

By the Committee on Commerce, Economic Opportunities, and
Consumer Services; and Senator Lawson

310-2279-04

1 A bill to be entitled
2 An act relating to tax refunds for hiring a
3 person who has a disability; creating a tax
4 refund program for hiring a person who has a
5 disability; providing definitions for use with
6 the program; prescribing how the amount of
7 refund is calculated; establishing limits on
8 the amount of refunds; authorizing additional
9 refunds for offering employee health insurance;
10 prescribing taxes that may be refunded;
11 providing criminal penalties for fraudulent
12 refund claims; providing for repayment of
13 refunds plus penalties; providing timeframes
14 and procedures for claiming refunds; specifying
15 information that must be submitted to support
16 refund claims; providing for review and
17 approval of applications for refunds; providing
18 for interagency cooperation and sharing of
19 information; specifying that refunds are
20 subject to legislative appropriation; providing
21 for the issuance of warrants to pay refunds;
22 requiring the Division of Vocational
23 Rehabilitation of the Department of Education
24 to provide the Legislature with an estimated
25 amount of refunds; authorizing the Division of
26 Vocational Rehabilitation to adopt rules;
27 providing for expiration of the refund program;
28 providing an appropriation; providing an
29 effective date.

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

1 Section 1. Tax refund program for hiring a person who
2 has a disability.--

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

4 (a) "Business" means an employing unit, as defined in
5 section 443.036, Florida Statutes, which is registered for
6 unemployment compensation purposes with the state agency
7 providing unemployment tax collection services under contract
8 with the Agency for Workforce Innovation through an
9 interagency agreement under section 443.1316, Florida
10 Statutes, or a subcategory or division of an employing unit
11 which is accepted as a reporting unit by the state agency
12 providing unemployment tax collection services.

13 (b) "Division" means the Division of Vocational
14 Rehabilitation of the Department of Education.

15 (c) "Eligible employee" means a person who has a
16 disability and who:

- 17 1. Was hired after July 1, 2004;
- 18 2. Works at least 80 hours per month; and
- 19 3. Earns a salary that exceeds the federal minimum

20 wage.

21 (d) "Fiscal year" means the fiscal year of the state.

22 (e) "Person who has a disability" has the same meaning
23 as in section 413.20, Florida Statutes, for the purposes of
24 determining eligibility for vocational rehabilitation services
25 from the division.

26 (f) "Qualified business" means a business that has
27 been approved by the division to receive a tax refund under
28 this section as provided in subsection (3).

29 (2) TAX REFUND; ELIGIBLE AMOUNTS.--

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1 (a) A business that hires a person who has a
2 disability may receive a refund of eligible taxes certified by
3 the division which were paid by the business.

4 (b) The refund shall be equal to 20 percent of the
5 portion of the actual monthly wages paid in this state to each
6 eligible employee which exceeds the federal minimum wage. The
7 refund under this paragraph, however, may not exceed \$6,000
8 per eligible employee per fiscal year.

9 (c) Notwithstanding paragraph (b), a business may
10 receive an additional refund equal to \$70 per month for each
11 eligible employee who is covered by a health insurance plan
12 offered by the business.

13 (d) A business may claim a refund for any month during
14 which an eligible employee is employed by the business, except
15 that an eligible employee may not serve as the basis for
16 receipt of refunds for more than 24 cumulative months.

17 (e) A business may claim refunds for a total of no
18 more than five eligible employees.

19 (f) A business may receive refunds for the following
20 taxes due and paid by that business in the fiscal year
21 immediately preceding the date the business submits an
22 application for a tax refund under subsection (3).

23 1. Corporate income taxes under chapter 220, Florida
24 Statutes.

25 2. Insurance premium tax under section 624.509,
26 Florida Statutes.

27 3. Taxes on sales, use, and other transactions under
28 chapter 212, Florida Statutes.

29 4. Intangible personal property taxes under chapter
30 199, Florida Statutes.

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1 5. Emergency excise taxes under chapter 221, Florida
2 Statutes.

3 6. Excise taxes on documents under chapter 201,
4 Florida Statutes.

5 7. Ad valorem taxes paid, as defined in section
6 220.03(1), Florida Statutes.

7 (g) A business may not receive a refund under this
8 section for any amount of credit, refund, or exemption granted
9 to that business for any of the taxes enumerated in paragraph
10 (f). If a refund for such taxes is provided by the division,
11 which taxes are subsequently adjusted by the application of
12 any credit, refund, or exemption granted to the qualified
13 business other than as provided in this section, the business
14 shall reimburse the division for the amount of that credit,
15 refund, or exemption. A qualified business shall notify and
16 tender payment to the division within 20 days after receiving
17 the credit, refund, or exemption. Any payment received by the
18 division under this paragraph shall be deposited in the
19 General Revenue Fund.

20 (h) A business that fraudulently claims a refund under
21 this section:

22 1. Is liable for repayment of the amount of the
23 refund, plus a mandatory penalty in the amount of 200 percent
24 of the tax refund, which shall be deposited into the General
25 Revenue Fund.

26 2. Commits a felony of the third degree, punishable as
27 provided in section 775.082, section 775.083, or section
28 775.084, Florida Statutes.

29 (i) In no case may a tax refund provided under this
30 section exceed the amount of the tax which is the basis for
31 the refund and was due and paid by the eligible business in

1 the fiscal year immediately proceeding the date the business
2 submits an application for a tax refund under subsection (3).

3 (3) CLAIM FOR REFUND; APPROVAL.--

4 (a) To claim a tax refund under this section, a
5 business may apply beginning August 1 to the division for a
6 refund to be paid from a specific appropriation made by the
7 Legislature for the payment of refunds during that fiscal
8 year. A business may apply for a refund on a monthly basis or
9 may aggregate claims for more than 1 month.

10 (b) The claim for a refund by the business must
11 include:

12 1. A copy of all receipts pertaining to the payment of
13 taxes for which the refund is sought;

14 2. Documentation, in a form and manner prescribed by
15 the division, demonstrating that an eligible employee is the
16 basis for the refund;

17 3. Documentation, if applicable, in a form and manner
18 prescribed by the division, demonstrating that the eligible
19 employee who is the basis for the refund is covered by the
20 health insurance plan of the business in a manner that
21 satisfies paragraph (2)(c); and

22 4. A certification by a business, in a form and manner
23 prescribed by the division, that no employee was terminated
24 without cause in order to hire a person who has a disability
25 and claim a refund under this section.

26 (c) The division, with such assistance as may be
27 required from the Division of Blind Services of the Department
28 of Education, the Department of Revenue, or the Agency for
29 Workforce Innovation, shall review each claim for a refund in
30 the order received and specify by written order, within 60
31 days after receipt of the claim application, the approval or

1 disapproval of the tax refund claim and, if approved, the
2 amount of the tax refund which is authorized to be paid to the
3 qualified business for the tax refund. The division shall
4 verify that the employee is a person who has a disability. The
5 Department of Revenue shall verify the payment of taxes for
6 which the refund is sought. The Agency for Workforce
7 Innovation shall verify the employment status and wages of the
8 eligible employee.

9 (d) This section does not create a presumption that an
10 approved tax refund claim will be paid to a qualified
11 business.

12 1. Refunds under this section are subject to
13 appropriation by the Legislature, and refunds shall be paid on
14 a first-come, first-served basis, according to the order in
15 which the division approves the claims submitted during that
16 fiscal year.

17 2. If sufficient funds are not available for the
18 payment of an approved refund claim in one fiscal year, the
19 qualified business must forego the claim for payment in that
20 fiscal year but may resubmit a claim in a subsequent fiscal
21 year based on the same eligible employee if the employee has
22 not been the basis for the receipt of refunds for more than 24
23 cumulative months.

24 3. If a claim is denied by the division and the denial
25 is upheld on appeal, the business must forego that refund
26 claim.

27 (e) Upon approval of the claim for a tax refund, and
28 if sufficient funds are available for payment of the claim,
29 the Chief Financial Officer shall issue a warrant for the
30 amount specified in the written order. If the written order is
31 appealed, the Chief Financial Officer may not issue a warrant

1 for a refund to the qualified business until the conclusion of
2 all appeals of the order.

3 (f) The total amount of refunds approved and paid in a
4 fiscal year may not exceed the amount appropriated by the
5 Legislature for the payment of refunds for that fiscal year.

6 (4) ADMINISTRATION.--

7 (a) The division is authorized to verify information
8 provided in any claim submitted for tax refunds under this
9 section with regard to employment and wage levels or the
10 payment of the taxes to the appropriate agency or authority,
11 including the Department of Revenue, the Agency for Workforce
12 Innovation, or any local government or authority.

13 (b) To facilitate the process of monitoring and
14 auditing applications made under this section, the division
15 may provide a list of businesses to the Department of Revenue,
16 to the Agency for Workforce Innovation, or to any local
17 government or authority. The office may request the assistance
18 of those entities with respect to monitoring jobs, wages, and
19 the payment of the taxes listed in subsection (2).

20 (c) By January 1 of each year, the division shall
21 provide an estimate to the Legislature of the amount necessary
22 to satisfy anticipated claims for refunds in the next fiscal
23 year, based on the experience of the division in administering
24 the program and based on activity levels under the program.

25 (d) Funds specifically appropriated for the tax refund
26 program under this section may not be used for any purpose
27 other than the payment of tax refunds authorized by this
28 section.

29 (e) The division may adopt rules under sections
30 120.536(1) and 120.54, Florida Statutes, to administer this
31 section, including, but not limited to, rules defining terms

1 used in this section and rules specifying the forms and
2 procedures for calculating and claiming refunds; the
3 procedures and criteria for reviewing refund claims, verifying
4 data related to refund claims, and approving claims; and the
5 procedures for paying refund claims.

6 (5) EXPIRATION.--This section expires June 30, 2010.

7 Section 2. There is appropriated from the General
8 Revenue Fund \$___ million to the Department of Education for
9 the payment of refunds during the 2004-2005 fiscal year under
10 the tax refund program for hiring a person who has a
11 disability as created by this act.

12 Section 3. This act shall take effect July 1, 2004.

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14 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
15 COMMITTEE SUBSTITUTE FOR
16 Senate Bill 2182

17 The committee substitute replaces the bill's sales and use tax
18 and corporate income tax credits with a tax refund program,
19 under which a business may claim, subject to legislative
20 appropriation, a refund of previously paid taxes for hiring a
21 person who has a disability. The refund equals 20 percent of
22 the portion of the employee's wages that exceed the federal
23 minimum wage, but the total refund may not exceed \$6,000 per
24 employee per fiscal year. A business may, however, receive a
25 bonus refund of \$70 per month if the employee is covered by
26 the business's health insurance plan. A business may claim
27 refunds for no more than five employees, and an individual
28 employee may serve as the basis for refunds for no more than
29 24 cumulative months. The committee substitute includes an
30 unspecified appropriation from the General Revenue Fund for
31 the payment of refunds during fiscal year 2004-2005.