

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2182

SPONSOR: Commerce, Economic Opportunities, and Consumer Services Committee and Senator Lynn

SUBJECT: Tax Refunds for Hiring a Person Who Has a Disability

DATE: March 24, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Maclure	Maclure	CM	Favorable/CS
2.	_____	_____	ED	_____
3.	_____	_____	CJ	_____
4.	_____	_____	FT	_____
5.	_____	_____	AED	_____
6.	_____	_____	AP	_____

I. Summary:

Committee Substitute for Senate Bill 2182 creates a program under which a business may receive a tax refund for hiring a person who has a disability. The refund is equal to 20 percent of the portion of the monthly wages which exceeds the federal minimum wage, up to a maximum refund not exceeding \$6,000. The business may receive a bonus refund of \$70 per month if the employee is covered by the employer's health insurance plan.

An eligible employee must meet the standards for being disabled under the state's vocational rehabilitation program, have been hired after July 1, 2004, work at least 80 hours per month, and earn a salary that exceeds the federal minimum wage. An employee may serve as a basis for tax refunds for no more than 24 cumulative months. In addition, a business may claim refunds for no more than five employees.

Refunds under the program are subject to legislative appropriation and may be claimed, starting August 1 of each fiscal year, on a first-come, first-serve basis until appropriated funds are exhausted. The committee substitute provides criminal penalties for fraudulent claims (third-degree felony) and for repayment of the refund plus a penalty of 200 percent of the refund. The tax refund program expires on June 30, 2010.

This committee substitute creates an unnumbered section of the Florida Statutes.

II. Present Situation:

Vocational Rehabilitation Program

Chapter 413, F.S., governs the provision of vocational rehabilitation services, including the blind services program (part I) and the vocational rehabilitation program (part II). The Department of Education is the designated state agency for the purposes of effecting compliance with the federal Vocational Rehabilitation Act of 1973 as amended. The department’s Division of Vocational Rehabilitation is the administrative unit responsible for determining eligibility and providing services to persons with disabilities (s. 413.202, F.S.). The vocational rehabilitation program provides comprehensive and coordinated programs of vocational rehabilitation and independent living for individuals with disabilities in order to maximize their employability, independence, and integration into the workplace. Services are provided through Vocational Rehabilitation centers located throughout the state.

A “person who has a disability” is someone “who has a physical or mental impairment that, for the individual, constitutes or results in a substantial impediment to employment and who can therefore benefit in terms of an employment outcome from vocational rehabilitation services” (s. 413.20(16), F.S.). An employment outcome is entering or retaining full-time or part-time competitive employment in the integrated labor market to the greatest extent practicable, supported employment, or other type of employment, including self-employment, telecommuting, or business ownership.

Based on 2000 Census data for Florida, 22.2 percent of the population from 21 to 64 years of age has a disability. Of those working-age persons with a disability (age 21-64), 58.3 percent were employed compared to 74.9 percent of working-age persons without a disability. The division estimates that it places approximately 10,000 individuals in jobs each year.

Program Resources

The major programs and services provided by the Vocational Rehabilitation Program are funded through federal grants. The state is required to provide matching funds equivalent to 21.3 percent of the grant award.

Program Estimated Funding	2003-04
<i>General Revenue</i>	\$25,242,059
<i>Trust Funds</i>	\$119,218,848
<i>Total</i>	\$144,460,907
Staffing	2003-04
<i>FTE Staff</i>	1,010.00

(Source: Office of Program Policy Analysis and Government Accountability, *Florida Government Accountability Report (FGAR)*, available at <http://www.oppaga.state.fl.us/profiles/2127/>)

Needs Assessment

According to the division's 2004 Federal State Plan, the department and the division conducted a needs assessment of the program and its clients. Program performance and gaps in services were identified by division staff, clients, and partners. Client-related issues/areas addressed in the needs assessment included the following:

- The perception that there are economic disincentives for persons with disabilities obtaining employment.
- Lack of transportation.
- Lack of information about and availability of supported employment services.
- Need for education and employment expectations, career planning, and self-advocacy for youth.¹

The division's needs assessment also identified numerous employer related issues, including:

- Employers need to be educated about hiring people with disabilities and the benefits of the vocational rehabilitation program.
- Employers need to be provided more information about disability issues and employment-related needs of persons with disabilities.
- Employers are not aware of what division services are available to them to support the hiring of persons with disabilities.
- The division needs to develop improved relationships with employers at the upper management levels.
- The use of Business Advisory Councils may be an effective strategy for improving the placement activities for persons with disabilities.
- Education and awareness programs designed for employers should also address attitudinal and fear issues about hiring persons with disabilities.²

Employer's Attitudes Toward Hiring Persons with Disabilities

The Able Trust, also known as the Florida Governor's Alliance for the Employment of Citizens with Disabilities, is a 501(c)(3) public-private partnership foundation established by the Legislature in 1990. The Able Trust provides grants and raises funds to support vocational rehabilitation programs and services leading to the employment of Florida citizens with disabilities. Funding for the Able Trust is provided through a surcharge on non-criminal moving traffic violations and through allocation of fees for temporary disabled parking permits. In addition, the Able Trust receives revenue through private gifts, grants, and donations.

In October 2003, the Able Trust released a report describing a statewide survey of employers on their attitudes towards and hiring practices of persons with disabilities.³ The Able Trust

¹ Division of Vocational Rehabilitation, the Department of Education, *2004 Federal State Plan for Vocational Rehabilitation Services: Federal Fiscal Year 2004*, Attachment 4.12(a) at 2-3 (effective October 1, 2003).

² *Id* at 3.

³ The Able Trust, *Dispelling Myths of an Untapped Workforce: A Study of Employer Attitudes Toward Hiring Individuals with Disabilities*, October 2003.

contracted with the Center for Information, Technology, and Evaluation Services of Florida State University to conduct the study. A state-wide sample of Florida businesses were surveyed. Businesses were divided into Chamber of Commerce members and non-Chambers for comparison purposes.

The study reported the following findings:

- About one-third of all respondents reported being highly aware of disability issues, with Chamber members having a higher level of awareness than non-members. Both groups agreed that persons with behavioral disabilities were the most difficult of all categories to accommodate on the job.
- About 80 percent of the businesses in the total sample said they employed one or more persons with disabilities, and 70 percent reported hiring between 1 and 15 such employees.
- About 40 percent of the respondents did not anticipate hiring any persons with disabilities within the next two years.
- Fifty percent of the respondents stated that their business has a formal policy for hiring persons with disabilities.
- About 30 percent of all businesses in the total sample have policies that commit them to actively recruit persons with disabilities.
- More than 50 percent of the total sample believes that their companies do a good job of providing adequate accommodations, matching jobs and abilities, creating a disability-friendly work environment, and handling termination of workers with disabilities when necessary.
- Businesses generally had a lack of familiarity with several state and national agencies and programs related to persons with disabilities.⁴

The study presented the following conclusions:

- Overall results present generally a positive picture of the practices, policies, and attitudes of Florida employers toward workers with disabilities.
- Findings indicate that Chamber of Commerce members appear to have a greater level of awareness of disability issues and have formal disability hiring policies and have made accommodations for employees with disabilities.
- There is a lack of knowledge among employers about disability issues and resources available to businesses.
- Businesses employing persons with disabilities had more positive attitudes toward them than businesses which tended to not employ such employees.⁵

Incentives for Hiring Persons with Disabilities

The Able Trust, in collaboration with the Business Leadership Network, has published a resource guide for employers on the hiring of persons with disabilities.⁶ The guide provides contact

⁴ *Id* at 5-7.

⁵ *Id* at 40.

information for numerous resources and benefits to employers who have hired or would consider hiring persons with disabilities, including Division of Vocational Rehabilitation contacts and current tax benefits for employers.

The federal Work Opportunity Tax Credit (WOTC), authorized by the Small Business Job Protection Act of 1996 (P.L. 104-188), is a federal tax credit that encourages employers to hire persons within nine targeted groups of job seekers by reducing the employers' federal income tax liability by as much as \$2,400 per qualified new worker. WOTC applies only to new employees hired after September 30, 1996, and before January 1, 2004. The new employee must be in one or more of the following nine target groups:

- A disabled person who completed or is completing rehabilitative services from a state or the U.S. Department of Veterans Affairs.
- A member of a family receiving or that has recently received Temporary Assistance for Needy Families or Aid to Families with Dependent Children.
- An 18- to 24-year-old member of a family receiving or that has recently received Food Stamps.
- An 18- to 24-year-old resident of the Federal designated Empowerment Zones (EZ), Enterprise Communities (EC), or Renewal Communities(RC).
- A 16- to 17-year-old EZ, EC, or RC resident hired between May 1 and September 15 as a Summer Youth Employee.
- A veteran who is a member of a family receiving or that has recently received Food Stamps.
- An ex-felon who is a member of a low-income family.
- A recipient of Supplemental Security Income (SSI) benefits.
- The New York Liberty Zone Business Employee.

As noted above, an individual with a disability who has completed or is completing services from the Division of Vocational Rehabilitation is one of the targeted groups that make businesses eligible for the Work Opportunity Tax Credit. The Agency for Workforce Innovation is responsible for assisting employers with the Work Opportunity Tax Credit in collaboration with Workforce Florida, Inc., through the 24 regional workforce boards and one-stop centers throughout the state. The Division of Vocational Rehabilitation, in collaboration with the agency, is responsible for certifying that an employee is a member of a targeted group upon a filing by an employer of IRS Form 8850, which is the pre-screening notice and certification request for work opportunity tax credits.

In addition to the Work Opportunity Tax Credit there are other federal tax incentives for employers to help offset the cost of providing accommodations for employees with disabilities. These include:

- The Small Business Tax Credit: IRS Code Section 44, Disabled Access Credit – Small businesses may take an annual tax credit for making their businesses accessible to persons with disabilities. Eligible businesses must have earned no more than \$1 million in

⁶ The Able Trust, *Disability Employment Practices: A Resource Guide for Recruiting, Hiring and Employing People with Disabilities*.

- revenue in the previous year and have 30 or fewer full-time employees. The tax credit is 50 percent of expenditures over \$250, not to exceed \$10,250, for a maximum benefit of \$5,000. The credit is subtracted from the business's total tax liability.
- The Architectural/Transportation Tax Deduction: IRS Code Section 190, Barrier Removal – Businesses may take an annual deduction for expenses incurred to remove physical, structural, and transportation barriers for persons with disabilities. All businesses are eligible, and the tax deductions up to \$15,000 a year for expenses incurred to remove barriers for persons with disabilities. Amounts in excess of the \$15,000 may be depreciated.

Research for this staff analysis has identified no state tax incentives for businesses which specifically target the hiring of persons with disabilities.

Tax Refund Programs for Economic Development

The Qualified Target Industry Tax Refund Program and the Qualified Defense Contractor Tax Refund Program are two of the state's economic development incentives, under which eligible existing or new businesses may receive refunds based upon job creation or retention in this state.

Qualified Target Industry Businesses

A qualified target industry (QTI) business may receive a tax refund equal to the tax refund per job times the number of jobs created, pursuant to a tax refund agreement with the Office of Tourism, Trade, and Economic Development (OTTED).⁷ The tax refund per job is between \$3,000 and \$8,000, depending upon the average salary of the jobs created and whether the jobs are located within a rural county or enterprise zone.⁸ Taxes that may be refunded under the program include corporate income taxes; insurance premium taxes; taxes on sales, use, and other transactions; intangible personal property taxes; emergency excise taxes; excise taxes on documents; and certain ad valorem taxes.

The total tax refund must be paid to a business over a 4-year or longer period.⁹ The maximum refund that a business may receive in any year is \$1.5 million or, if the business is located in an enterprise zone, \$2.5 million.¹⁰ The total refund that a business may receive may not exceed \$5 million or, if the business is located in an enterprise zone, \$7.5 million.¹¹ The total amount of tax refunds that OTTED may schedule for payment under the QTI and QDC programs may not exceed \$35 million in any fiscal year.¹²

⁷ Section 288.106(2), F.S.

⁸ Section 288.106(2)(b), F.S.

⁹ See s. 288.106(2)(b), F.S.

¹⁰ *Id.*

¹¹ *Id.*

¹² Section 288.095(3)(a), F.S.

Qualified Defense Contractors

The qualified defense contractor (QDC) tax refund program was created in 1993 after the Cold War ended. The impetus for the program appears to have been Executive Order No. 93-118, signed by Governor Chiles on April 13, 1993.¹³ The order found:

- The federal government is in the midst of major post-Cold War cuts in the nation's defense industry.
- By 1997, the federal defense budget is projected to decline by more than 42 percent, in real terms, from 1985 levels.
- The federal cuts include a 30-percent reduction in military personnel, base closures, and elimination of numerous defense contracts for goods and services, with employment losses in Florida of up to 55,000 by 1997.¹⁴

Apparently, the QDC program was designed to help protect Florida defense businesses from cuts in federal defense spending.

The QDC program provides tax refunds for job creation similar to the tax refund program for qualified target industries.¹⁵ The programs, however, differ significantly as follows:

- Tax refunds under the QDC program are paid for each job retained in addition to each new job created.¹⁶
- Participation in the QDC program is limited to certain defense contractors.¹⁷
- OTTED has the discretion to score applications for certification as a QDC business, and a tax refund of up to \$5,000 per job is based on that score.¹⁸

III. Effect of Proposed Changes:

Committee Substitute for Senate Bill 2182 creates a program under which a business that hires a person who has a disability may apply, subject to an appropriation by the Legislature, for a refund of previously paid taxes. The refund is equal to 20 percent of the portion of monthly wages paid to the employee which exceeds the federal minimum wage. The total refund in one fiscal year may not exceed \$6,000. Notwithstanding this limit, however, a business may receive a bonus refund of \$70 per month if the employee is covered by the business's health insurance plan.

¹³ See Florida Senate Committee on International Trade, Economic Development, and Tourism, *Staff Analysis and Economic Impact Statement of CS/SB 32-C*, at 2-3 (Nov. 3, 1993).

¹⁴ Executive Order No. 93-118, Signed by Governor Lawton Chiles on April 13, 1993 (creating the Florida Defense Conversion Transition Commission).

¹⁵ According to OTTED staff, the statute creating the QDC program was used as a model for s. 288.106, F.S., the statute creating the QTI program.

¹⁶ OTTED authorizes the payment of tax refunds to QDC businesses for jobs retained. Section 288.1045, F.S., however, is ambiguous as to whether tax refunds are authorized for both retained and new jobs or only new jobs.

¹⁷ Section 288.1045(3)(e)5., F.S.

¹⁸ Section 288.1045(2)(b) and (3)(f), F.S.

Eligibility

To serve as a basis for a tax refund under the program, an employee must meet the criteria used by the Division of Vocational Rehabilitation of the Department of Education to establish disability for purposes of receiving vocational rehabilitation services from the state. In addition, the employee must have been hired after July 1, 2004, work at least 80 hours per month, and earn a salary that exceeds the federal minimum wage of \$5.15 per hour.

Refund Limitations

A business may claim a refund for any month that an eligible employee is employed by the business, except, however, that an employee may serve as the basis for tax refunds for a period of no more than 24 cumulative months. In addition, a business may claim refunds based on no more than five employees.

The following taxes paid by the business may be refunded under the program:

- Corporate income taxes;
- Sales and use taxes;
- Intangible personal property taxes;
- Emergency excise taxes on documents; and
- Ad valorem taxes.

However, the total refund amount may not exceed the amount paid by the business in the prior fiscal year under the particular tax category that is the basis for the refund. In addition, a business may not receive a refund for any amount of tax credit, refund, or exemption granted to the business for the taxes covered by the program.

Administration, Application, and Approval

For any fiscal year in which the Legislature appropriates moneys for the refund program, an eligible business may apply for a refund, starting August 1, to the Division of Vocational Rehabilitation of the Department of Education. A business may apply for a refund on a monthly basis or may aggregate refund claims for multiple months. The division shall work with the Division of Blind Services to determine if the employee is a person who has a disability and shall work with the Department of Revenue and the Agency for Workforce Innovation to verify the payment of taxes and the employment status and wages of the employee. The Division of Vocational Rehabilitation must notify the business within 60 days whether the claim for a refund is approved.

Refunds are to be paid on a first-come, first-serve basis, according to the order in which the division approves the refund claims. Refunds, however, are subject to legislative appropriation. If the Legislature does not appropriate sufficient funds to satisfy all claims in a given fiscal year, and funds are no longer available when a business is approved for a refund, the business must forego its refund for that fiscal year. However, the business may reapply for a refund in a subsequent fiscal year, provided that the employee who is the basis for the refund has not been the basis of refunds for more than 24 months cumulatively.

The committee substitute authorizes the Division of Vocational Rehabilitation to adopt rules to administer the tax refund program. The measure also requires the division annually, by January 1, to submit an estimate to the Legislature of the amount necessary to satisfy anticipated claims in the following fiscal year.

Penalties

The committee substitute provides that it is a third-degree felony for a business to fraudulently claim a tax refund under this program. In addition, a business that makes a fraudulent claim is liable for repayment of the amount of the refund, plus a penalty equal to 200 percent of the tax refund.

Program Expiration

The committee substitute specifies that the tax refund program expires on June 30, 2010.

Appropriation

The tax refunds under this program are subject to a legislative appropriation for that purpose. The bill provides for an unspecified appropriation from the General Revenue Fund for the payment of tax refunds under the program during fiscal year 2004-2005.

Effective Date

The committee substitute provides an effective date of July 1, 2004.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The committee substitute authorizes the payment of tax refunds to businesses that hire persons with disabilities. The refunds are subject to an appropriation by the Legislature

each fiscal year. The committee substitute provides an unspecified appropriation for tax refunds under this program for fiscal year 2004-2005 from the General Revenue Fund.

The maximum allowable refund amount under the program is \$6,000 per fiscal year per employee, plus a bonus refund of \$840 per fiscal year (\$70 month) if the employee is covered by the business's health insurance plan. The Division of Vocational Rehabilitation of the Department of Education reports that it placed approximately 9,987 disabled individuals in employment in the 2002-2003 fiscal year. In addition, the Division of Blind Services placed approximately 750-800 individuals. However, it is not known what percentage of the employers of these individuals would have pursued a tax refund had it been available, or to what degree, based on their level of wages, the employees would have been able to serve as a basis for tax refunds.

B. Private Sector Impact:

A business that hires a person who has a disability after July 1, 2004, may be entitled to claim a refund of previously paid taxes, not to exceed \$6,000 per year. The business may also claim a bonus refund of \$70 per month if the employee is covered by the business's health insurance plan. A business may claim refunds for no more than five employees, and an employee may serve as a basis for refunds for a maximum of 24 cumulative months.

C. Government Sector Impact:

The Division of Vocational Rehabilitation of the Department of Education will incur costs related to processing applications for tax refunds, including verifying, in conjunction with the Division of Blind Services, that the employee who is the basis for a tax refund is a person who has a disability, as well as coordinating with the Department of Revenue and the Agency for Workforce Innovation to verify the payment of taxes and the employment status and wages of the employee.

The committee substitute provides an unspecified appropriation for the payment of tax refunds under this program for fiscal year 2004-2005 from the General Revenue Fund. See discussion of "Tax/Fee Issues," above.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.