HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 583 (PCB COM 04-01) Economic Development Incentives
SPONSOR(S): Committee on Commerce
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Commerce	16 Y, 0 N	Sheheane	Billmeier
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

The proposed committee bill extends the authority for the Qualified Target Industry tax refund (QTI) program for an additional five years and clarifies that tax refund agreements in existence when the statutory authority for the programs expires continue in effect.

Qualified Target Industry Tax Refund (QTI), created under s. 288.106, F.S., is available to Florida communities to encourage quality job growth in targeted high value-added businesses. Target industries include manufacturing facilities, finance and insurance services, wholesale trade (business to business electronic marketing), information industries, professional, scientific and technical services, management services, and administrative and support services. Targeted businesses must serve multi-state and/or international markets and must be able to locate in other states. Retail activities, utilities, mining and other extraction or processing businesses, and activities regulated by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation are statutorily excluded from consideration.

In order to participate in QTI, the applicant must indicate among other things that it will create a net of at least 10 new Florida jobs and pay an average annual wage of at least 115% of state, metropolitan statistical area, or local average wages. Companies meeting QTI requirements may receive up to a base tax refund amount of $6,000 per job created.

The qualified target industry tax refund program is scheduled to expire June 30, 2004. The proposed committee bill extends the program for an additional five years.

The bill extends the QTI program for an additional five years; therefore the bill would require state government to continue funding the program at a maximum of $35,000,000 a year. According to a representative at the Office of Tourism, Trade, and Economic Development (OTTED), if the bill is passed the actual fiscal impact is estimated to be in the $20,000,000 to $25,000,000 range. During the 2003/2004 fiscal year, the state appropriated $21,000,000 to the QTI program.

This bill takes effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

1. Reduce government?	Yes[]	No[]	N/A[X]
2. Lower taxes?	Yes[X]	No[]	N/A[]
3. Expand individual freedom?	Yes[]	No[]	N/A[X]
4. Increase personal responsibility?	Yes[]	No[]	N/A[X]
5. Empower families?	Yes[]	No[]	N/A[X]

For any principle that received a “no” above, please explain:

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Qualified Target Industry Tax Refund (QTI)

The Qualified Target Industry Tax Refund program is created under s. 288.106, F.S., and is available to Florida communities to encourage quality job growth in targeted high value-added businesses. Target industries include manufacturing facilities, finance and insurance services, wholesale trade (business to business electronic marketing), information industries, professional, scientific and technical services, management services, and administrative and support services. Targeted businesses must serve multi-state and/or international markets and must be able to locate in other states. Retail activities, utilities, mining and other extraction or processing businesses, and activities regulated by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation are statutorily excluded from consideration.

In order to participate in QTI, the applicant must indicate among other things that it will create a net of at least 10 new Florida jobs and pay an average annual wage of at least 115% of state, metropolitan statistical area, or local average wages. For a project located in a rural community or an enterprise zone, the net increase for employment may be waived and the wage requirement can also be waived in those areas as well as a designated Brownfield area.

Pre-approved applicants who create jobs in Florida receive tax refunds of $3,000 per net new full-time equivalent Florida job created and $6,000 in an enterprise zone or rural county. Additional refunds are available for wages above a certain level. An approved applicant can receive tax refunds on corporate income, sales, ad valorem, intangible personal property, insurance premium, and certain other taxes up to a maximum of $5 million per single qualified applicant in all years, and no more than 25% of the total refund approved may be taken in any single fiscal year.

Application Process

To be eligible for tax refunds under the QTI program, a target industry business must apply to the Office of Tourism, Trade, and Economic Development (OTTED) for certification as a qualified target industry business before it decides to locate a new business in this state or to expand an existing business in this state.[1] Then the business must enter into a performance-based contract with OTTED to create a specific number of high-wage jobs.

[1] See s. 288.106(3)(a), F.S.

A target industry business is a corporate headquarters or a business within a list of target industries developed by OTTED in consultation with Enterprise Florida, Inc., (EFI).[2] OTTED must submit this list to the Legislature with its final agency legislative budget request.[3] Industries selected for the list must meet the following criteria: expected to have future growth in employment and output, provide stable employment not subject to layoffs, provide high wages, be independent of Florida markets and resources, diversify the state's economic base, and benefit the state and regional economies.[4] The industries contained on the target industries list include certain manufacturing facilities; finance and insurance services; wholesale trade; information services; professional, scientific, and technical services; management services; and administrative support. Additionally, defense industry businesses may be target industry businesses.

In its application for certification, a target industry business must describe its proposed new business or expansion of an existing business.[5] The description of proposed operations must provide for the creation of jobs that have an average salary of at least 115 percent of the average private sector wage in the area where the business is to be located or the statewide average private sector wage.[6] OTTED, however, may waive the average wage requirement of the QTI program in limited circumstances.[7] A new or expanding business must propose the creation of at least 10 jobs.[8] An expanding business must also propose to increase its real and personal property resulting in a 10-percent net increase in employment in this state.[9]

The application must also be accompanied by a resolution from the county or municipality in which the business will be located.[10] The resolution must recommend that the business be certified as a qualified target industry business and commit the county or municipality to provide local financial support.[11] The local financial support must equal at least 20 percent of the tax refund available under the program for the business to be eligible for a full refund.[12] This financial support is typically called the 20-percent local match. The business may have to agree to the local government's terms and conditions for eligibility for the local match.

If the business proposes to locate in a brownfield area or in a rural county or certain counties contiguous to a rural county, local financial support is optional.[13] If a local government chooses to exercise the option to be exempt from the local financial support requirements of the program, then the business is not eligible for more than 80 percent of the tax refunds that would otherwise be available to it under the program.[14]

Upon receipt of a completed application, OTTED must review the application based on several criteria including: expected contributions to the state strategic economic development plan adopted by Enterprise Florida, Inc.; the economic benefit of the jobs created by the project in this state; the amount of capital investment to be made by the applicant in this state; the local commitment and support for the project; the effect of the project on the local community; the effect of any tax refunds under the QTI program on the viability of the proposed operations and the probability that the proposed operations will

[2] See s. 288.106(1)(o), F.S.
[3] See s. 288.106(1)(o), F.S.
[4] See s. 288.106(1)(o), F.S.
[5] See s. 288.106(3), F.S.
[6] See s. 288.106(3)(a)4. and (3)(b)1., F.S.
[7] See s. 288.106(3)(b)1., F.S.
[8] See s. 288.106(3)(b)2., F.S.
[9] See s. 288.106(1)(g) and (3)(b)2., F.S.
[10] See s. 288.106(3)(a)9., F.S.
[11] See s. 288.106(3)(a)9., F.S.
[12] See s. 288.106(3)(f), F.S.
[13] See s. 288.106(1)(k), F.S.
[14] See s. 288.106(1)(k), F.S.

be undertaken in this state; the expected long-term commitment to this state; and a review of the business's past activities in this state or other states.[15]

Although OTTED must consider these criteria, the criteria do not establish minimum standards that must be met for certification, nor do the criteria require OTTED to certify any business as a QTI business. If the application is approved, the OTTED director, by letter, will certify the business as a QTI business and state the value of the tax refund available to the business.[16]

Tax Refund Agreements

After a business is certified as a QTI business, it may enter into a tax refund agreement with OTTED.[17] The agreement typically will incorporate the application for certification as a QTI business, and the proposed number of jobs and salary projections will become contract requirements. The contract also will clearly state that the agreement to pay tax refunds is contingent upon appropriations from the Legislature.[18]

A business that was certified as a QTI business after May 30, 2002, must file its claim for a tax refund by January 31 each year.[19] If a business does not timely submit a claim for refunds, it will be terminated from the QTI program.[20]

If a QTI business satisfies the job-creation and wage requirements in its contract with OTTED, pays sufficient taxes, and OTTED receives the necessary local financial support, the business will receive the full tax refund specified in its agreement. If a QTI business fails to fully comply with its job-creation and salary requirements, it may receive a prorated tax refund less a 5-percent penalty.[21] To be eligible for a prorated refund, the business must achieve at least 80 percent of its projected employment, and the average wage paid by the business must be at least 90 percent of the wage specified in its contract. The average wage paid must also be at least 115 percent of the average area wage, or 150 or 200 percent of the average area wage if the business contracted for the additional refund for salaries at those thresholds. The business will also receive a prorated refund if the local financial support received by OTTED is less than 20 percent of the refund authorized under the tax refund agreement.

QTI Appropriations and Expenditures

Since the inception of the QTI program, the tax refunds paid to QTI businesses have been less than the appropriations, resulting in significant reversions of appropriations. The disparity between appropriations and actual expenditures existed because OTTED did not know when preparing its legislative budget requests how many businesses with which it contracted to pay tax refunds for job creation would actually submit claims for refunds. OTTED then requested, and the Legislature appropriated, enough funds to the QTI program to pay all possible tax refund claims. As a result, OTTED did not have to prorate tax refund claims as required by s. 288.095(3)(b), F.S. Many QTI businesses, however, did not submit claims for tax refunds because they did not meet the requirements of the QTI program, did not follow through with their business plans, or withdrew from participation in the program.

[15] See s. 288.106 (3)(c), F.S.
[16] See s. 288.106(3)(e)1. and (f), F.S.
[17] See s. 288.106(3)(e)2., F.S.
[18] See s. 288.106(4)(d), F.S.
[19] See s. 288.106(5)(a), F.S.
[20] See s. 288.106(4)(b), F.S.
[21] See s. 288.106(5)(d), F.S.

QTI Appropriations and Expenditures provided by OTTED.

	2000-01	**2001-02**	**2002-03**	**2003-04**
State Appropriations	$17,750,000	$20,000,000	$24,000,000	$21,000,000
State Expenditures	$5,482,128	$12,919,527	$15,547,303	$1,300,000

Note -- FY 2003-04 expenditures are paid or in process as of December 31, 2003. Most claims for FY 2003-04 will not come in until May or June of 2004.

To address the disparity between expenditures and appropriations, section 288.106(5)(a), F.S., modified the timeline for approval of QTI program refunds. Tax refund claims were to be submitted by January 31 of each fiscal year for the jobs created by December 31. Refunds associated with those claims were to be paid out of the appropriation for the following fiscal year, thus providing an accurate estimate of the refund amount needed each fiscal year in time to be addressed during the appropriations process. Although new contracts executed since this law change reflect the fixed claim date, the majority of pending claims are still based on contracts executed prior to the change.

QTI Program Statistics

According to the Enterprise Florida, Inc., (EFI) 2003 Incentives Report, since the inception of the program in 1994 there have been 367 contracts with businesses under the QTI program. Of these contracts, 322 are active contracts requiring QTI businesses to create 69,997 jobs with an average wage of $36,010 per job. These businesses also proposed to make a total capital investment in this state of over $6.1 billion in their applications for certification as QTI businesses, which is an average investment of $23.94 for each dollar of tax refunds. The average incentive per job for active QTI businesses is $3,641, according to EFI staff.

The PCB provides that no additional businesses may be qualified to participate in the qualified target industry (QTI) program after June 30, 2009. The PCB also clarifies that tax refund agreements existing on June 30, 2009, continue in effect in accordance with their terms.

The PCB takes effect upon becoming a law.

C. SECTION DIRECTORY:

Section 1. Amends s. 288.106, F.S., providing that no additional businesses may be qualified to participate in the qualified target industry (QTI) program after June 30, 2009. Section 1 also clarifies that tax refund agreements existing on June 30, 2009, continue in effect in accordance with their terms.

Section 2. This act shall take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

The bill extends the QTI program for an additional five years; therefore the bill would require state government to continue funding the program at a maximum of $35,000,000 a year.[22] According to a representative at OTTED, if the bill is passed the fiscal impact is estimated to be in the $20,000,000 to $25,000,000 per year range. During the 2003/2004 fiscal year, the state appropriated $21,000,000 to the QTI program.

QTI Fiscal Impact of Sunset Estimate provided by OTTED

	FY 03/04	**FY 04/05**	**FY 05/06**	**FY 06/07**
State Share If Sunset 6/30/04*	$23,805,608.96	$25,599,877.92	$27,356,884.32	$27,438,317.92
Anticipated Actual Impact (based on adjustment for drop outs)**	$19,000,000.00	$21,000,000.00	$23,000,000.00	$22,000,000.00

**Based on current contracts, plus a small estimate of new projects approved before June 30, 2004.*
***Actual cost will be somewhat less, as some projects will fall short of the performance requirements and will drop out.*

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill extends the QTI program for an additional five years which would require local governments to continue financial support of the program.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Those businesses participating in the QTI program will continue to receive significant tax refunds as a result of this bill.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenues.

2. Other:

None.

[22] See s. 288.095(3)(a), F.S.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

N/A