

CS/HB 1373

2008

1 A bill to be entitled

2 An act relating to the qualified defense contractor tax
3 refund program; amending s. 288.1045, F.S.; revising
4 definitions to include space flight businesses and space
5 flight contracts; specifying a methodology and amounts for
6 tax refund payments to qualified defense contractor
7 businesses; revising provisions authorizing qualified
8 applicants to receive refunds of certain taxes; revising
9 application process requirements to include space flight
10 businesses and contracts; revising information
11 requirements for applications for certain qualified
12 applicant certifications; providing employment
13 requirements for space flight business contracts;
14 specifying required information for applications for
15 certification under space flight business contracts;
16 including space flight businesses under provisions
17 authorizing annual claims for refund; revising limitations
18 on payments of tax refunds; revising certain required
19 reductions of amounts of tax refunds; deleting a reporting
20 requirement of tax refunds paid and use of appropriations
21 expended; extending an expiration date; amending ss.
22 14.2015 and 213.053, F.S.; conforming program references;
23 providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Subsection (1), paragraphs (b) and (f) of
28 subsection (2), subsections (3), (4), and (5), paragraphs (d)

Page 1 of 30

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb1373-01-c1

29 and (e) of subsection (6), and subsection (8) of section
 30 288.1045, Florida Statutes, are amended to read:

31 288.1045 Qualified defense contractor and space flight
 32 business tax refund program.--

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

34 (a) ~~(e)~~ "Applicant" means any business entity that holds a
 35 valid Department of Defense contract or space flight business
 36 contract, ~~or~~ any business entity that is a subcontractor under a
 37 valid Department of Defense contract or space flight business
 38 contract, or any business entity that holds a valid contract for
 39 the reuse of a defense-related facility, including all members
 40 of an affiliated group of corporations as defined in s.
 41 220.03(1)(b).

42 (b) "Average wage in the area" means the average of all
 43 wages and salaries in the state, the county, or in the standard
 44 metropolitan area in which the business unit is located.

45 (c) ~~(n)~~ "Business unit" means an employing unit, as defined
 46 in s. 443.036, that is registered with the Agency for Workforce
 47 Innovation for unemployment compensation purposes or means a
 48 subcategory or division of an employing unit that is accepted by
 49 the Agency for Workforce Innovation as a reporting unit.

50 (d) ~~(a)~~ "Consolidation of a Department of Defense contract"
 51 means the consolidation of one or more of an applicant's
 52 facilities under one or more Department of Defense contracts,
 53 ~~either~~ from outside this state or from inside and outside this
 54 state, into one or more of the applicant's facilities inside
 55 this state.

56 (e) "Consolidation of a space flight business contract"

57 means the consolidation of one or more of an applicant's
58 facilities under one or more space flight business contracts,
59 from outside this state or from inside and outside this state,
60 into one or more of the applicant's facilities inside this
61 state.

62 (f)~~(p)~~ "Contract for reuse of a defense-related facility"
63 means a contract with a duration of 2 or more years for the use
64 of a facility for manufacturing, assembling, fabricating,
65 research, development, or design of tangible personal property,
66 but excluding any contract to provide goods, improvements to
67 real or tangible property, or services directly to or for any
68 particular military base or installation in this state. Such
69 facility must be located within a port, as defined in s. 313.21,
70 and have been occupied by a business entity that held a valid
71 Department of Defense contract or occupied by any branch of the
72 Armed Forces of the United States, within 1 year of any contract
73 being executed for the reuse of such facility. A contract for
74 reuse of a defense-related facility may not include any contract
75 for reuse of such facility for any Department of Defense
76 contract for manufacturing, assembling, fabricating, research,
77 development, or design.

78 (g)~~(e)~~ "Department of Defense contract" means a
79 competitively bid Department of Defense contract or subcontract
80 or a competitively bid federal agency contract or subcontract
81 issued on behalf of the Department of Defense for manufacturing,
82 assembling, fabricating, research, development, or design with a
83 duration of 2 or more years, but excluding any contract or
84 subcontract to provide goods, improvements to real or tangible

CS/HB 1373

2008

85 | property, or services directly to or for any particular military
86 | base or installation in this state. The term includes contracts
87 | or subcontracts for products or services for military use or
88 | homeland security which contracts or subcontracts are approved
89 | by the United States Department of Defense, the United States
90 | Department of State, or the United States Department of Homeland
91 | Security.

92 | (h)~~(k)~~ "Director" means the director of the Office of
93 | Tourism, Trade, and Economic Development.

94 | (i)~~(m)~~ "Fiscal year" means the fiscal year of the state.

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

102 | (k)~~(e)~~ "Local financial support" means funding from local
103 | sources, public or private, which is paid to the Economic
104 | Development Trust Fund and which is equal to 20 percent of the
105 | annual tax refund for a qualified applicant. Local financial
106 | support may include excess payments made to a utility company
107 | under a designated program to allow decreases in service by the
108 | utility company under conditions, regardless of when application
109 | is made. A qualified applicant may not provide, directly or
110 | indirectly, more than 5 percent of such funding in any fiscal
111 | year. The sources of such funding may not include, directly or
112 | indirectly, state funds appropriated from the General Revenue

113 Fund or any state trust fund, excluding tax revenues shared with
 114 local governments pursuant to law.

115 (l)~~(g)~~ "Local financial support exemption option" means
 116 the option to exercise an exemption from the local financial
 117 support requirement available to any applicant whose project is
 118 located in a county designated by the Rural Economic Development
 119 Initiative, if the county commissioners of the county in which
 120 the project will be located adopt a resolution requesting that
 121 the applicant's project be exempt from the local financial
 122 support requirement. Any applicant that exercises this option is
 123 not eligible for more than 80 percent of the total tax refunds
 124 allowed such applicant under this section.

125 (m)~~(f)~~ "New Department of Defense contract" means a
 126 Department of Defense contract entered into after the date
 127 application for certification as a qualified applicant is made
 128 and after January 1, 1994.

129 (n) "New space flight business contract" means a space
 130 flight business contract entered into after an application for
 131 certification as a qualified applicant is made after July 1,
 132 2008.

133 (o)~~(h)~~ "Nondefense production jobs" means employment
 134 exclusively for activities that, directly or indirectly, are
 135 unrelated to the Department of Defense.

136 (p)~~(d)~~ "Office" means the Office of Tourism, Trade, and
 137 Economic Development.

138 (q)~~(i)~~ "Project" means any business undertaking in this
 139 state under a new Department of Defense contract, consolidation
 140 of a Department of Defense contract, new space flight business

CS/HB 1373

2008

141 contract, consolidation of a space flight business contract, or
142 conversion of defense production jobs over to nondefense
143 production jobs or reuse of defense-related facilities.

144 (r)~~(j)~~ "Qualified applicant" means an applicant that has
145 been approved by the director to be eligible for tax refunds
146 pursuant to this section.

147 (s) "Space flight business" means the manufacturing,
148 processing, or assembly of space flight technology products,
149 space flight facilities, space flight propulsion systems, or
150 space vehicles, satellites, or stations of any kind possessing
151 the capability for space flight, as defined by s. 212.02(23), or
152 components thereof, and includes, in supporting space flight,
153 vehicle launch activities, flight operations, ground control or
154 ground support, and all administrative activities directly
155 related to such activities. The term does not include products
156 that are designed or manufactured for general commercial
157 aviation or other uses even if those products may also serve an
158 incidental use in space flight applications.

159 (t) "Space flight business contract" means a competitively
160 bid federal agency contract, federal agency subcontract, an
161 awarded commercial contract, or an awarded commercial
162 subcontract for space flight business with a duration of 2 or
163 more years.

164 (u)~~(l)~~ "Taxable year" means the same as in s.
165 220.03(1)(y).

166 (2) GRANTING OF A TAX REFUND; ELIGIBLE AMOUNTS.--

167 (b) Upon approval by the director, a qualified applicant
168 shall be allowed tax refund payments equal to \$3,000 times the

169 number of jobs specified in the tax refund agreement under
 170 subparagraph (4)(a)1. or equal to \$6,000 times the number of
 171 jobs if the project is located in a rural county or an
 172 enterprise zone. Further, a qualified applicant shall be allowed
 173 additional tax refund payments equal to \$1,000 times the number
 174 of jobs specified in the tax refund agreement under subparagraph
 175 (4)(a)1. if such jobs pay an annual average wage of at least 150
 176 percent of the average private sector wage in the area or equal
 177 to \$2,000 times the number of jobs if such jobs pay an annual
 178 average wage of at least 200 percent of the average private
 179 sector wage in the area. A qualified applicant may not be
 180 ~~qualified for any project to receive more than \$5,000 times the~~
 181 ~~number of jobs provided in the tax refund agreement pursuant to~~
 182 ~~subparagraph (4)(a)1. A qualified applicant may not receive~~
 183 ~~refunds of more than 25 percent of the total tax refunds~~
 184 ~~provided in the tax refund agreement pursuant to subparagraph~~
 185 ~~(4)(a)1. in any fiscal year, provided that no qualified~~
 186 ~~applicant may receive more than \$2.5 million in tax refunds~~
 187 ~~pursuant to this section in any fiscal year.~~

188 (f) After entering into a tax refund agreement pursuant to
 189 subsection (4), a qualified applicant may:

190 1. Receive refunds from the account for corporate income
 191 taxes due and paid pursuant to chapter 220 by that business
 192 beginning with the first taxable year of the business which
 193 begins after entering into the agreement.

194 2. Receive refunds from the account ~~Economic Development~~
 195 ~~Trust Fund~~ for the following taxes due and paid by that business

196 ~~the qualified applicant beginning with the applicant's first~~
 197 ~~taxable year that begins~~ after entering into the agreement:

198 a.1. Taxes on sales, use, and other transactions paid
 199 pursuant to chapter 212.

200 ~~2. Corporate income taxes paid pursuant to chapter 220.~~

201 b.3. Intangible personal property taxes paid pursuant to
 202 chapter 199.

203 c.4. Emergency excise taxes paid pursuant to chapter 221.

204 d.5. Excise taxes paid on documents pursuant to chapter
 205 201.

206 e.6. Ad valorem taxes paid, as defined in s. 220.03(1)(a)
 207 on June 1, 1996.

208 f.7. State communications services taxes administered
 209 under chapter 202. This provision does not apply to the gross
 210 receipts tax imposed under chapter 203 and administered under
 211 chapter 202 or the local communications services tax authorized
 212 under s. 202.19.

213
 214 However, a qualified applicant may not receive a tax refund
 215 pursuant to this section for any amount of credit, refund, or
 216 exemption granted such contractor for any of such taxes. If a
 217 refund for such taxes is provided by the office, which taxes are
 218 subsequently adjusted by the application of any credit, refund,
 219 or exemption granted to the qualified applicant other than that
 220 provided in this section, the qualified applicant shall
 221 reimburse the Economic Development Trust Fund for the amount of
 222 such credit, refund, or exemption. A qualified applicant must
 223 notify and tender payment to the office within 20 days after

224 receiving a credit, refund, or exemption, other than that
225 provided in this section. The addition of communications
226 services taxes administered under chapter 202 is remedial in
227 nature and retroactive to October 1, 2001. The office may make
228 supplemental tax refund payments to allow for tax refunds for
229 communications services taxes paid by an eligible qualified
230 defense contractor after October 1, 2001.

231 (3) APPLICATION PROCESS; REQUIREMENTS; AGENCY
232 DETERMINATION.--

233 (a) To apply for certification as a qualified applicant
234 pursuant to this section, an applicant must file an application
235 with the office which satisfies the requirements of paragraphs
236 (b) and (e), paragraphs (c) and (e), ~~or~~ paragraphs (d) and (e),
237 or paragraphs (e) and (k). An applicant may not apply for
238 certification pursuant to this section after a proposal has been
239 submitted for a new Department of Defense contract, after the
240 applicant has made the decision to consolidate an existing
241 Department of Defense contract in this state for which such
242 applicant is seeking certification, after a proposal has been
243 submitted for a new space flight business contract in this
244 state, after the applicant has made the decision to consolidate
245 an existing space flight business contract in this state for
246 which such applicant is seeking certification, or after the
247 applicant has made the decision to convert defense production
248 jobs to nondefense production jobs for which such applicant is
249 seeking certification.

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

252 Department of Defense contract must be submitted to the office
 253 as prescribed by the office and must include, but are not
 254 limited to, the following information:

255 1. The applicant's federal employer identification number,
 256 the applicant's Florida sales tax registration number, and a
 257 ~~notarized~~ signature of an officer of the applicant.

258 2. The permanent location of the manufacturing,
 259 assembling, fabricating, research, development, or design
 260 facility in this state at which the project is or is to be
 261 located.

262 3. The Department of Defense contract numbers of the
 263 contract to be consolidated, the new Department of Defense
 264 contract number, or the "RFP" number of a proposed Department of
 265 Defense contract.

266 4. The date the contract was executed or is expected to be
 267 executed, and the date the contract is due to expire or is
 268 expected to expire.

269 5. The commencement date for project operations under the
 270 contract in this state.

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

274 7. The total number of full-time equivalent employees
 275 employed by the applicant in this state.

276 8. The percentage of the applicant's gross receipts
 277 derived from Department of Defense contracts during the 5
 278 taxable years immediately preceding the date the application is
 279 submitted.

280 9. The number of full-time equivalent jobs in this state
 281 to be retained by the project.

282 ~~10. The estimated amount of tax refunds to be claimed for~~
 283 ~~each fiscal year.~~

284 10.11. A brief statement concerning the applicant's need
 285 for tax refunds, and the proposed uses of such refunds by the
 286 applicant.

287 ~~11.12.~~ A resolution adopted by the governing board ~~county~~
 288 ~~commissioners~~ of the county or municipality in which the project
 289 will be located, which recommends the applicant be approved as a
 290 qualified applicant, and which indicates that the necessary
 291 commitments of local financial support for the applicant exist.
 292 Prior to the adoption of the resolution, the county commission
 293 may review the proposed public or private sources of such
 294 support and determine whether the proposed sources of local
 295 financial support can be provided or, for any applicant whose
 296 project is located in a county designated by the Rural Economic
 297 Development Initiative, a resolution adopted by the county
 298 commissioners of such county requesting that the applicant's
 299 project be exempt from the local financial support requirement.

300 ~~12.13.~~ Any additional information requested by the office.

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

305 1. The applicant's federal employer identification number,
 306 the applicant's Florida sales tax registration number, and a
 307 ~~notarized~~ signature of an officer of the applicant.

308 2. The permanent location of the manufacturing,
 309 assembling, fabricating, research, development, or design
 310 facility in this state at which the project is or is to be
 311 located.

312 3. The Department of Defense contract numbers of the
 313 contract under which the defense production jobs will be
 314 converted to nondefense production jobs.

315 4. The date the contract was executed, and the date the
 316 contract is due to expire or is expected to expire, or was
 317 canceled.

318 5. The commencement date for the nondefense production
 319 operations in this state.

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

323 7. The total number of full-time equivalent employees
 324 employed by the applicant in this state.

325 8. The percentage of the applicant's gross receipts
 326 derived from Department of Defense contracts during the 5
 327 taxable years immediately preceding the date the application is
 328 submitted.

329 9. The number of full-time equivalent jobs in this state
 330 to be retained by the project.

331 ~~10. The estimated amount of tax refunds to be claimed for~~
 332 ~~each fiscal year.~~

333 10.11. A brief statement concerning the applicant's need
 334 for tax refunds, and the proposed uses of such refunds by the
 335 applicant.

336 ~~11.12.~~ A resolution adopted by the governing board ~~county~~
337 ~~commissioners~~ of the county or municipality in which the project
338 will be located, which recommends the applicant be approved as a
339 qualified applicant, and which indicates that the necessary
340 commitments of local financial support for the applicant exist.
341 Prior to the adoption of the resolution, the county commission
342 may review the proposed public or private sources of such
343 support and determine whether the proposed sources of local
344 financial support can be provided or, for any applicant whose
345 project is located in a county designated by the Rural Economic
346 Development Initiative, a resolution adopted by the county
347 commissioners of such county requesting that the applicant's
348 project be exempt from the local financial support requirement.

349 ~~12.13.~~ Any additional information requested by the office.

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

354 1. The applicant's Florida sales tax registration number
355 and a ~~notarized~~ signature of an officer of the applicant.

356 2. The permanent location of the manufacturing,
357 assembling, fabricating, research, development, or design
358 facility in this state at which the project is or is to be
359 located.

360 3. The business entity holding a valid Department of
361 Defense contract or branch of the Armed Forces of the United
362 States that previously occupied the facility, and the date such
363 entity last occupied the facility.

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

367 5. The date the contract to reuse the facility was
 368 executed or is expected to be executed, and the date the
 369 contract is due to expire or is expected to expire.

370 6. The commencement date for project operations under the
 371 contract in this state.

372 7. The number of net new full-time equivalent Florida jobs
 373 included in the project as of December 31 of each year and the
 374 average wage of such jobs.

375 8. The total number of full-time equivalent employees
 376 employed by the applicant in this state.

377 9. The number of full-time equivalent jobs in this state
 378 to be retained by the project.

379 ~~10. The estimated amount of tax refunds to be claimed for~~
 380 ~~each fiscal year.~~

381 10.11. A brief statement concerning the applicant's need
 382 for tax refunds, and the proposed uses of such refunds by the
 383 applicant.

384 11.12. A resolution adopted by the governing board ~~county~~
 385 ~~commissioners~~ of the county or municipality in which the project
 386 will be located, which recommends the applicant be approved as a
 387 qualified applicant, and which indicates that the necessary
 388 commitments of local financial support for the applicant exist.
 389 Prior to the adoption of the resolution, the county commission
 390 may review the proposed public or private sources of such
 391 support and determine whether the proposed sources of local

392 financial support can be provided or, for any applicant whose
393 project is located in a county designated by the Rural Economic
394 Development Initiative, a resolution adopted by the county
395 commissioners of such county requesting that the applicant's
396 project be exempt from the local financial support requirement.

397 ~~12.13.~~ Any additional information requested by the office.

398 (e) To qualify for review by the office, the application
399 of an applicant must, at a minimum, establish the following to
400 the satisfaction of the office:

401 1. The jobs proposed to be provided under the application,
402 pursuant to subparagraph (b)6., ~~or~~ subparagraph (c)6., or
403 subparagraph (k)6., must pay an estimated annual average wage
404 equaling at least 115 percent of the average wage in the area
405 where the project is to be located.

406 2. The consolidation of a Department of Defense contract
407 must result in a net increase of at least 25 percent in the
408 number of jobs at the applicant's facilities in this state or
409 the addition of at least 80 jobs at the applicant's facilities
410 in this state.

411 3. The conversion of defense production jobs to nondefense
412 production jobs must result in net increases in nondefense
413 employment at the applicant's facilities in this state.

414 4. The Department of Defense contract or the space flight
415 business contract cannot allow the business to include the costs
416 of relocation or retooling in its base as allowable costs under
417 a cost-plus, or similar, contract.

418 5. A business unit of the applicant must have derived not
419 less than 60 percent of its gross receipts in this state from

420 Department of Defense contracts or space flight business
 421 contracts over the applicant's last fiscal year, and must have
 422 derived not less than an average of 60 percent of its gross
 423 receipts in this state from Department of Defense contracts over
 424 the 5 years preceding the date an application is submitted
 425 pursuant to this section. This subparagraph does not apply to
 426 any application for certification based on a contract for reuse
 427 of a defense-related facility.

428 6. The reuse of a defense-related facility must result in
 429 the creation of at least 100 jobs at such facility.

430 7. A new space flight business contract or the
 431 consolidation of a space flight business contract must result in
 432 net increases in space flight business employment at the
 433 applicant's facilities in this state.

434 (f) Each application meeting the requirements of
 435 paragraphs (b) and (e), paragraphs (c) and (e), ~~or~~ paragraphs
 436 (d) and (e), or paragraphs (e) and (k) must be submitted to the
 437 office for a determination of eligibility. The office shall
 438 review and, evaluate, ~~and score~~ each application based on, but
 439 not limited to, the following criteria:

440 1. Expected contributions to the state strategic economic
 441 development plan adopted by Enterprise Florida, Inc., taking
 442 into account the extent to which the project contributes to the
 443 state's high-technology base, and the long-term impact of the
 444 project and the applicant on the state's economy.

445 2. The economic benefit of the jobs created or retained by
 446 the project in this state, taking into account the cost and

447 average wage of each job created or retained, and the potential
 448 risk to existing jobs.

449 3. The amount of capital investment to be made by the
 450 applicant in this state.

451 4. The local commitment and support for the project and
 452 applicant.

453 5. The impact of the project on the local community,
 454 taking into account the unemployment rate for the county where
 455 the project will be located.

456 6. The dependence of the local community on the defense
 457 industry or space flight business.

458 7. The impact of any tax refunds granted pursuant to this
 459 section on the viability of the project and the probability that
 460 the project will occur in this state if such tax refunds are
 461 granted to the applicant, taking into account the expected long-
 462 term commitment of the applicant to economic growth and
 463 employment in this state.

464 8. The length of the project, or the expected long-term
 465 commitment to this state resulting from the project.

466 (g) The office shall forward its written findings and
 467 evaluation on each application meeting the requirements of
 468 paragraphs (b) and (e), paragraphs (c) and (e), ~~or~~ paragraphs
 469 (d) and (e), or paragraphs (e) and (k) to the director within 60
 470 calendar days after receipt of a complete application. The
 471 office shall notify each applicant when its application is
 472 complete, and when the 60-day period begins. In its written
 473 report to the director, the office shall specifically address
 474 each of the factors specified in paragraph (f), and shall make a

475 specific assessment with respect to the minimum requirements
476 established in paragraph (e). The office shall include in its
477 report projections of the tax refunds the applicant would be
478 eligible to receive in each fiscal year based on the creation
479 and maintenance of the net new Florida jobs specified in
480 subparagraph (b)6., subparagraph (c)6., ~~or~~ subparagraph (d)7.,
481 or subparagraph (k)6. as of December 31 of the preceding state
482 fiscal year.

483 (h) Within 30 days after receipt of the office's findings
484 and evaluation, the director shall issue a letter of
485 certification which either approves or disapproves an
486 application. The decision must be in writing and provide the
487 justifications for either approval or disapproval. If
488 appropriate, the director shall enter into a written agreement
489 with the qualified applicant pursuant to subsection (4).

490 (i) The director may not certify any applicant as a
491 qualified applicant when the value of tax refunds to be included
492 in that letter of certification exceeds the available amount of
493 authority to certify new businesses as determined in s.
494 288.095(3). A letter of certification that approves an
495 application must specify the maximum amount of a tax refund that
496 is to be available to the contractor for each fiscal year and
497 the total amount of tax refunds for all fiscal years.

498 (j) This section does not create a presumption that an
499 applicant should receive any tax refunds under this section.

500 (k) Applications for certification based upon a new space
501 flight business contract or the consolidation of a space flight
502 business contract must be submitted to the office as prescribed

503 by the office and must include, but are not limited to, the
504 following information:

505 1. The applicant's federal employer identification number,
506 the applicant's Florida sales tax registration number, and a
507 signature of an officer of the applicant.

508 2. The permanent location of the space flight business
509 facility in this state where the project is or will be located.

510 3. The new space flight business contract number, the
511 space flight business contract numbers of the contract to be
512 consolidated, or the request-for-proposal number of a proposed
513 space flight business contract.

514 4. The date the contract was executed and the date the
515 contract is due to expire, is expected to expire, or was
516 canceled.

517 5. The commencement date for project operations under the
518 contract in this state.

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

522 7. The total number of full-time equivalent employees
523 employed by the applicant in this state.

524 8. The percentage of the applicant's gross receipts
525 derived from space flight business contracts during the 5
526 taxable years immediately preceding the date the application is
527 submitted.

528 9. The number of full-time equivalent jobs in this state
529 to be retained by the project.

530 10. A brief statement concerning the applicant's need for
 531 tax refunds and the proposed uses of such refunds by the
 532 applicant.

533 11. A resolution adopted by the governing board of the
 534 county or municipality in which the project will be located
 535 which recommends the applicant be approved as a qualified
 536 applicant and indicates that the necessary commitments of local
 537 financial support for the applicant exist. Prior to the adoption
 538 of the resolution, the county commission may review the proposed
 539 public or private sources of such support and determine whether
 540 the proposed sources of local financial support can be provided
 541 or, for any applicant whose project is located in a county
 542 designated by the Rural Economic Development Initiative, a
 543 resolution adopted by the county commissioners of such county
 544 requesting that the applicant's project be exempt from the local
 545 financial support requirement.

546 12. Any additional information requested by the office.

547 (4) QUALIFIED APPLICANT ~~DEFENSE CONTRACTOR~~ TAX REFUND
 548 AGREEMENT.--

549 (a) A qualified applicant shall enter into a written
 550 agreement with the office containing, but not limited to, the
 551 following:

552 1. The total number of full-time equivalent jobs in this
 553 state that are or will be dedicated to the qualified applicant's
 554 project, the average wage of such jobs, the definitions that
 555 will apply for measuring the achievement of these terms during
 556 the pendency of the agreement, and a time schedule or plan for
 557 when such jobs will be in place and active in this state.

558 2. The maximum amount of a refund that the qualified
 559 applicant is eligible to receive for each fiscal year, based on
 560 the job creation or retention and maintenance schedule specified
 561 in subparagraph 1.

562 3. An agreement with the office allowing the office to
 563 review and verify the financial and personnel records of the
 564 qualified applicant to ascertain whether the qualified applicant
 565 is complying with the requirements of this section.

566 4. The date by which, in each fiscal year, the qualified
 567 applicant may file a claim pursuant to subsection (5) to be
 568 considered to receive a tax refund in the following fiscal year.

569 5. That local financial support shall be annually
 570 available and will be paid to the Economic Development Trust
 571 Fund.

572 (b) Compliance with the terms and conditions of the
 573 agreement is a condition precedent for receipt of tax refunds
 574 each year. The failure to comply with the terms and conditions
 575 of the agreement shall result in the loss of eligibility for
 576 receipt of all tax refunds previously authorized pursuant to
 577 this section, and the revocation of the certification as a
 578 qualified applicant by the director, unless the qualified
 579 applicant is eligible to receive and elects to accept a prorated
 580 refund under paragraph (5)(g) or the office grants the qualified
 581 applicant an economic-stimulus exemption.

582 1. A qualified applicant may submit, in writing, a request
 583 to the office for an economic-stimulus exemption. The request
 584 must provide quantitative evidence demonstrating how negative
 585 economic conditions in the qualified applicant's industry, the

586 effects of the impact of a named hurricane or tropical storm, or
587 specific acts of terrorism affecting the qualified applicant
588 have prevented the qualified applicant from complying with the
589 terms and conditions of its tax refund agreement.

590 2. Upon receipt of a request under subparagraph 1., the
591 director shall have 45 days to notify the requesting qualified
592 applicant, in writing, if its exemption has been granted or
593 denied. In determining if an exemption should be granted, the
594 director shall consider the extent to which negative economic
595 conditions in the requesting qualified applicant's industry, the
596 effects of the impact of a named hurricane or tropical storm, or
597 specific acts of terrorism affecting the qualified applicant
598 have prevented the qualified applicant from complying with the
599 terms and conditions of its tax refund agreement.

600 3. As a condition for receiving a prorated refund under
601 paragraph (5)(g) or an economic-stimulus exemption under this
602 paragraph, a qualified applicant must agree to renegotiate its
603 tax refund agreement with the office to, at a minimum, ensure
604 that the terms of the agreement comply with current law and
605 office procedures governing application for and award of tax
606 refunds. Upon approving the award of a prorated refund or
607 granting an economic-stimulus exemption, the office shall
608 renegotiate the tax refund agreement with the qualified
609 applicant as required by this subparagraph. When amending the
610 agreement of a qualified applicant receiving an economic-
611 stimulus exemption, the office may extend the duration of the
612 agreement for a period not to exceed 2 years.

613 4. A qualified applicant may submit a request for an
 614 economic-stimulus exemption to the office in lieu of any tax
 615 refund claim scheduled to be submitted after January 1, 2005,
 616 but before July 1, 2006.

617 5. A qualified applicant that receives an economic-
 618 stimulus exemption may not receive a tax refund for the period
 619 covered by the exemption.

620 (c) The agreement shall be signed by the director and the
 621 authorized officer of the qualified applicant.

622 (d) The agreement must contain the following legend,
 623 clearly printed on its face in bold type of not less than 10
 624 points:

625
 626 "This agreement is neither a general obligation of the State of
 627 Florida, nor is it backed by the full faith and credit of the
 628 State of Florida. Payment of tax refunds are conditioned on and
 629 subject to specific annual appropriations by the Florida
 630 Legislature of funds sufficient to pay amounts authorized in s.
 631 288.1045, Florida Statutes."

632 (5) ANNUAL CLAIM FOR REFUND ~~FROM A QUALIFIED DEFENSE~~
 633 ~~CONTRACTOR.~~ --

634 (a) To be eligible to claim any scheduled tax refund,
 635 qualified applicants who have entered into a written agreement
 636 with the office pursuant to subsection (4) and who have entered
 637 into a valid new Department of Defense contract, entered into a
 638 valid new space flight business contract, commenced the
 639 consolidation of a space flight business contract, commenced the
 640 consolidation of a Department of Defense contract, commenced the

641 conversion of defense production jobs to nondefense production
 642 jobs, or entered into a valid contract for reuse of a defense-
 643 related facility must apply by January 31 of each fiscal year to
 644 the office for tax refunds scheduled to be paid from the
 645 appropriation for the fiscal year that begins on July 1
 646 following the January 31 claims-submission date. The office may,
 647 upon written request, grant a 30-day extension of the filing
 648 date. The application must include a notarized signature of an
 649 officer of the applicant.

650 (b) The claim for refund by the qualified applicant must
 651 include a copy of all receipts pertaining to the payment of
 652 taxes for which a refund is sought, and data related to
 653 achieving each performance item contained in the tax refund
 654 agreement pursuant to subsection (4). The amount requested as a
 655 tax refund may not exceed the amount for the relevant fiscal
 656 year in the written agreement entered pursuant to subsection
 657 (4).

658 (c) A tax refund may not be approved for any qualified
 659 applicant unless local financial support has been paid to the
 660 Economic Development Trust Fund for that refund. If the local
 661 financial support is less than 20 percent of the approved tax
 662 refund, the tax refund shall be reduced. The tax refund paid may
 663 not exceed 5 times the local financial support received. Funding
 664 from local sources includes tax abatement under s. 196.1995 or
 665 the appraised market value of municipal or county land,
 666 including any improvements or structures, conveyed or provided
 667 at a discount through a sale or lease to that applicant provided
 668 ~~to a qualified applicant.~~ The amount of any tax refund for an

669 applicant approved under this section shall be reduced by the
 670 amount of any such tax abatement granted or the value of the
 671 land granted, including the value of any improvements or
 672 structures; and the limitations in subsection (2) and paragraph
 673 (3)(h) shall be reduced by the amount of any such tax abatement
 674 or the value of the land granted, including any improvements or
 675 structures. A report listing all sources of the local financial
 676 support shall be provided to the office when such support is
 677 paid to the Economic Development Trust Fund.

678 (d) The director, with assistance from the office, the
 679 Department of Revenue, and the Agency for Workforce Innovation,
 680 shall, by June 30 following the scheduled date for submitting
 681 the tax refund claim, specify by written order the approval or
 682 disapproval of the tax refund claim and, if approved, the amount
 683 of the tax refund that is authorized to be paid to the qualified
 684 applicant for the annual tax refund. The office may grant an
 685 extension of this date upon the request of the qualified
 686 applicant for the purpose of filing additional information in
 687 support of the claim.

688 (e) The total amount of tax refunds approved by the
 689 director under this section in any fiscal year may not exceed
 690 the amount authorized under s. 288.095(3).

691 (f) Upon approval of the tax refund pursuant to paragraphs
 692 (c) and (d), the Chief Financial Officer shall issue a warrant
 693 for the amount included in the written order. In the event of
 694 any appeal of the written order, the Chief Financial Officer may
 695 not issue a warrant for a refund to the qualified applicant
 696 until the conclusion of all appeals of the written order.

697 (g) A prorated tax refund, less a 5 percent penalty, shall
 698 be approved for a qualified applicant provided all other
 699 applicable requirements have been satisfied and the applicant
 700 proves to the satisfaction of the director that it has achieved
 701 at least 80 percent of its projected employment and that the
 702 average wage paid by the qualified applicant is at least 90
 703 percent of the average wage specified in the tax refund
 704 agreement, but in no case less than 115 percent of the average
 705 private sector wage in the area available at the time of
 706 certification. The prorated tax refund shall be calculated by
 707 multiplying the tax refund amount for which the qualified
 708 applicant would have been eligible, if all applicable
 709 requirements had been satisfied, by the percentage of the
 710 average employment specified in the tax refund agreement which
 711 was achieved, and by the percentage of the average wages
 712 specified in the tax refund agreement which was achieved.

713 (h) This section does not create a presumption that a tax
 714 refund claim will be approved and paid.

715 (6) ADMINISTRATION.--

716 ~~(d) By December 1 of each year, the office shall submit a~~
 717 ~~complete and detailed report to the Governor, the President of~~
 718 ~~the Senate, and the Speaker of the House of Representatives of~~
 719 ~~all tax refunds paid under this section, including analyses of~~
 720 ~~benefits and costs, types of projects supported, employment and~~
 721 ~~investment created, geographic distribution of tax refunds~~
 722 ~~granted, and minority business participation. The report must~~
 723 ~~indicate whether the moneys appropriated by the Legislature to~~

724 ~~the qualified applicant tax refund program were expended in a~~
 725 ~~prudent, fiducially sound manner.~~

726 (d)~~(e)~~ Funds specifically appropriated for the tax refund
 727 program under this section may not be used for any purpose other
 728 than the payment of tax refunds authorized by this section.

729 (8) EXPIRATION.--An applicant may not be certified as
 730 qualified under this section after June 30, 2014 ~~2010~~. A tax
 731 refund agreement existing on that date shall continue in effect
 732 in accordance with its terms.

733 Section 2. Paragraph (f) of subsection (2) of section
 734 14.2015, Florida Statutes, is amended to read:

735 14.2015 Office of Tourism, Trade, and Economic
 736 Development; creation; powers and duties.--

737 (2) The purpose of the Office of Tourism, Trade, and
 738 Economic Development is to assist the Governor in working with
 739 the Legislature, state agencies, business leaders, and economic
 740 development professionals to formulate and implement coherent
 741 and consistent policies and strategies designed to provide
 742 economic opportunities for all Floridians. To accomplish such
 743 purposes, the Office of Tourism, Trade, and Economic Development
 744 shall:

745 (f)1. Administer the Florida Enterprise Zone Act under ss.
 746 290.001-290.016, the community contribution tax credit program
 747 under ss. 220.183 and 624.5105, the tax refund program for
 748 qualified target industry businesses under s. 288.106, the tax-
 749 refund program for qualified defense contractors and space
 750 flight business contractors under s. 288.1045, contracts for
 751 transportation projects under s. 288.063, the sports franchise

752 facility program under s. 288.1162, the professional golf hall
 753 of fame facility program under s. 288.1168, the expedited
 754 permitting process under s. 403.973, the Rural Community
 755 Development Revolving Loan Fund under s. 288.065, the Regional
 756 Rural Development Grants Program under s. 288.018, the Certified
 757 Capital Company Act under s. 288.99, the Florida State Rural
 758 Development Council, the Rural Economic Development Initiative,
 759 and other programs that are specifically assigned to the office
 760 by law, by the appropriations process, or by the Governor.
 761 Notwithstanding any other provisions of law, the office may
 762 expend interest earned from the investment of program funds
 763 deposited in the Grants and Donations Trust Fund to contract for
 764 the administration of the programs, or portions of the programs,
 765 enumerated in this paragraph or assigned to the office by law,
 766 by the appropriations process, or by the Governor. Such
 767 expenditures shall be subject to review under chapter 216.

768 2. The office may enter into contracts in connection with
 769 the fulfillment of its duties concerning the Florida First
 770 Business Bond Pool under chapter 159, tax incentives under
 771 chapters 212 and 220, tax incentives under the Certified Capital
 772 Company Act in chapter 288, foreign offices under chapter 288,
 773 the Enterprise Zone program under chapter 290, the Seaport
 774 Employment Training program under chapter 311, the Florida
 775 Professional Sports Team License Plates under chapter 320,
 776 Spaceport Florida under chapter 331, Expedited Permitting under
 777 chapter 403, and in carrying out other functions that are
 778 specifically assigned to the office by law, by the
 779 appropriations process, or by the Governor.

780 Section 3. Paragraph (k) of subsection (8) of section
 781 213.053, Florida Statutes, is amended to read:

782 213.053 Confidentiality and information sharing.--

783 (8) Notwithstanding any other provision of this section,
 784 the department may provide:

785 (k)1. Payment information relative to chapters 199, 201,
 786 202, 212, 220, 221, and 624 to the Office of Tourism, Trade, and
 787 Economic Development, or its employees or agents that are
 788 identified in writing by the office to the department, in the
 789 administration of the tax refund program for qualified defense
 790 contractors and space flight business contractors authorized by
 791 s. 288.1045 and the tax refund program for qualified target
 792 industry businesses authorized by s. 288.106.

793 2. Information relative to tax credits taken by a business
 794 under s. 220.191 and exemptions or tax refunds received by a
 795 business under s. 212.08(5)(j) to the Office of Tourism, Trade,
 796 and Economic Development, or its employees or agents that are
 797 identified in writing by the office to the department, in the
 798 administration and evaluation of the capital investment tax
 799 credit program authorized in s. 220.191 and the semiconductor,
 800 defense, and space tax exemption program authorized in s.
 801 212.08(5)(j).

802
 803 Disclosure of information under this subsection shall be
 804 pursuant to a written agreement between the executive director
 805 and the agency. Such agencies, governmental or nongovernmental,
 806 shall be bound by the same requirements of confidentiality as
 807 the Department of Revenue. Breach of confidentiality is a

CS/HB 1373

2008

808 | misdemeanor of the first degree, punishable as provided by s.
809 | 775.082 or s. 775.083.

810 | Section 4. This act shall take effect July 1, 2008.