

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Transportation and Economic Development Appropriations Committee

BILL: CS/SB 2666

INTRODUCER: Transportation and Economic Development Appropriations Committee and Senator Posey

SUBJECT: Tax Refunds for Qualified Space Contractors

DATE: April 22, 2008 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pugh	Cooper	CM	Favorable
2.	ODonnell	Johansen	FT	Fav/1 amendment
3.	Noble	Noble	TA	Fav/CS
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input checked="" type="checkbox"/> | Significant amendments were recommended |

I. Summary:

CS/SB 2666 expands s. 288.1045, F.S., the Qualified Defense Contactor (QDC) tax refund program, to include space flight business contractors with new contracts and space flight businesses consolidating contract work in Florida facilities. To be eligible for a refund, a new space flight business contract or a facility consolidation must result in a net increase in space flight business employment at an applicant's Florida facilities.

CS/SB 2666 provides for a tiered computation of the tax refund amount available to space and defense contractors, identical to that offered by the Qualified Targeted Industry Program. For example, rather than award a flat \$5,000 tax credit per job created or retained, the revised program would award:

- Qualified applicants \$3,000 per job created or retained, but \$6,000 per job if the business is located in a rural area or enterprise zone; and
- An additional \$1,000 per job bonus when the jobs pay 150 percent of the average private-sector wage in the area where the business is located, or a \$2,000 per job bonus when the jobs pay 200 percent of the average private-sector wage in the area.

CS/SB 2666 also allows local governments to use donated or discounted land and buildings to qualify as the required local match; simplifies the application process; removes the requirement that the Governor's Office of Tourism, Trade, and Economic Development (OTTED) submit a report each December 1 to the Governor and the Legislature on the program; and delays the program's sunset review from 2010 to 2014.

CS/SB 2666 amends s. 288.1045, Florida Statutes.

II. Present Situation:

The Legislature created the QDC program in 1993¹ in response to the state's concerns that reductions in federal defense spending could result in losses of high-wage, high-technology jobs in Florida. Although the program has been amended several times in the intervening years, it retains the basic incentive that a qualified defense contractor would receive a \$5,000 per job tax refund of certain state and local taxes.

Pursuant to the current s. 288.1045, F.S., the QDC targets the following types of projects:

- Projects involving the consolidation of a Department of Defense (DOD) contract for manufacturing, assembling, fabricating, research, development or design with a duration of 2 or more years, including homeland security contracts, where one or more of the qualified business's facilities from inside or outside Florida are consolidated into one or more facilities in Florida;
- Projects involving the conversion of defense production jobs to nondefense production jobs; and
- Projects involving the reuse of defense-related facilities for manufacturing, assembling, fabricating, research, development or design with a duration of 2 or more years where the project is located in a port or a facility occupied by a business that had a DOD contract or was occupied by any branch of the Armed Forces within 1 year of the contract for reuse of the facility being executed.

In order to qualify for certification as a qualified defense contractor, applicants must establish, in a written agreement, that the jobs created will pay an estimated annual average wage of 115 percent of the average wage in the area where the project is located. If the project is the consolidation of a DOD contract, then the project must result in a net increase of at least 25 percent in the number of jobs at the facility in Florida or the addition of at least 80 jobs at the applicant's facilities in Florida. If the applicant is converting defense production jobs to nondefense production jobs, it must show a net increase in nondefense employment at the facilities in Florida. The reuse of a defense-related facility must result in the creation of at least 100 jobs at the Florida based facility.

The DOD contract cannot allow the business to include costs of relocation or retooling in its base as allowable costs under a cost-plus, or similar contract. A business unit of the applicant must have derived at least 60 percent of its gross receipts in Florida from DOD contracts in the last fiscal year, and must have derived an average of at least 60 percent of its gross receipts in Florida from DOD contracts over the 5 years preceding the date an application is submitted.

¹ CS/SB 32-C (ch.93-414, L.O.F.).

To qualify for the state award, a project must receive a 20-percent match of the total award from a local government; the match may include certain types of excess utility payments.² The 20-percent local match may be waived in 26 counties impacted during 2004 hurricane season.³

After determining that the applicant meets the program's requirements, OTTED reviews each application based on:

- Expected contributions to the state;
- The economic benefits of the jobs created or retained by the project;
- The amount of capital investment to be made by the applicant in the state;
- Local commitment and support for the applicant and the project;
- The impact of the project on the local community;
- The dependence of the local community on the defense industry;
- The impact of any tax refunds granted as a result of the project; and
- The length of the project or the long-term commitment to the state resulting from the project.

A qualified applicant may claim refunds from one or more of the following taxes paid: sales and use, documentary stamp, emergency excise, ad valorem, corporate income, insurance premium, and intangible personal property taxes. A qualified applicant may receive a refund of up to \$5,000 times the number of jobs created or retained under the terms of the refund agreement entered into with OTTED.

If the defense contractor does not meet its job creation objectives, it may still receive a prorated share of the refund minus a 5-percent penalty if it creates at least 80 percent of the jobs and pays at least 90 percent of the wage average specified in its agreement with OTTED, and meets the other requirements of its performance agreement.⁴

Since its inception, 38 QDC applications have been received, and 28 have been approved.⁵ There are eight active or complete QDC projects, which have created or retained 1,697 jobs over the years with an average wage of nearly \$69,000, and which have received a total of \$6.96 million in tax refunds.⁶ In FY 06-07, OTTED paid one QDC claim totaling \$58,536.

The "2007 Incentives Report," prepared by Enterprise Florida, Inc., indicates that the number of QDC applications has increased in recent years because of increased federal spending on Homeland Security and defense-related projects. While it is not as widely used as the Qualified Targeted Industry (QTI) tax refund program because it is narrowly tailored to a specific industry, one advantage is that it allows contractors to receive the incentive for retaining jobs. QTI and most of Florida's other business incentive programs require job creation.

² Section 288.1045(1)(o), F.S.

³ Section 288.1045(7), F.S.

⁴ Section 288.1045(5)(g), F.S.

⁵ 2007 Incentives Report, Prepared by Enterprise Florida Inc. Available at:

http://www.eflorida.com/uploadedFiles/Florida_Knowledge_Center/Resource_Center/Resource_Links/2007%20Incentives%20Report.pdf.

⁶ Ibid.

A staff review of Florida's economic incentive programs indicated that space-related contractors could be eligible for several sales tax exemptions and most of the state's existing incentive programs, with the only obvious exception being the Entertainment Industry Tax Refund program.

Pursuant to s. 288.095(3)(a), F.S., OTTED may approve tax refunds for QDC and QTI awardees up to \$35 million. In FY 07-08, the Legislature appropriated \$19.8 million combined for QTI, QDC, and the High Impact Industry incentive program.

III. Effect of Proposed Changes:

CS/SB 2666 rewrites the Qualified Defense Contractor (QDC) tax refund program to allow space flight contractors to qualify for tax incentives by way of refund. The existing defense contractor incentive is replaced with a tiered approach identical to that offered to QTI recipients; makes technical changes; and extends the program's scheduled sunset review from 2010 to 2014.

Section 1 substantially amends s. 288.1045, F.S., the QDC tax refund program. It renames the program the "Qualified defense contractor and space flight contractor tax refund program." It adds the phrase "space flight business contractor" to various definitions, and creates definitions for "space flight business," "space flight business contract," "new space flight business contract," and "consolidation of a space flight business contract."

This section also replaces the language that allowed for qualified QDC applicants to receive up to \$5,000 per job specified in the tax refund, with the following refund formula:

- Qualified applicants will receive \$3,000 per job specified in the OTTED contract.
- Projects in rural counties or enterprise zones will qualify for \$6,000 per job specified in the contract with OTTED.
- An additional \$1,000 per job bonus is available when jobs pay 150 percent of the average private sector wage in the area where located. The bonus rises to \$2,000 per job if the jobs pay 200 percent of the area's average private sector wage.

This approach mirrors the QTI tax refund computation. Contractors are eligible for refunds against the same taxes as in the existing QDC program: sales and use, corporate, intangible personal property, excise taxes on documents, ad valorem, and certain communications taxes. However, the corporate income tax refund provision is reworded to clarify that an eligible business is eligible for the refund in the first tax year following the year in which the business entered into its QDC contract with OTTED.

To be eligible, a space flight business contract or a facility consolidation must result in "net increases" in employment at the applicant's Florida facility.

The section also amends the application requirements; applications will no longer need to be notarized, and the applicant will not be required to include on the form an estimated amount of tax refunds expected to be claimed each fiscal year.

Other changes in the program are:

- Resolutions in support of a project can be made not only by the county commission, but also by the municipal governing body.
- Applications submitted for a new contract or a consolidation of a space flight business contract may include a resolution from a local government seeking a waiver from the local match because it is located within a Rural Economic Development Initiative area.
- Local match may include the appraised market value of land, improvements, or structures conveyed by the local government to the contractor, via a lease or sale.
- The requirement that OTTED submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1 of each year, on the QDC program is deleted.
- The program's scheduled repeal on June 30, 2010, is extended until June 30, 2014.

Section 2 amends s. 14.2015, F.S., to add a reference to the tax-refund program for "space flight contractors" to the list of economic incentive programs administered by OTTED.

Section 3 amends s. 213.053, F.S., to allow DOR to share with OTTED confidential tax-related information about space flight contractors.

Section 4 provides an effective date of July 1, 2008.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None. These tax refunds are subject to annual appropriation.

B. Private Sector Impact:

Indeterminate, but positive for both defense and space flight contractors who apply for the tax refunds because the changes in the program are easier to comply with.

C. Government Sector Impact:

Indeterminate, but if more contractors are eligible for the revamped QDC program, there may be an increase in the amount subject to the tax refund program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Transportation & Economic Development Appropriations on April 22, 2008:

The committee adopted a traveling strike-all amendment that:

- i. Replaced references to space flight contractor with that of state flight business or space flight business contractor.
- ii. Restored the erroneously stricken eligibility for a refund of emergency excise taxes paid pursuant to ch. 221, F.S.
- iii. Changed the qualifying date for a new space flight business contract from “after January 1, 2007” to “after July 1, 2008.”
- iv. Reorganized some of the definitions, and made a number of technical changes for clarity, grammar and punctuation.
- v. Amended s. 14.2015, F.S., to reference the space flight contractor tax refund program as being within OTTED’s authority.
- vi. Amended s. 213.053(8)(k)1., F.S., to extend sharing of confidential DOR tax documents related to space flight businesses with OTTED.

B. Amendments:

None.