

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: Government Efficiency Appropriations Committee

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BILL: CS/SB 2222

SPONSOR: Government Efficiency Appropriations Committee and Senator King

SUBJECT: Economic Development

DATE: April 21, 2005

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Barrett</u>	<u>Cooper</u>	<u>CM</u>	<b>Fav/2 amendments</b>
2.	<u>Keating</u>	<u>Johansen</u>	<u>GE</u>	<b>Fav/CS</b>
3.	_____	_____	<u>TA</u>	_____
4.	_____	_____	<u>WM</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

This bill increases the tax refund cap from \$35 million to \$40 million for the Qualified Target Industry (QTI) and Qualified Defense Contractor (QDC) tax refund programs; segregates tax refunds for qualified aerospace industry businesses into a separate account within the Qualified Target Industry Tax Refund Program; and specifically designates the aerospace industry as a target industry business under the QTI program.

This bill substantially amends sections 288.095, 288.106, 288.107, and 290.00677 of the Florida Statutes.

## II. Present Situation:

The Qualified Target Industry (QTI) and Qualified Defense Contractor (QDC) tax refund programs are tools used by the state to encourage businesses to locate or expand in this state and provide high-wage jobs for Floridians. Businesses participating in the programs may receive tax refunds based on the number of qualifying jobs and the average wage of their employees. The QTI and QDC programs are scheduled to expire or close to new activity on June 30, 2005.

The total amount of tax refunds that the Office of Tourism, Trade, and Economic Development (OTTED) may schedule for payment under the QTI and QDC programs may not exceed \$35

million in any fiscal year.<sup>1</sup> Since the inception of the QTI program, the tax refunds paid to QTI businesses have been less than the appropriations.<sup>2</sup>

### **QTI Program**

A qualified target industry (QTI) business may receive a tax refund equal to the tax refund per job times the number of jobs created, pursuant to a tax refund agreement with the Office of Tourism, Trade, and Economic Development (OTTED).<sup>3</sup> The tax refund per job is between \$3,000 and \$8,000, depending upon the average salary of the jobs created and whether the jobs are located within a rural county or enterprise zone (EZ).<sup>4</sup> Taxes that may be refunded under the program include corporate income taxes; insurance premium taxes; taxes on sales, use, and other transactions; intangible personal property taxes; emergency excise taxes; excise taxes on documents; and certain ad valorem taxes.

The total tax refund must be paid to a business over a 4-year or longer period.<sup>5</sup> The maximum refund that a business may receive in any year is \$1.5 million or, if the business is located in an enterprise zone, \$2.5 million.<sup>6</sup> The total refund that a business may receive may not exceed \$5 million or, if the business is located in an enterprise zone, \$7.5 million.<sup>7</sup> The total amount of tax refunds that OTTED may schedule for payment under the QTI and Qualified Defense Contractor (QDC) programs may not exceed \$35 million in any fiscal year.<sup>8</sup>

To be eligible for tax refunds under the QTI program, a target industry business must apply to 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.<sup>9</sup> Then the business must enter into a performance-based contract with OTTED to create a specific number of high-wage jobs.

### **QTI Target Industries**

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).<sup>10</sup> OTTED must submit this list to the Legislature with its final agency legislative budget request.<sup>11</sup> 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

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<sup>1</sup> Section 288.095(3)(a), F.S.

<sup>2</sup> For a discussion of this issue, see Interim Project Report 2004-115, *Review of Qualified Target Industry and Qualified Defense Contractor Tax Refund Programs*, December 2003, by the Committee on Commerce, Economic Opportunities, and Consumer Services, The Florida Senate,

<sup>3</sup> Section 288.106(2), F.S.

<sup>4</sup> Section 288.106(2)(b), F.S.

<sup>5</sup> See s. 288.106(2)(b), F.S.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> Section 288.095(3)(a), F.S.

<sup>9</sup> Section 288.106(3)(a), F.S. It appears that the purpose of this limitation is to prevent the payment of tax refunds to businesses that had planned to locate a new business or expand an existing business in Florida anyway.

<sup>10</sup> Section 288.106(1)(o), F.S.

<sup>11</sup> *Id.*

the state and regional economies.<sup>12</sup> 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.<sup>13</sup> 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.<sup>14</sup> 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.<sup>15</sup> OTTED, however, may waive the average wage requirement of the QTI program in limited circumstances.<sup>16</sup> A new or expanding business must propose the creation of at least 10 jobs.<sup>17</sup> 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.<sup>18</sup>

The application must also be accompanied by a resolution from the county or municipality in which the business will be located.<sup>19</sup> 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.<sup>20</sup> 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.<sup>21</sup> 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.<sup>22</sup> 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.<sup>23</sup>

After a business is certified as a QTI business, it may enter into a tax refund agreement with OTTED.<sup>24</sup> 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

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<sup>12</sup> *Id.*

<sup>13</sup> For the complete list of target industries, see OTTED's annual *Legislative Budget Request*.

<sup>14</sup> Section 288.106(3), F.S.

<sup>15</sup> Section 288.106(3)(a)4. and (3)(b)1., F.S. OTTED requires that the average salary of jobs created be 115 percent of the lower of the average private sector wage in the area or the statewide private sector wage.

<sup>16</sup> Section 288.106(3)(b)1., F.S. According to OTTED, by 2004, it has waived the minimum average wage requirements of the QTI program fewer than five times.

<sup>17</sup> Section 288.106(3)(b)2., F.S.

<sup>18</sup> Section 288.106(1)(g) and (3)(b)2., F.S.

<sup>19</sup> Section 288.106(3)(a)9., F.S.

<sup>20</sup> *Id.*

<sup>21</sup> Section 288.106(3)(f), F.S.

<sup>22</sup> Section 288.106(1)(k), F.S.

<sup>23</sup> *Id.*

<sup>24</sup> Section 288.106(3)(e)2., F.S.

requirements. The contract also will clearly state that the agreement to pay tax refunds is contingent upon appropriations from the Legislature.<sup>25</sup>

### **QDC Program**

The qualified defense contractor (QDC) tax refund program was created in 1993 after the Cold War ended. The impetus for the program appears to have been Executive Order No. 93-118, signed by Governor Chiles on April 13, 1993.<sup>26</sup> The order found:

- The federal government was in the midst of major post-Cold War cuts in the nation's defense industry.
- By 1997, the federal defense budget was projected to decline by more than 42 percent, in real terms, from 1985 levels.
- The federal cuts included a 30-percent reduction in military personnel, base closures, and elimination of numerous defense contracts for goods and services, with employment losses in Florida of up to 55,000 by 1997.<sup>27</sup>

Apparently, the QDC program was designed to help protect Florida defense businesses from cuts in federal defense spending.

The QDC program provides tax refunds for job creation similar to the tax refund program for qualified target industries.<sup>28</sup> The programs, however, differ significantly as follows:

- Tax refunds under the QDC program are paid for each job retained in addition to each new job created.<sup>29</sup>
- Participation in the QDC program is limited to certain defense contractors.<sup>30</sup>
- OTTED has the discretion to score applications for certification as a QDC business, and a tax refund of up to \$5,000 per job is based on that score.<sup>31</sup>

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 288.095(3)(a), F.S., relating to the Economic Development Trust Fund, to increase the refund cap for Qualified Target Industry (QTI) and Qualified Defense Contractor (QDC) tax refund programs from \$35 million to \$40 million.

This section also provides that funds will be appropriated into a separate account to be used exclusively for aerospace industry businesses qualified under the QTI program. Additionally,

<sup>25</sup> Section 288.106(4)(d), F.S.

<sup>26</sup> See Florida Senate Committee on International Trade, Economic Development, and Tourism, *Staff Analysis and Economic Impact Statement of CS/SB 32-C*, at 2-3 (Nov. 3, 1993).

<sup>27</sup> Executive Order No. 93-118, Signed by Governor Lawton Chiles on April 13, 1993 (creating the Florida Defense Conversion Transition Commission).

<sup>28</sup> According to OTTED staff, the statute creating the QDC program was used as a model for s. 288.106, F.S., the statute creating the QTI program.

<sup>29</sup> OTTED authorizes the payment of tax refunds to QDC businesses for jobs retained. Section 288.1045, F.S., however, is ambiguous as to whether tax refunds are authorized for both retained and new jobs or only new jobs.

<sup>30</sup> Section 288.1045(3)(e)5., F.S.

<sup>31</sup> Section 288.1045(2)(b) and (3)(f), F.S.

space industry businesses under the QTI program may receive funding from remaining appropriations for QTI businesses.

**Section 2** amends s. 288.106(1), F.S., relating to the QTI tax refund program, to define the term “aerospace industry,” and to include qualified aerospace industry businesses in the group of defined or specified “target industry businesses” eligible for tax refunds under the QTI program. The term “aerospace industry” is defined to mean the industry concerned with the design and manufacture of aircraft, rockets, missiles, spacecraft, satellites, space vehicles, space stations, space facilities, or components thereof, and equipment, systems, facilities, simulators, programs, and activities related thereto.

**Section 3** amends s. 288.107(1)(e), F.S., to change a statutory reference to the definition of qualified target industry business, which was re-designated in Section 2, within the Brownfield Redevelopment Program.

**Section 4** amends s. 290.00677, F.S., to change a statutory reference to the definition of rural county, which was re-designated in Section 2, within the Rural Enterprise Zone program.

**Section 5** provides an effective date of July 1, 2005.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

Effective July 1, 2005, this bill increases the tax refund cap from \$35 million to \$40 million for the Qualified Target Industry tax refund program and Qualified Defense Contractor tax refund program, however, the bill does not extend the expiration date of both programs which are set to expire July 1, 2005.

Senate Bill 2216 extends the expiration date of the Qualified Target Industry program and Qualified Defense Contractor program to 2010.<sup>32</sup> Without the passage of SB 2216, or

<sup>32</sup> Senate Bill 2216 is on the April 21, 2005 agenda of the Senate Committee on Transportation and Economic Development Appropriations.

similar legislation, the \$5 million increase in the tax refund cap will not materialize and the existing \$35 million tax refund cap will expire July 1, 2005.

**B. Private Sector Impact:**

Qualified aerospace industry businesses will be specifically eligible for tax credit funds appropriated into a separate account within the Qualified Target Industry Tax Refund Program.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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## **VIII. Summary of Amendments:**

None.

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