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- 239 b. Corporate income taxes paid pursuant to chapter 220.
240 c. Intangible personal property taxes paid pursuant to
241 chapter 199.
242 d. Emergency excise taxes paid pursuant to chapter 221.
243 e. Excise taxes paid on documents pursuant to chapter 201.
244 f. Ad valorem taxes paid during the 5 fiscal years
245 immediately preceding the date of the application, and the
246 projected amounts of such taxes to be due in the 3 fiscal years
247 immediately following the date of the application.
- 248 ~~11.10.~~ The estimated amount of tax refunds to be claimed
249 for each fiscal year.
- 250 ~~12.11.~~ A brief statement concerning the applicant's need
251 for tax refunds, and the proposed uses of such refunds by the
252 applicant.
- 253 ~~13.12.~~ A resolution adopted by the county commissioners of
254 the county in which the project will be located, which
255 recommends the applicant be approved as a qualified applicant,
256 and which indicates that the necessary commitments of local
257 financial support for the applicant exist. Prior to the adoption
258 of the resolution, the county commission may review the proposed
259 public or private sources of such support and determine whether
260 the proposed sources of local financial support can be provided
261 or, for any applicant whose project is located in a county
262 designated by the Rural Economic Development Initiative, a
263 resolution adopted by the county commissioners of such county
264 requesting that the applicant's project be exempt from the local
265 financial support requirement.
- 266 ~~14.13.~~ Any additional information requested by the office.

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267 (7) EXPIRATION.--An applicant may not be certified as
268 qualified under this section after June 30, 2007 ~~2004~~.

269 Section 3. Subsection (7) of section 288.106, Florida
270 Statutes, is amended to read:

271 288.106 Tax refund program for qualified target industry
272 businesses.--

273 (7) EXPIRATION.--This section expires January 1, 2007 ~~June~~
274 ~~30, 2004~~.

275 Section 4. The Office of Tourism, Trade, and Economic
276 Development shall attempt to amend existing tax refund
277 agreements created under s. 288.106, Florida Statutes, to
278 require tax refund claims to be submitted by January 31 for the
279 net new full-time equivalent Florida jobs as of December 31 of
280 the preceding calendar year.

281 Section 5. The Office of Program Policy Analysis and
282 Government Accountability shall conduct a thorough review of the
283 programs set forth in ss. 288.1045 and 288.106, Florida
284 Statutes. The review should include, at a minimum, an evaluation
285 of the benefits that accrue to the state from the programs; an
286 evaluation of the program's administration, including whether
287 the program could be administered more efficiently under a
288 different administrative structure; and an evaluation of whether
289 the Legislature's oversight responsibilities would be better
290 served if the program was structured as a tax credit program
291 instead of as a tax refund program. The review shall include an
292 assessment of the fiscal or administrative benefits of the
293 potential structures reviewed. The review shall be submitted to

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294 the Governor, the Speaker of the House of Representatives, and
295 the President of the Senate by December 31, 2004.

296 Section 6. This act shall take effect upon becoming a law.

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

300 Remove the entire title and insert:

301 A bill to be entitled

302 An act relating to the tax refund program for qualified
303 defense contractors and qualified target industry
304 businesses; amending s. 288.095, F.S.; requiring payment
305 of claims for tax refunds in the order approved by the
306 Office of Tourism, Trade, and Economic Development;
307 specifying that unsatisfied tax refunds have first claim
308 to certain subsequent year appropriations under certain
309 circumstances; requiring the office to notify legislative
310 appropriations committees of certain funds shortfalls;
311 requiring Enterprise Florida, Inc., to report on the
312 efforts of the Office of Tourism, Trade, and Economic
313 Development to amend tax refund agreements; amending s.
314 288.1045, F.S.; defining the term "jobs" to include new
315 and retained jobs; requiring applications for
316 certification to include the number of jobs retained;
317 providing that new applicants may not be certified for the
318 tax refund program for qualified defense contractors after
319 June 30, 2007; amending s. 288.106, F.S.; revising an
320 expiration date for the tax refund program for qualified
321 target industry businesses; requiring the Office of

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322 | Tourism, Trade, and Economic Development to attempt to
323 | amend certain tax refund agreements, to conform; requiring
324 | the Office of Program Policy Analysis and Government
325 | Accountability to review certain programs; providing
326 | review criteria; requiring a report to the Governor and
327 | Legislature; providing an effective date.