

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

310-2095-04

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; requiring Enterprise Florida, Inc.,  
12          to report the name and tax refund amount paid  
13          to each business under the programs; amending  
14          s. 288.1045, F.S.; defining the term "jobs" to  
15          include new and retained jobs; requiring  
16          applications for certification to include the  
17          number of jobs retained; providing that new  
18          applicants may not be certified for the tax  
19          refund program for qualified defense  
20          contractors after June 30, 2009; specifying  
21          that tax refund agreements existing on that  
22          date continue in effect; amending s. 288.106,  
23          F.S.; providing that new applicants may not be  
24          certified for the tax refund program for  
25          qualified target industry businesses after June  
26          30, 2009; specifying that tax refund agreements  
27          existing on that date continue in effect;  
28          requiring the Office of Tourism, Trade, and  
29          Economic Development to attempt to amend  
30          certain tax refund agreements, to conform;  
31          providing an effective date.

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

2  
3 Section 1. Paragraphs (b) and (c) of subsection (3) of  
4 section 288.095, Florida Statutes, are amended to read:

5 288.095 Economic Development Trust Fund.--

6 (3)

7 (b) The total amount of tax refund claims approved for  
8 payment by the Office of Tourism, Trade, and Economic  
9 Development based on actual project performance may not exceed  
10 the amount appropriated to the Economic Development Incentives  
11 Account for such purposes for the fiscal year. Claims for tax  
12 refunds under ss. 288.1045 and 288.106 shall be paid in the  
13 order the claims are approved by the Office of Tourism, Trade,  
14 and Economic Development.In the event the Legislature does  
15 not appropriate an amount sufficient to satisfy the estimates  
16 by the office for tax refunds under ss. 288.1045 and 288.106  
17 in a fiscal year, the Office of Tourism, Trade, and Economic  
18 Development shall pay the tax refunds from the appropriation  
19 for the following fiscal year. By March 1 of each year, the  
20 Office of Tourism, Trade, and Economic Development shall  
21 notify the legislative appropriations committees of any  
22 anticipated shortfall in the amount of funds needed to satisfy  
23 claims for tax refunds from the appropriation for the current  
24 fiscal year., not later than July 15 of such year, determine  
25 the proportion of each refund claim which shall be paid by  
26 dividing the amount appropriated for tax refunds for the  
27 fiscal year by the estimated total of refund claims for the  
28 fiscal year. The amount of each claim for a tax refund shall  
29 be multiplied by the resulting quotient. If, after the payment  
30 of all such refund claims, funds remain in the Economic  
31 Development Incentives Account for tax refunds, the office

1 ~~shall recalculate the proportion for each refund claim and~~  
2 ~~adjust the amount of each claim accordingly.~~

3 (c) By December 31 of each year, Enterprise Florida,  
4 Inc., shall submit a complete and detailed report to the  
5 Governor, the President of the Senate, the Speaker of the  
6 House of Representatives, and the director of the Office of  
7 Tourism, Trade, and Economic Development of all applications  
8 received, recommendations made to the Office of Tourism,  
9 Trade, and Economic Development, final decisions issued, tax  
10 refund agreements executed, and tax refunds paid or other  
11 payments made under all programs funded out of the Economic  
12 Development Incentives Account, including analyses of benefits  
13 and costs, types of projects supported, and employment and  
14 investment created. Enterprise Florida, Inc., shall also  
15 include a separate analysis of the impact of such tax refunds  
16 on state enterprise zones designated pursuant to s. 290.0065,  
17 rural communities, brownfield areas, and distressed urban  
18 communities. The report must discuss whether the authority and  
19 moneys appropriated by the Legislature to the Economic  
20 Development Incentives Account were managed and expended in a  
21 prudent, fiducially sound manner. The report must also discuss  
22 the efforts made by the Office of Tourism, Trade, and Economic  
23 Development to amend tax refund agreements to require tax  
24 refund claims to be submitted by January 31 for the net new  
25 full-time equivalent Florida jobs as of December 31 of the  
26 preceding calendar year. The report must also list the name  
27 and tax refund amount for each business that has received a  
28 tax refund under s. 288.1045 or s. 288.106 during the prior  
29 fiscal year. The Office of Tourism, Trade, and Economic  
30 Development shall assist Enterprise Florida, Inc., in the  
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1 collection of data related to business performance and  
2 incentive payments.

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

6 288.1045 Qualified defense contractor tax refund  
7 program.--

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

9 (g) "Jobs" means full-time equivalent positions,  
10 consistent with the use of such terms by the Agency for  
11 Workforce Innovation for the purpose of unemployment  
12 compensation tax, created or retained as a direct result of  
13 ~~resulting directly from~~ a project in this state. This number  
14 does not include temporary construction jobs involved with the  
15 construction of facilities for the project.

16 (3) APPLICATION PROCESS; REQUIREMENTS; AGENCY  
17 DETERMINATION.--

18 (b) Applications for certification based on the  
19 consolidation of a Department of Defense contract or a new  
20 Department of Defense contract must be submitted to the office  
21 as prescribed by the office and must include, but are not  
22 limited to, the following information:

23 1. The applicant's federal employer identification  
24 number, the applicant's Florida sales tax registration number,  
25 and a notarized signature of an officer of the applicant.

26 2. The permanent location of the manufacturing,  
27 assembling, fabricating, research, development, or design  
28 facility in this state at which the project is or is to be  
29 located.

30 3. The Department of Defense contract numbers of the  
31 contract to be consolidated, the new Department of Defense

1 contract number, or the "RFP" number of a proposed Department  
2 of Defense contract.

3 4. The date the contract was executed or is expected  
4 to be executed, and the date the contract is due to expire or  
5 is expected to expire.

6 5. The commencement date for project operations under  
7 the contract in this state.

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

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

13 ~~8.7.~~ The total number of full-time equivalent  
14 employees employed by the applicant in this state.

15 ~~9.8.~~ The percentage of the applicant's gross receipts  
16 derived from Department of Defense contracts during the 5  
17 taxable years immediately preceding the date the application  
18 is submitted.

19 ~~10.9.~~ The amount of:

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

22 b. Corporate income taxes paid pursuant to chapter  
23 220;

24 c. Intangible personal property taxes paid pursuant to  
25 chapter 199;

26 d. Emergency excise taxes paid pursuant to chapter  
27 221;

28 e. Excise taxes paid on documents pursuant to chapter  
29 201; and

30 f. Ad valorem taxes paid  
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1 during the 5 fiscal years immediately preceding the date of  
2 the application, and the projected amounts of such taxes to be  
3 due in the 3 fiscal years immediately following the date of  
4 the application.

5 ~~11.10.~~ The estimated amount of tax refunds to be  
6 claimed for each fiscal year.

7 ~~12.11.~~ A brief statement concerning the applicant's  
8 need for tax refunds, and the proposed uses of such refunds by  
9 the applicant.

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

24 ~~14.13.~~ Any additional information requested by the  
25 office.

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

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

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

8           3. The Department of Defense contract numbers of the  
9 contract under which the defense production jobs will be  
10 converted to nondefense production jobs.

11           4. The date the contract was executed, and the date  
12 the contract is due to expire or is expected to expire, or was  
13 canceled.

14           5. The commencement date for the nondefense production  
15 operations in this state.

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

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

21           ~~8.7.~~ The total number of full-time equivalent  
22 employees employed by the applicant in this state.

23           ~~9.8.~~ The percentage of the applicant's gross receipts  
24 derived from Department of Defense contracts during the 5  
25 taxable years immediately preceding the date the application  
26 is submitted.

27           ~~10.9.~~ The amount of:

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

30           b. Corporate income taxes paid pursuant to chapter  
31 220;

1           c. Intangible personal property taxes paid pursuant to  
2 chapter 199;  
3           d. Emergency excise taxes paid pursuant to chapter  
4 221;  
5           e. Excise taxes paid on documents pursuant to chapter  
6 201; and  
7           f. Ad valorem taxes paid  
8  
9 during the 5 fiscal years immediately preceding the date of  
10 the application, and the projected amounts of such taxes to be  
11 due in the 3 fiscal years immediately following the date of  
12 the application.  
13           ~~11.10.~~ The estimated amount of tax refunds to be  
14 claimed for each fiscal year.  
15           ~~12.11.~~ A brief statement concerning the applicant's  
16 need for tax refunds, and the proposed uses of such refunds by  
17 the applicant.  
18           ~~13.12.~~ A resolution adopted by the county  
19 commissioners of the county in which the project will be  
20 located, which recommends the applicant be approved as a  
21 qualified applicant, and which indicates that the necessary  
22 commitments of local financial support for the applicant  
23 exist. Prior to the adoption of the resolution, the county  
24 commission may review the proposed public or private sources  
25 of such support and determine whether the proposed sources of  
26 local financial support can be provided or, for any applicant  
27 whose project is located in a county designated by the Rural  
28 Economic Development Initiative, a resolution adopted by the  
29 county commissioners of such county requesting that the  
30 applicant's project be exempt from the local financial support  
31 requirement.



1           ~~14.13.~~ Any additional information requested by the  
2 office.

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

7           1. The applicant's Florida sales tax registration  
8 number and a notarized signature of an officer of the  
9 applicant.

10           2. The permanent location of the manufacturing,  
11 assembling, fabricating, research, development, or design  
12 facility in this state at which the project is or is to be  
13 located.

14           3. The business entity holding a valid Department of  
15 Defense contract or branch of the Armed Forces of the United  
16 States that previously occupied the facility, and the date  
17 such entity last occupied the facility.

18           4. A copy of the contract to reuse the facility, or  
19 such alternative proof as may be prescribed by the office that  
20 the applicant is seeking to contract for the reuse of such  
21 facility.

22           5. The date the contract to reuse the facility was  
23 executed or is expected to be executed, and the date the  
24 contract is due to expire or is expected to expire.

25           6. The commencement date for project operations under  
26 the contract in this state.

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

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

1           ~~9.8.~~ The total number of full-time equivalent  
2 employees employed by the applicant in this state.

3           10.9. The amount of:

4           a. Taxes on sales, use, and other transactions paid  
5 pursuant to chapter 212.

6           b. Corporate income taxes paid pursuant to chapter  
7 220.

8           c. Intangible personal property taxes paid pursuant to  
9 chapter 199.

10           d. Emergency excise taxes paid pursuant to chapter  
11 221.

12           e. Excise taxes paid on documents pursuant to chapter  
13 201.

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

18           ~~11.10.~~ The estimated amount of tax refunds to be  
19 claimed for each fiscal year.

20           ~~12.11.~~ A brief statement concerning the applicant's  
21 need for tax refunds, and the proposed uses of such refunds by  
22 the applicant.

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

1 whose project is located in a county designated by the Rural  
2 Economic Development Initiative, a resolution adopted by the  
3 county commissioners of such county requesting that the  
4 applicant's project be exempt from the local financial support  
5 requirement.

6 ~~14.13.~~ Any additional information requested by the  
7 office.

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

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

14 288.106 Tax refund program for qualified target  
15 industry businesses.--

16 (7) EXPIRATION.--An applicant may not be certified as  
17 qualified under this section after June 30, 2009. A tax refund  
18 agreement existing on that date, however, shall continue in  
19 effect in accordance with its terms.~~This section expires June~~  
20 ~~30, 2004.~~

21 Section 4. The Office of Tourism, Trade, and Economic  
22 Development shall attempt to amend existing tax refund  
23 agreements created under section 288.106, Florida Statutes, to  
24 require tax refund claims to be submitted by January 31 for  
25 the net new full-time equivalent Florida jobs as of December  
26 31 of the preceding calendar year.

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

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 1494

The committee substitute adds a requirement that Enterprise Florida, Inc., list the name and tax refund amount provided to each business under s. 288.1045, F.S., or s. 288.106, F.S., in its annual report on incentives funded from the Economic Development Incentives Account.