

CHAMBER ACTION

1 The Committee on Commerce recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to the tax refund program for qualified
7 defense contractors and qualified target industry
8 businesses; amending s. 288.095, F.S.; requiring the
9 Office of Tourism, Trade, and Economic Development to pay
10 claims for tax refunds in the order approved; requiring
11 the office to pay certain tax refunds from subsequent year
12 appropriations under certain circumstances; requiring the
13 office to notify legislative appropriations committees of
14 certain funds shortfalls; requiring Enterprise Florida,
15 Inc., to report on the efforts of the Office of Tourism,
16 Trade, and Economic Development to amend tax refund
17 agreements; amending s. 288.1045, F.S.; defining the term
18 "jobs" to include new and retained jobs; requiring
19 applications for certification to include the number of
20 jobs retained; providing that new applicants may not be
21 certified for the tax refund program for qualified defense
22 contractors after June 30, 2009; specifying that tax
23 refund agreements existing on that date continue in

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24 effect; amending s. 288.106, F.S.; prohibiting
 25 certification of applicants after a certain date;
 26 providing for continued effect of certain tax refund
 27 agreements; deleting an expiration date; requiring the
 28 Office of Tourism, Trade, and Economic Development to
 29 attempt to amend certain tax refund agreements, to
 30 conform; providing an effective date.
 31

32 Be It Enacted by the Legislature of the State of Florida:
 33

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

36 288.095 Economic Development Trust Fund.--

37 (3)

38 (b) The total amount of tax refund claims approved for
 39 payment by the Office of Tourism, Trade, and Economic
 40 Development based on actual project performance may not exceed
 41 the amount appropriated to the Economic Development Incentives
 42 Account for such purposes for the fiscal year. Claims for tax
 43 refunds under ss. 288.1045 and 288.106 shall be paid in the
 44 order the claims are approved by the Office of Tourism, Trade,
 45 and Economic Development. In the event the Legislature does not
 46 appropriate an amount sufficient to satisfy the ~~estimates by the~~
 47 ~~office for~~ tax refunds under ss. 288.1045 and 288.106 in a
 48 fiscal year, the Office of Tourism, Trade, and Economic
 49 Development shall pay the tax refunds from the appropriation for
 50 the following fiscal year. By March 1 of each year, the Office
 51 of Tourism, Trade, and Economic Development shall notify the

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52 legislative appropriations committees of any anticipated
53 shortfall in the amount of funds needed to satisfy claims for
54 tax refunds from the appropriation for the current fiscal year,
55 ~~not later than July 15 of such year, determine the proportion of~~
56 ~~each refund claim which shall be paid by dividing the amount~~
57 ~~appropriated for tax refunds for the fiscal year by the~~
58 ~~estimated total of refund claims for the fiscal year. The amount~~
59 ~~of each claim for a tax refund shall be multiplied by the~~
60 ~~resulting quotient. If, after the payment of all such refund~~
61 ~~claims, funds remain in the Economic Development Incentives~~
62 ~~Account for tax refunds, the office shall recalculate the~~
63 ~~proportion for each refund claim and adjust the amount of each~~
64 ~~claim accordingly.~~

65 (c) By December 31 of each year, Enterprise Florida, Inc.,
66 shall submit a complete and detailed report to the Governor, the
67 President of the Senate, the Speaker of the House of
68 Representatives, and the director of the Office of Tourism,
69 Trade, and Economic Development of all applications received,
70 recommendations made to the Office of Tourism, Trade, and
71 Economic Development, final decisions issued, tax refund
72 agreements executed, and tax refunds paid or other payments made
73 under all programs funded out of the Economic Development
74 Incentives Account, including analyses of benefits and costs,
75 types of projects supported, and employment and investment
76 created. Enterprise Florida, Inc., shall also include a separate
77 analysis of the impact of such tax refunds on state enterprise
78 zones designated pursuant to s. 290.0065, rural communities,
79 brownfield areas, and distressed urban communities. The report

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80 must discuss whether the authority and moneys appropriated by
 81 the Legislature to the Economic Development Incentives Account
 82 were managed and expended in a prudent, fiducially sound manner.
 83 The report shall also discuss the efforts made by the Office of
 84 Tourism, Trade, and Economic Development to amend tax refund
 85 agreements to require tax refund claims to be submitted by
 86 January 31 for the net new full-time equivalent Florida jobs as
 87 of December 31 of the preceding calendar year. The Office of
 88 Tourism, Trade, and Economic Development shall assist Enterprise
 89 Florida, Inc., in the collection of data related to business
 90 performance and incentive payments.

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

94 288.1045 Qualified defense contractor tax refund
 95 program.--

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

97 (g) "Jobs" means full-time equivalent positions,
 98 consistent with the use of such terms by the Agency for
 99 Workforce Innovation for the purpose of unemployment
 100 compensation tax, created or retained as a direct result of
 101 ~~resulting directly from~~ a project in this state. This number
 102 does not include temporary construction jobs involved with the
 103 construction of facilities for the project.

104 (3) APPLICATION PROCESS; REQUIREMENTS; AGENCY
 105 DETERMINATION.--

106 (b) Applications for certification based on the
 107 consolidation of a Department of Defense contract or a new

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108 Department of Defense contract must be submitted to the office
 109 as prescribed by the office and must include, but are not
 110 limited to, the following information:

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

114 2. The permanent location of the manufacturing,
 115 assembling, fabricating, research, development, or design
 116 facility in this state at which the project is or is to be
 117 located.

118 3. The Department of Defense contract numbers of the
 119 contract to be consolidated, the new Department of Defense
 120 contract number, or the "RFP" number of a proposed Department of
 121 Defense contract.

122 4. The date the contract was executed or is expected to be
 123 executed, and the date the contract is due to expire or is
 124 expected to expire.

125 5. The commencement date for project operations under the
 126 contract in this state.

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

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

132 ~~8.7-~~ The total number of full-time equivalent employees
 133 employed by the applicant in this state.

134 ~~9.8-~~ The percentage of the applicant's gross receipts
 135 derived from Department of Defense contracts during the 5

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136 taxable years immediately preceding the date the application is
137 submitted.

138 ~~10.9.~~ The amount of:

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

141 b. Corporate income taxes paid pursuant to chapter 220;

142 c. Intangible personal property taxes paid pursuant to
143 chapter 199;

144 d. Emergency excise taxes paid pursuant to chapter 221;

145 e. Excise taxes paid on documents pursuant to chapter 201;
146 and

147 f. Ad valorem taxes paid

148
149 during the 5 fiscal years immediately preceding the date of the
150 application, and the projected amounts of such taxes to be due
151 in the 3 fiscal years immediately following the date of the
152 application.

153 ~~11.10.~~ The estimated amount of tax refunds to be claimed
154 for each fiscal year.

155 ~~12.11.~~ A brief statement concerning the applicant's need
156 for tax refunds, and the proposed uses of such refunds by the
157 applicant.

158 ~~13.12.~~ A resolution adopted by the county commissioners of
159 the county in which the project will be located, which
160 recommends the applicant be approved as a qualified applicant,
161 and which indicates that the necessary commitments of local
162 financial support for the applicant exist. Prior to the adoption
163 of the resolution, the county commission may review the proposed

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164 public or private sources of such support and determine whether
 165 the proposed sources of local financial support can be provided
 166 or, for any applicant whose project is located in a county
 167 designated by the Rural Economic Development Initiative, a
 168 resolution adopted by the county commissioners of such county
 169 requesting that the applicant's project be exempt from the local
 170 financial support requirement.

171 ~~14.13.~~ Any additional information requested by the office.

172 (c) Applications for certification based on the conversion
 173 of defense production jobs to nondefense production jobs must be
 174 submitted to the office as prescribed by the office and must
 175 include, but are not limited to, the following information:

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

179 2. The permanent location of the manufacturing,
 180 assembling, fabricating, research, development, or design
 181 facility in this state at which the project is or is to be
 182 located.

183 3. The Department of Defense contract numbers of the
 184 contract under which the defense production jobs will be
 185 converted to nondefense production jobs.

186 4. The date the contract was executed, and the date the
 187 contract is due to expire or is expected to expire, or was
 188 canceled.

189 5. The commencement date for the nondefense production
 190 operations in this state.

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

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

196 ~~8.7.~~ The total number of full-time equivalent employees
197 employed by the applicant in this state.

198 ~~9.8.~~ The percentage of the applicant's gross receipts
199 derived from Department of Defense contracts during the 5
200 taxable years immediately preceding the date the application is
201 submitted.

202 ~~10.9.~~ The amount of:

- 203 a. Taxes on sales, use, and other transactions paid
- 204 pursuant to chapter 212;
- 205 b. Corporate income taxes paid pursuant to chapter 220;
- 206 c. Intangible personal property taxes paid pursuant to
- 207 chapter 199;
- 208 d. Emergency excise taxes paid pursuant to chapter 221;
- 209 e. Excise taxes paid on documents pursuant to chapter 201;
- 210 and
- 211 f. Ad valorem taxes paid

212
213 during the 5 fiscal years immediately preceding the date of the
214 application, and the projected amounts of such taxes to be due
215 in the 3 fiscal years immediately following the date of the
216 application.

217 ~~11.10.~~ The estimated amount of tax refunds to be claimed
218 for each fiscal year.

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219 ~~12.11.~~ A brief statement concerning the applicant's need
220 for tax refunds, and the proposed uses of such refunds by the
221 applicant.

222 ~~13.12.~~ A resolution adopted by the county commissioners of
223 the county in which the project will be located, which
224 recommends the applicant be approved as a qualified applicant,
225 and which indicates that the necessary commitments of local
226 financial support for the applicant exist. Prior to the adoption
227 of the resolution, the county commission may review the proposed
228 public or private sources of such support and determine whether
229 the proposed sources of local financial support can be provided
230 or, for any applicant whose project is located in a county
231 designated by the Rural Economic Development Initiative, a
232 resolution adopted by the county commissioners of such county
233 requesting that the applicant's project be exempt from the local
234 financial support requirement.

235 ~~14.13.~~ Any additional information requested by the office.

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

240 1. The applicant's Florida sales tax registration number
241 and a notarized signature of an officer of the applicant.

242 2. The permanent location of the manufacturing,
243 assembling, fabricating, research, development, or design
244 facility in this state at which the project is or is to be
245 located.

246 3. The business entity holding a valid Department of
247 Defense contract or branch of the Armed Forces of the United
248 States that previously occupied the facility, and the date such
249 entity last occupied the facility.

250 4. A copy of the contract to reuse the facility, or such
251 alternative proof as may be prescribed by the office that the
252 applicant is seeking to contract for the reuse of such facility.

253 5. The date the contract to reuse the facility was
254 executed or is expected to be executed, and the date the
255 contract is due to expire or is expected to expire.

256 6. The commencement date for project operations under the
257 contract in this state.

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

260 ~~8.7-~~ The number of net new full-time equivalent Florida
261 jobs included in the project as of December 31 of each year and
262 the average wage of such jobs.

263 ~~9.8-~~ The total number of full-time equivalent employees
264 employed by the applicant in this state.

265 ~~10.9-~~ The amount of:

266 a. Taxes on sales, use, and other transactions paid
267 pursuant to chapter 212.

268 b. Corporate income taxes paid pursuant to chapter 220.

269 c. Intangible personal property taxes paid pursuant to
270 chapter 199.

271 d. Emergency excise taxes paid pursuant to chapter 221.

272 e. Excise taxes paid on documents pursuant to chapter 201.

273 f. Ad valorem taxes paid during the 5 fiscal years
 274 immediately preceding the date of the application, and the
 275 projected amounts of such taxes to be due in the 3 fiscal years
 276 immediately following the date of the application.

277 ~~11.10.~~ The estimated amount of tax refunds to be claimed
 278 for each fiscal year.

279 ~~12.11.~~ A brief statement concerning the applicant's need
 280 for tax refunds, and the proposed uses of such refunds by the
 281 applicant.

282 ~~13.12.~~ A resolution adopted by the county commissioners of
 283 the county in which the project will be located, which
 284 recommends the applicant be approved as a qualified applicant,
 285 and which indicates that the necessary commitments of local
 286 financial support for the applicant exist. Prior to the adoption
 287 of the resolution, the county commission may review the proposed
 288 public or private sources of such support and determine whether
 289 the proposed sources of local financial support can be provided
 290 or, for any applicant whose project is located in a county
 291 designated by the Rural Economic Development Initiative, a
 292 resolution adopted by the county commissioners of such county
 293 requesting that the applicant's project be exempt from the local
 294 financial support requirement.

295 ~~14.13.~~ Any additional information requested by the office.

296 (7) EXPIRATION.--An applicant may not be certified as
 297 qualified under this section after June 30, 2009 ~~2004~~. However,
 298 a tax refund agreement existing on that date shall continue in
 299 effect in accordance with its terms.

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

302 288.106 Tax refund program for qualified target industry
303 businesses.--

304 (7) CERTIFICATION EXPIRATION; CONTINUED EFFECT.--An
305 applicant may not be certified as qualified under this section
306 after June 30, 2009. However, a tax refund agreement existing on
307 that date shall continue in effect in accordance with its terms
308 ~~This section expires June 30, 2004.~~

309 Section 4. The Office of Tourism, Trade, and Economic
310 Development shall attempt to amend existing tax refund
311 agreements created under s. 288.106, Florida Statutes, to
312 require tax refund claims to be submitted by January 31 for the
313 net new full-time equivalent Florida jobs as of December 31 of
314 the preceding calendar year.

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