

CHAMBER ACTION

1 The Committee on Appropriations 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 payment
9 of claims for tax refunds in the order approved by the
10 Office of Tourism, Trade, and Economic Development;
11 specifying that unsatisfied tax refunds have first claim
12 to certain subsequent year appropriations under certain
13 circumstances; requiring the office to notify legislative
14 appropriations committees of certain funds shortfalls;
15 requiring Enterprise Florida, Inc., to report on the
16 efforts of the Office of Tourism, Trade, and Economic
17 Development to amend tax refund agreements; amending s.
18 288.1045, F.S.; defining the term "jobs" to include new
19 and retained jobs; requiring applications for
20 certification to include the number of jobs retained;
21 providing that new applicants may not be certified for the
22 tax refund program for qualified defense contractors after
23 June 30, 2007; amending s. 288.106, F.S.; revising an

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24 | expiration date for the tax refund program for qualified
 25 | target industry businesses; requiring the Office of
 26 | Tourism, Trade, and Economic Development to attempt to
 27 | amend certain tax refund agreements, to conform; requiring
 28 | the Office of Program Policy Analysis and Government
 29 | Accountability to review certain programs; providing
 30 | review criteria; requiring a report to the Governor and
 31 | Legislature; providing an effective date.

32 |
 33 | Be It Enacted by the Legislature of the State of Florida:
 34 |

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

37 | 288.095 Economic Development Trust Fund.--

38 | (3)

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

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

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

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

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

95 | 288.1045 Qualified defense contractor tax refund
 96 | program.--

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

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

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

107 (b) Applications for certification based on the
 108 consolidation of a Department of Defense contract or a new
 109 Department of Defense contract must be submitted to the office
 110 as prescribed by the office and must include, but are not
 111 limited to, the following information:

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

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

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

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

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

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

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

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

135 ~~9.8.~~ The percentage of the applicant's gross receipts
 136 derived from Department of Defense contracts during the 5
 137 taxable years immediately preceding the date the application is
 138 submitted.

139 ~~10.9.~~ The amount of:

- 140 a. Taxes on sales, use, and other transactions paid
- 141 pursuant to chapter 212;
- 142 b. Corporate income taxes paid pursuant to chapter 220;
- 143 c. Intangible personal property taxes paid pursuant to
- 144 chapter 199;
- 145 d. Emergency excise taxes paid pursuant to chapter 221;
- 146 e. Excise taxes paid on documents pursuant to chapter 201;
- 147 and
- 148 f. Ad valorem taxes paid

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

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

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

159 ~~13.12.~~ A resolution adopted by the county commissioners of
 160 the county in which the project will be located, which
 161 recommends the applicant be approved as a qualified applicant,
 162 and which indicates that the necessary commitments of local

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

172 ~~14.13.~~ Any additional information requested by the office.

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

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

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

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

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

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

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

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

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

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

203 ~~10.9.~~ The amount of:

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

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

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

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

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

236 ~~14.13.~~ Any additional information requested by the office.

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

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

243 2. The permanent location of the manufacturing,
244 assembling, fabricating, research, development, or design

245 facility in this state at which the project is or is to be
246 located.

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

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

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

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

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

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

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

266 10.9. The amount of:

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

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

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

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

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

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

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

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

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

296 ~~14.13.~~ Any additional information requested by the office.

297 (7) EXPIRATION.--An applicant may not be certified as
298 qualified under this section after June 30, 2007 ~~2004~~.

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

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301 288.106 Tax refund program for qualified target industry
302 businesses.--

303 (7) EXPIRATION.--This section expires January 1, 2007 ~~June~~
304 ~~30, 2004~~.

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

311 Section 5. The Office of Program Policy Analysis and
312 Government Accountability shall conduct a thorough review of the
313 programs set forth in ss. 288.1045 and 288.106, Florida
314 Statutes. The review should include, at a minimum, an evaluation
315 of the benefits that accrue to the state from the programs; an
316 evaluation of the program's administration, including whether
317 the program could be administered more efficiently under a
318 different administrative structure; and an evaluation of whether
319 the Legislature's oversight responsibilities would be better
320 served if the program was structured as a tax credit program
321 instead of as a tax refund program. The review shall include an
322 assessment of the fiscal or administrative benefits of the
323 potential structures reviewed. The review shall be submitted to
324 the Governor, the Speaker of the House of Representatives, and
325 the President of the Senate by December 31, 2004.

326 Section 6. This act shall take effect upon becoming a law.