

By the Committee on Commerce, Economic Opportunities, and  
Consumer Services

310-1124-04

1                                   A bill to be entitled  
2           An act relating to tax refund programs for  
3           qualified target industry businesses and  
4           qualified defense contractors; amending s.  
5           288.095, F.S.; requiring the Office of Tourism,  
6           Trade, and Economic Development to pay claims  
7           for tax refunds in the order approved;  
8           requiring Enterprise Florida, Inc., to report  
9           on the efforts of the Office of Tourism, Trade,  
10          and Economic Development to amend tax refund  
11          agreements; amending s. 288.1045, F.S.;  
12          defining the term "jobs" to include new and  
13          retained jobs; requiring applications for  
14          certification to include the number of jobs  
15          retained; providing that new applicants may not  
16          be certified for the tax refund program for  
17          qualified defense contractors after June 30,  
18          2009; specifying that tax refund agreements  
19          existing on that date continue in effect;  
20          amending s. 288.106, F.S.; providing that new  
21          applicants may not be certified for the tax  
22          refund program for qualified target industry  
23          businesses after June 30, 2009; specifying that  
24          tax refund agreements existing on that date  
25          continue in effect; requiring the Office of  
26          Tourism, Trade, and Economic Development to  
27          attempt to amend certain tax refund agreements,  
28          to conform; providing an effective date.

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30 Be It Enacted by the Legislature of the State of Florida:  
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1           Section 1. Paragraphs (b) and (c) of subsection (3) of  
2 section 288.095, Florida Statutes, are amended to read:

3           288.095 Economic Development Trust Fund.--

4           (3)

5           (b) The total amount of tax refund claims approved for  
6 payment by the Office of Tourism, Trade, and Economic

7 Development based on actual project performance may not exceed  
8 the amount appropriated to the Economic Development Incentives

9 Account for such purposes for the fiscal year. Claims for tax  
10 refunds under ss. 288.1045 and 288.106 shall be paid in the

11 order the claims are approved by the Office of Tourism, Trade,  
12 and Economic Development.In the event the Legislature does

13 not appropriate an amount sufficient to satisfy the estimates  
14 ~~by the office for~~ tax refunds under ss. 288.1045 and 288.106

15 in a fiscal year, the Office of Tourism, Trade, and Economic  
16 Development shall pay the tax refunds from the appropriation

17 for the following fiscal year. By March 1 of each year, the  
18 Office of Tourism, Trade, and Economic Development shall

19 notify the legislative appropriations committees of any  
20 anticipated shortfall in the amount of funds needed to satisfy

21 claims for tax refunds from the appropriation for the current  
22 fiscal year., not later than July 15 of such year, determine

23 ~~the proportion of each refund claim which shall be paid by~~  
24 ~~dividing the amount appropriated for tax refunds for the~~

25 ~~fiscal year by the estimated total of refund claims for the~~  
26 ~~fiscal year. The amount of each claim for a tax refund shall~~

27 ~~be multiplied by the resulting quotient. If, after the payment~~  
28 ~~of all such refund claims, funds remain in the Economic~~

29 ~~Development Incentives Account for tax refunds, the office~~  
30 ~~shall recalculate the proportion for each refund claim and~~

31 ~~adjust the amount of each claim accordingly.~~

1           (c) By December 31 of each year, Enterprise Florida,  
2 Inc., shall submit a complete and detailed report to the  
3 Governor, the President of the Senate, the Speaker of the  
4 House of Representatives, and the director of the Office of  
5 Tourism, Trade, and Economic Development of all applications  
6 received, recommendations made to the Office of Tourism,  
7 Trade, and Economic Development, final decisions issued, tax  
8 refund agreements executed, and tax refunds paid or other  
9 payments made under all programs funded out of the Economic  
10 Development Incentives Account, including analyses of benefits  
11 and costs, types of projects supported, and employment and  
12 investment created. Enterprise Florida, Inc., shall also  
13 include a separate analysis of the impact of such tax refunds  
14 on state enterprise zones designated pursuant to s. 290.0065,  
15 rural communities, brownfield areas, and distressed urban  
16 communities. The report must discuss whether the authority and  
17 moneys appropriated by the Legislature to the Economic  
18 Development Incentives Account were managed and expended in a  
19 prudent, fiducially sound manner. The report must also discuss  
20 the efforts made by the Office of Tourism, Trade, and Economic  
21 Development to amend tax refund agreements to require tax  
22 refund claims to be submitted by January 31 for the net new  
23 full-time equivalent Florida jobs as of December 31 of the  
24 preceding calendar year.The Office of Tourism, Trade, and  
25 Economic Development shall assist Enterprise Florida, Inc., in  
26 the collection of data related to business performance and  
27 incentive payments.

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

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1           288.1045 Qualified defense contractor tax refund  
2 program.--  
3           (1) DEFINITIONS.--As used in this section:  
4           (g) "Jobs" means full-time equivalent positions,  
5 consistent with the use of such terms by the Agency for  
6 Workforce Innovation for the purpose of unemployment  
7 compensation tax, created or retained as a direct result of  
8 ~~resulting directly from~~ a project in this state. This number  
9 does not include temporary construction jobs involved with the  
10 construction of facilities for the project.  
11           (3) APPLICATION PROCESS; REQUIREMENTS; AGENCY  
12 DETERMINATION.--  
13           (b) Applications for certification based on the  
14 consolidation of a Department of Defense contract or a new  
15 Department of Defense contract must be submitted to the office  
16 as prescribed by the office and must include, but are not  
17 limited to, the following information:  
18           1. The applicant's federal employer identification  
19 number, the applicant's Florida sales tax registration number,  
20 and a notarized signature of an officer of the applicant.  
21           2. The permanent location of the manufacturing,  
22 assembling, fabricating, research, development, or design  
23 facility in this state at which the project is or is to be  
24 located.  
25           3. The Department of Defense contract numbers of the  
26 contract to be consolidated, the new Department of Defense  
27 contract number, or the "RFP" number of a proposed Department  
28 of Defense contract.  
29           4. The date the contract was executed or is expected  
30 to be executed, and the date the contract is due to expire or  
31 is expected to expire.

1           5. The commencement date for project operations under  
2 the contract in this state.

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

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

8           ~~8.7.~~ The total number of full-time equivalent  
9 employees employed by the applicant in this state.

10          ~~9.8.~~ The percentage of the applicant's gross receipts  
11 derived from Department of Defense contracts during the 5  
12 taxable years immediately preceding the date the application  
13 is submitted.

14          ~~10.9.~~ The amount of:

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

17           b. Corporate income taxes paid pursuant to chapter  
18 220;

19           c. Intangible personal property taxes paid pursuant to  
20 chapter 199;

21           d. Emergency excise taxes paid pursuant to chapter  
22 221;

23           e. Excise taxes paid on documents pursuant to chapter  
24 201; and

25           f. Ad valorem taxes paid

26  
27 during the 5 fiscal years immediately preceding the date of  
28 the application, and the projected amounts of such taxes to be  
29 due in the 3 fiscal years immediately following the date of  
30 the application.

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1           ~~11.10.~~ The estimated amount of tax refunds to be  
2 claimed for each fiscal year.

3           ~~12.11.~~ A brief statement concerning the applicant's  
4 need for tax refunds, and the proposed uses of such refunds by  
5 the applicant.

6           ~~13.12.~~ A resolution adopted by the county  
7 commissioners of the county in which the project will be  
8 located, which recommends the applicant be approved as a  
9 qualified applicant, and which indicates that the necessary  
10 commitments of local financial support for the applicant  
11 exist. Prior to the adoption of the resolution, the county  
12 commission may review the proposed public or private sources  
13 of such support and determine whether the proposed sources of  
14 local financial support can be provided or, for any applicant  
15 whose project is located in a county designated by the Rural  
16 Economic Development Initiative, a resolution adopted by the  
17 county commissioners of such county requesting that the  
18 applicant's project be exempt from the local financial support  
19 requirement.

20           ~~14.13.~~ Any additional information requested by the  
21 office.

22           (c) Applications for certification based on the  
23 conversion of defense production jobs to nondefense production  
24 jobs must be submitted to the office as prescribed by the  
25 office and must include, but are not limited to, the following  
26 information:

27           1. The applicant's federal employer identification  
28 number, the applicant's Florida sales tax registration number,  
29 and a notarized signature of an officer of the applicant.

30           2. The permanent location of the manufacturing,  
31 assembling, fabricating, research, development, or design

1 facility in this state at which the project is or is to be  
2 located.

3 3. The Department of Defense contract numbers of the  
4 contract under which the defense production jobs will be  
5 converted to nondefense production jobs.

6 4. The date the contract was executed, and the date  
7 the contract is due to expire or is expected to expire, or was  
8 canceled.

9 5. The commencement date for the nondefense production  
10 operations in this state.

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

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

16 ~~8.7.~~ The total number of full-time equivalent  
17 employees employed by the applicant in this state.

18 ~~9.8.~~ The percentage of the applicant's gross receipts  
19 derived from Department of Defense contracts during the 5  
20 taxable years immediately preceding the date the application  
21 is submitted.

22 ~~10.9.~~ The amount of:

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

25 b. Corporate income taxes paid pursuant to chapter  
26 220;

27 c. Intangible personal property taxes paid pursuant to  
28 chapter 199;

29 d. Emergency excise taxes paid pursuant to chapter  
30 221;

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1 e. Excise taxes paid on documents pursuant to chapter  
2 201; and

3 f. Ad valorem taxes paid  
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5 during the 5 fiscal years immediately preceding the date of  
6 the application, and the projected amounts of such taxes to be  
7 due in the 3 fiscal years immediately following the date of  
8 the application.

9 ~~11.10.~~ The estimated amount of tax refunds to be  
10 claimed for each fiscal year.

11 ~~12.11.~~ A brief statement concerning the applicant's  
12 need for tax refunds, and the proposed uses of such refunds by  
13 the applicant.

14 ~~13.12.~~ A resolution adopted by the county  
15 commissioners of the county in which the project will be  
16 located, which recommends the applicant be approved as a  
17 qualified applicant, and which indicates that the necessary  
18 commitments of local financial support for the applicant  
19 exist. Prior to the adoption of the resolution, the county  
20 commission may review the proposed public or private sources  
21 of such support and determine whether the proposed sources of  
22 local financial support can be provided or, for any applicant  
23 whose project is located in a county designated by the Rural  
24 Economic Development Initiative, a resolution adopted by the  
25 county commissioners of such county requesting that the  
26 applicant's project be exempt from the local financial support  
27 requirement.

28 ~~14.13.~~ Any additional information requested by the  
29 office.

30 (d) Applications for certification based on a contract  
31 for reuse of a defense-related facility must be submitted to



1 the office as prescribed by the office and must include, but  
2 are not limited to, the following information:

3 1. The applicant's Florida sales tax registration  
4 number and a notarized signature of an officer of the  
5 applicant.

6 2. The permanent location of the manufacturing,  
7 assembling, fabricating, research, development, or design  
8 facility in this state at which the project is or is to be  
9 located.

10 3. The business entity holding a valid Department of  
11 Defense contract or branch of the Armed Forces of the United  
12 States that previously occupied the facility, and the date  
13 such entity last occupied the facility.

14 4. A copy of the contract to reuse the facility, or  
15 such alternative proof as may be prescribed by the office that  
16 the applicant is seeking to contract for the reuse of such  
17 facility.

18 5. The date the contract to reuse the facility was  
19 executed or is expected to be executed, and the date the  
20 contract is due to expire or is expected to expire.

21 6. The commencement date for project operations under  
22 the contract in this state.

23 7. The number of net new full-time equivalent Florida  
24 jobs included in the project as of December 31 of each year  
25 and the average wage of such jobs.

26 8. The number of full-time equivalent Florida jobs to  
27 be retained by the project.

28 ~~9.8.~~ The total number of full-time equivalent  
29 employees employed by the applicant in this state.

30 ~~10.9.~~ The amount of:  
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1           a. Taxes on sales, use, and other transactions paid  
2 pursuant to chapter 212.

3           b. Corporate income taxes paid pursuant to chapter  
4 220.

5           c. Intangible personal property taxes paid pursuant to  
6 chapter 199.

7           d. Emergency excise taxes paid pursuant to chapter  
8 221.

9           e. Excise taxes paid on documents pursuant to chapter  
10 201.

11           f. Ad valorem taxes paid during the 5 fiscal years  
12 immediately preceding the date of the application, and the  
13 projected amounts of such taxes to be due in the 3 fiscal  
14 years immediately following the date of the application.

15           11.10. The estimated amount of tax refunds to be  
16 claimed for each fiscal year.

17           12.11. A brief statement concerning the applicant's  
18 need for tax refunds, and the proposed uses of such refunds by  
19 the applicant.

20           13.12. A resolution adopted by the county  
21 commissioners of the county in which the project will be  
22 located, which recommends the applicant be approved as a  
23 qualified applicant, and which indicates that the necessary  
24 commitments of local financial support for the applicant  
25 exist. Prior to the adoption of the resolution, the county  
26 commission may review the proposed public or private sources  
27 of such support and determine whether the proposed sources of  
28 local financial support can be provided or, for any applicant  
29 whose project is located in a county designated by the Rural  
30 Economic Development Initiative, a resolution adopted by the  
31 county commissioners of such county requesting that the

1 applicant's project be exempt from the local financial support  
2 requirement.

3 ~~14.13.~~ Any additional information requested by the  
4 office.

5 (7) EXPIRATION.--An applicant may not be certified as  
6 qualified under this section after June 30, 2009 ~~2004~~. A tax  
7 refund agreement existing on that date, however, shall  
8 continue in effect in accordance with its terms.

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

11 288.106 Tax refund program for qualified target  
12 industry businesses.--

13 (7) EXPIRATION.--An applicant may not be certified as  
14 qualified under this section after June 30, 2009. A tax refund  
15 agreement existing on that date, however, shall continue in  
16 effect in accordance with its terms.~~This section expires June~~  
17 ~~30, 2004.~~

18 Section 4. The Office of Tourism, Trade, and Economic  
19 Development shall attempt to amend existing tax refund  
20 agreements created under section 288.106, Florida Statutes, to  
21 require tax refund claims to be submitted by January 31 for  
22 the net new full-time equivalent Florida jobs as of December  
23 31 of the preceding calendar year.

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

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SENATE SUMMARY

Revises provisions governing the tax refund programs for qualified target industry businesses and qualified defense contractors. Requires the Office of Tourism, Trade, and Economic Development to pay claims for refunds in the order approved. Includes new and retained jobs within the definition of the term "jobs." Discontinues the refund program for new applicants after June 30, 2009. (See bill for details.)