

By Senator Lynn

7-1460-04

1 A bill to be entitled
 2 An act relating to tax credits for hiring a
 3 person who has a disability; creating ss.
 4 212.099 and 220.193, F.S.; authorizing credits
 5 against the sales and use tax and the corporate
 6 income tax for hiring a person who has a
 7 disability; providing conditions and procedures
 8 for receiving the tax credit; authorizing
 9 rulemaking by the Department of Revenue and the
 10 Department of Education; providing penalties;
 11 providing for expiration of the provisions;
 12 amending s. 220.02, F.S.; providing legislative
 13 intent on the order in which to claim the
 14 credit against corporate income tax; amending
 15 s. 220.13, F.S.; providing for adjustments to
 16 taxable income to account for the credit
 17 against corporate income tax; providing an
 18 effective date.

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

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 22 Section 1. Section 212.099, Florida Statutes, is
 23 created to read:

24 212.099 Credit for hiring a person who has a
 25 disability.--

26 (1) As used in this section, the term "person who has
 27 a disability" has the same meaning ascribed in s. 413.20 and
 28 in rules of the Division of Vocational Rehabilitation of the
 29 Department of Education which implement that section and part
 30 II of chapter 413.

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1 (2)(a) Beginning January 1, 2005, there shall be
2 allowed a credit against the tax remitted under this chapter
3 for a business that demonstrates to the department that it has
4 hired, on or after July 1, 2004, a person who has a
5 disability.

6 (b) The credit shall be computed as 20 percent of the
7 actual monthly wages paid in this state during the taxable
8 period to each employee who is a person who has a disability.
9 The credit may be claimed for a maximum of five eligible
10 employees per taxable period and may not exceed \$670 per
11 eligible employee per month.

12 (3)(a) The credit under this section applies only with
13 respect to wages subject to unemployment tax.

14 (b) The credit does not apply for an employee who:
15 1. Works fewer than 80 hours per month; or
16 2. Is employed for a period of less than 3 calendar
17 months.

18 (4) A business that uses a credit under this section
19 against the tax imposed by this chapter may not take the
20 credit under s. 220.193 against the tax imposed by chapter
21 220.

22 (5) Credit under this section is not allowed for a
23 month in which the tax due for such period or the tax return
24 required under s. 212.11 for such period is delinquent.

25 (6) If a business has a credit larger than the amount
26 owed the state on the tax return for the period in which the
27 credit is claimed, the amount of the credit for that time
28 period is the amount owed the state on that tax return.

29 (7) Before claiming a credit under this section, a
30 business must obtain from the Division of Vocational
31 Rehabilitation of the Department of Education a written

1 verification that the employee who is the basis for the credit
2 is a person who has a disability. The division may adopt rules
3 under s. 120.536(1) and s. 120.54 to administer this
4 subsection, including, but not limited to, rules governing the
5 process for applying for the verification and the criteria for
6 evaluating an application for verification.

7 (8) To receive the credit under this section, a
8 business must demonstrate to the department that it has
9 satisfied the conditions and requirements of this section. The
10 department may adopt rules under s. 120.536(1) and s. 120.54
11 to administer this section, including, but not limited to,
12 rules governing the procedures and forms to claim a credit and
13 the guidelines for approval or disapproval of the claim.

14 (9)(a) A person who fraudulently claims a credit under
15 this section is liable for repayment of the credit, plus a
16 mandatory penalty in the amount of 100 percent of the credit,
17 plus interest at the rate provided in this chapter, and
18 commits a misdemeanor of the first degree, punishable as
19 provided in s. 775.082 or s. 775.083.

20 (b) A person who makes an underpayment of tax as a
21 result of a grossly overstated claim for this credit commits a
22 felony of the third degree, punishable as provided in s.
23 775.082 or s. 775.083. For the purposes of this paragraph, the
24 term "grossly overstated claim" means a claim in an amount in
25 excess of 100 percent of the amount of credit allowable under
26 this section.

27 (10) This section expires on June 30, 2009; however,
28 the expiration of this section does not affect the operation
29 of any credit for which a taxpayer has qualified under this
30 section before June 30, 2009.

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1 Section 2. Section 220.193, Florida Statutes, is
2 created to read:

3 220.193 Credit for hiring a person who has a
4 disability.--

5 (1) As used in this section, the term "person who has
6 a disability" has the same meaning ascribed in s. 413.20 and
7 in rules of the Division of Vocational Rehabilitation of the
8 Department of Education which implement that section and part
9 II of chapter 413.

10 (2)(a) Beginning January 1, 2005, there shall be
11 allowed a credit against the tax imposed by this chapter to a
12 taxpayer that demonstrates to the department that it has
13 hired, on or after July 1, 2004, a person who has a
14 disability.

15 (b) The credit shall be computed as 20 percent of the
16 actual monthly wages paid in this state during the taxable
17 period to each employee who is a person who has a disability.
18 The credit may be claimed for a maximum of five eligible
19 employees per taxable period and may not exceed \$8,000 per
20 eligible employee each taxable year.

21 (3)(a) The credit under this section applies only with
22 respect to wages subject to unemployment tax.

23 (b) The credit does not apply for an employee who:
24 1. Works fewer than 80 hours per month; or
25 2. Is employed for a period of less than 3 calendar
26 months.

27 (4) A taxpayer that uses a credit granted under this
28 section against the tax imposed by this chapter may not take
29 the credit granted under s. 212.099 against the tax imposed by
30 chapter 212.

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1 (5) If the credit is not fully used in any one year,
2 the unused amount may be carried forward for a period not to
3 exceed 5 years. The carryover credit may be used in a
4 subsequent year if the tax imposed by this chapter for such
5 year exceeds the credit for such year after applying the other
6 credits and unused credit carryovers in the order provided in
7 s. 220.02.

8 (6) Before claiming a credit under this section, a
9 taxpayer must obtain from the Division of Vocational
10 Rehabilitation of the Department of Education a written
11 verification that the employee who is the basis for the credit
12 is a person who has a disability. The division may adopt rules
13 under s. 120.536(1) and s. 120.54 to administer this
14 subsection, including, but not limited to, rules governing the
15 process for applying for the verification and the criteria for
16 evaluating an application for verification.

17 (7) To receive the credit under this section, a
18 taxpayer must demonstrate to the department that it has
19 satisfied the conditions and requirements of this section. The
20 department may adopt rules under s. 120.536(1) and s. 120.54
21 to administer this section, including, but not limited to,
22 rules governing the procedures and forms to claim a credit and
23 the guidelines for approval or disapproval of the claim.

24 (8)(a) A person who fraudulently claims a credit under
25 this section is liable for repayment of the credit, plus a
26 mandatory penalty in the amount of 100 percent of the credit,
27 plus interest at the rate provided in s. 220.807, and commits
28 a misdemeanor of the first degree, punishable as provided in
29 s. 775.082 or s. 775.083.

30 (b) A person who makes an underpayment of tax as a
31 result of a grossly overstated claim for this credit commits a

1 felony of the third degree, punishable as provided in s.
2 775.082 or s. 775.083. For the purposes of this paragraph, the
3 term "grossly overstated claim" means a claim in an amount in
4 excess of 100 percent of the amount of credit allowable under
5 this section.

6 (9) This section expires on June 30, 2009; however,
7 the expiration of this section does not affect the operation
8 of any credit for which a taxpayer has qualified under this
9 section before June 30, 2009, or any carryforward of unused
10 credit amounts as provided in subsection (5).

11 Section 3. Subsection (8) of section 220.02, Florida
12 Statutes, is amended to read:

13 220.02 Legislative intent.--

14 (8) It is the intent of the Legislature that credits
15 against either the corporate income tax or the franchise tax
16 be applied in the following order: those enumerated in s.
17 631.828, those enumerated in s. 220.191, those enumerated in
18 s. 220.181, those enumerated in s. 220.183, those enumerated
19 in s. 220.182, those enumerated in s. 220.1895, those
20 enumerated in s. 221.02, those enumerated in s. 220.184, those
21 enumerated in s. 220.186, those enumerated in s. 220.1845,
22 those enumerated in s. 220.19, those enumerated in s. 220.185,
23 ~~and~~ those enumerated in s. 220.187, and those enumerated in s.
24 220.193.

25 Section 4. Paragraph (a) of subsection (1) of section
26 220.13, Florida Statutes, is amended to read:

27 220.13 "Adjusted federal income" defined.--

28 (1) The term "adjusted federal income" means an amount
29 equal to the taxpayer's taxable income as defined in
30 subsection (2), or such taxable income of more than one
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1 taxpayer as provided in s. 220.131, for the taxable year,
2 adjusted as follows:

3 (a) Additions.--There shall be added to such taxable
4 income:

5 1. The amount of any tax upon or measured by income,
6 excluding taxes based on gross receipts or revenues, paid or
7 accrued as a liability to the District of Columbia or any
8 state of the United States which is deductible from gross
9 income in the computation of taxable income for the taxable
10 year.

11 2. The amount of interest which is excluded from
12 taxable income under s. 103(a) of the Internal Revenue Code or
13 any other federal law, less the associated expenses disallowed
14 in the computation of taxable income under s. 265 of the
15 Internal Revenue Code or any other law, excluding 60 percent
16 of any amounts included in alternative minimum taxable income,
17 as defined in s. 55(b)(2) of the Internal Revenue Code, if the
18 taxpayer pays tax under s. 220.11(3).

19 3. In the case of a regulated investment company or
20 real estate investment trust, an amount equal to the excess of
21 the net long-term capital gain for the taxable year over the
22 amount of the capital gain dividends attributable to the
23 taxable year.

24 4. That portion of the wages or salaries paid or
25 incurred for the taxable year which is equal to the amount of
26 the credit allowable for the taxable year under s. 220.181.
27 The provisions of this subparagraph shall expire and be void
28 on June 30, 2005.

29 5. That portion of the ad valorem school taxes paid or
30 incurred for the taxable year which is equal to the amount of
31 the credit allowable for the taxable year under s. 220.182.

1 The provisions of this subparagraph shall expire and be void
2 on June 30, 2005.

3 6. The amount of emergency excise tax paid or accrued
4 as a liability to this state under chapter 221 which tax is
5 deductible from gross income in the computation of taxable
6 income for the taxable year.

7 7. That portion of assessments to fund a guaranty
8 association incurred for the taxable year which is equal to
9 the amount of the credit allowable for the taxable year.

10 8. In the case of a nonprofit corporation which holds
11 a pari-mutuel permit and which is exempt from federal income
12 tax as a farmers' cooperative, an amount equal to the excess
13 of the gross income attributable to the pari-mutuel operations
14 over the attributable expenses for the taxable year.

15 9. The amount taken as a credit for the taxable year
16 under s. 220.1895.

17 10. Up to nine percent of the eligible basis of any
18 designated project which is equal to the credit allowable for
19 the taxable year under s. 220.185.

20 11. The amount taken as a credit for the taxable year
21 under s. 220.187.

22 12. The amount taken as a credit for the taxable year
23 under s. 220.193. This subparagraph expires on June 30, 2009.

24 Section 5. This act shall take effect July 1, 2004.
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SENATE SUMMARY

Authorizes credits against the sales and use tax and the corporate income tax for hiring a person who has a disability. Provides conditions and procedures for receiving the tax credit. Authorizes rulemaking by the Department of Revenue and the Department of Education. Provides penalties. Provides for expiration of the provisions. Provides legislative intent on the order in which to claim the credit against corporate income tax. Provides for adjustments to taxable income to account for the credit against corporate income tax.