

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 879 Tax Refund Program for Qualified Target Industry Businesses

**SPONSOR(S):** Eisnaugle and others

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1318

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Economic Development & Tourism Subcommittee	12 Y, 0 N	Tecler	Kruse
2) Finance & Tax Committee	23 Y, 0 N, As CS	Flieger	Langston
3) Economic Affairs Committee			

### SUMMARY ANALYSIS

Current law provides six criteria for the Governor's Office of Tourism, Trade, and Economic Development and Enterprise Florida to review when establishing the list of target industries for the Qualified Target Industry Tax Refund Program.

The bill revises that list by adding a seventh criterion, enhancement of trade and requiring special consideration to be given to industries that strengthen the state's position as a global trade and logistics hub, which may have the effect of encouraging private sector economic activity in that particular industry. This addition will codify the current inclusion of global logistics as a qualified target industry.

The bill modifies the procedure for notifying the Office of Tourism, Trade, and Economic Development and Enterprise Florida of the average private sector wage calculation that shall be used as the wage commitment for a qualified target industry business. Currently, the governing board of the county provides notification. The bill allows the governing board of whichever local government entity is providing the local financial support for the project to make that notification.

The bill takes effect July 1, 2011.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Issue background

##### **Qualified Target Industry Tax Refund Program**

The Qualified Target Industry Tax Refund Program (QTI) was created by the Florida Legislature in 1994 to attract businesses that offer high-wage jobs, particularly headquarters, to relocate in Florida. This incentive includes refunds on corporate income, sales, ad valorem, intangible personal property, insurance premium, and certain other taxes. Businesses that locate or expand in Florida are eligible for tax refunds of \$3,000 per new job created. The tax refund increases to \$6,000 per job for businesses that locate in an enterprise zone or rural county. In addition, a business is eligible for a \$1,000 per job bonus if it pays over 150 percent of the average wage in the area, and a \$2,000 per job bonus if it exceeds 200 percent of the average wage. To qualify, the business must secure the local government's support. A local government is required to provide at least 20 percent of the amount of the state's award.

A business' application must be reviewed and certified pursuant to the standard timeline outlined in s. 288.061, F.S. Wage requirements for QTI expansion projects are based solely on new jobs being created, rather than an average of all jobs, current and new.

#### Key Definitions

A "target industry business" is defined as either a corporate headquarters or any business that is engaged in one of the target industries identified by the Governor's Office of Tourism, Trade, and Economic Development (OTTED) and Enterprise Florida (EFI) as meeting the six statutory criteria in s. 288.106(2)(t), F.S. Those criteria are:

1. Future Growth- Industry forecasts should indicate strong expectation for future growth in both employment and output, according to the most recent available data. Special consideration should be given to businesses that export goods to, or provide services in, international markets and businesses that replace domestic and international imports of goods or services.
2. Stability- The industry should be stable, not be subject to periodic layoffs, whether due to seasonality or sensitivity to volatile economic variables such as weather, and relatively resistant to recession, so that the demand for its products or services is not necessarily subject to decline during an economic downturn.
3. High Wage- The industry should pay relatively high wages compared to statewide or area salary averages.
4. Market and Resource Independent- The industry should be both market and resource independent. In other words, the business should not be reliant on Florida consumers to purchase its products or services in order to be profitable, nor should it rely on Florida resources.
5. Industrial Base Diversification and Strengthening- The industry should contribute toward diversifying, strengthening, or expanding the state's or area's economic base, as indicated by analysis of employment and output shares compared to national and regional trends. Special consideration should be given to industries that strengthen regional economies by adding value to basic products, building regional industrial clusters, or developing strong industrial clusters that include defense and homeland security businesses.
6. Economic Benefits- The industry should have strong positive impacts on or benefits to the state and regional economies.

The "target industry list" is published in EFI's annual Incentives Report and is attached to OTTED's annual legislative budget request. Originally, the list of target industries was approved by the Legislature, but since 1996 the list has been developed by OTTED, in consultation with EFI and other stakeholders. The Legislature recently required that the list be reviewed, and if appropriate, revised every third year. The 2011 targeted industry list was recently approved by OTTED and includes six

major categories; Cleantech, Life Sciences, Infotech, Aviation/Aerospace, Homeland Security/Defense, and Financial/Professional Services. There is also an “Emerging Technologies” category, which includes global logistics.<sup>1</sup>

Specifically excluded as “target” industries are the following: any business engaged in retail activities; any electrical utility company; any phosphate or other solid-minerals severance, mining, or processing operation; any oil or gas exploration or production operation; or any business subject to regulation by the state Division of Hotels and Restaurants. Implicitly excluded is agriculture.

Customer support services may be considered a target industry business only after the local governing body and Enterprise Florida, Inc. determines that the community where the business may locate has conditions affecting the fiscal and economic viability of the local community or area. Such conditions include, but are not limited to, low per capita income, high unemployment, high underemployment, and lack of year-round stable employment opportunities.

Another key definition is “average private sector wage in the area,” which can mean one of the following: the statewide average annual private-sector wage, or the average annual private-sector wage in the county or standard metropolitan area (MSA) where the business is locating or expanding. The governing board of the county where the qualified target industry business is to be located has the authority to choose which average private sector wage to use and must notify OTTED and EFI of its choice.

#### Other Eligibility Criteria

Meeting the definition of “target industry business” is just the first step for a business interested in applying for a QTI incentive. The business also must:

- Agree to create at least 10 new jobs or, if a Florida business planning to expand its operations, agree to create a net increase in employment of at least 10 percent. OTTED may grant a waiver to the minimum 10-percent increase in new jobs by an existing business within an enterprise zone or a rural county.
- Agree to pay each new employee an annual salary that is at least 115 percent of the average private sector wage in the area. OTTED may waive the wage requirement for businesses that locate in a rural county or city, in an enterprise zone, or in a brownfield area, if requested and justified in writing by the local governmental entity and EFI. A manufacturing project at any location in the state may qualify for the waiver if the jobs proposed to be created pay an estimated annual average wage equaling at least 100 percent of the average private sector wage in the area where the business is to be located.
- Receive a commitment of a 20-percent match (cash or in-kind) from the local government where the business proposes to locate or expand. The form of the commitment must be a resolution passed by the county commission. The local match can include the amount of ad valorem tax abatement or the appraised market value of publicly owned land or structures deeded to or leased by the QTI business. If a local government provides less than its 20-percent match, OTTED reduces the state award by the same amount.

No business may receive more than \$1.5 million in QTI refunds in a single fiscal year, or more than \$5 million total over the term of its agreement with OTTED. The exception is for QTI businesses located in an enterprise zone, where the 1-year cap is \$2 million and the overall cap is \$7.5 million. Also, no business may receive more than 25 percent of the total award in a single fiscal year; consequently, QTI contracts between OTTED and a business typically are for a term of 4 years.

Taxes eligible for refund under the QTI program are:

- Corporate income taxes under ch. 220, F.S.;
- Insurance premium tax under s. 624.509, F.S.;
- Taxes on the sales, use, and other transactions under ch. 212, F.S.;
- Intangible personal property taxes under ch. 199, F.S.;

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<sup>1</sup> Qualified Target Industries for Incentives, [http://www.eflorida.com/IntelligenceCenter/download/PSR/SI\\_Targeted\\_Industries.pdf](http://www.eflorida.com/IntelligenceCenter/download/PSR/SI_Targeted_Industries.pdf) (accessed March 31, 2011)

- Emergency excise taxes under ch. 221, F.S.;
- Excise taxes on documents under ch. 201, F.S.;
- Ad valorem taxes paid, as defined in s. 220.03(1), F.S.; and
- Certain state communications services taxes administered under ch. 202, F.S.

In s. 288.095(3) (a), F.S., the amount of annual state funding for the QTI and Qualified Defense Contract and Space Business (commonly referred to as QDSC) tax refunds is capped at \$35 million. Historically, the majority of the funds are paid out as QTI tax refunds because QTI is the more popular of the two incentive programs. In FY 2010-2011, the Legislature appropriated a lump sum of \$16,567,473 collectively for the QTI, QDSC, and the High Impact Business Incentive Program.

### **Global Logistics**

Businesses that specialize in global logistics manage the flow of goods and services in the international market. Global logistics begins from the point a product leaves its manufacturer business to its transport within or out of the country. The managed supply chain, includes the following: inventory management, coordination of resources, and the transportation, warehousing, and packaging of manufactured goods. In Florida, trucking is the primary form of goods movement, providing more than 73 percent of all tonnage. Movement over water accounts for approximately 15 percent of all freight flows, followed by rail at 12 percent. Air accounts for less than 1 percent by volume, but holds a significant share of high value goods.<sup>2</sup>

One of EFI's strategic priorities from its 2010-2015 Roadmap to Florida's Future/Strategic Plan for Economic Development is for the state to enhance its capacity as a global hub. The report makes two recommendations related to this effort: 1. Maintain and expand Florida's leadership in international trade. 2. Enhance the competitiveness of Florida's "Hard" and "Soft" infrastructure for international commerce. The report points out that "Florida's multimodal transportation system, a critical component of its success in the international marketplace, is among the most intermodal in the nation with 14 deepwater seaports, 19 commercial airports, nearly 3,000 miles of rail lines, and a highway system that connects ports of entry to interstate and intra-state markets. While impressive, Florida's transportation system is developing significant logistics bottlenecks and reaching capacity constraints."

In December 2010, the Florida Chamber Foundation produced the Florida Trade and Logistics Report. The report found that "[t]rade, logistics, and distribution industries employed 570,000 Floridians in 2008, with an average wage nearly 30 percent higher than the average for all industries in the state. Including spinoff jobs in related industries, trade and logistics support about 1.7 million jobs in Florida, nearly 22 percent of employment in the state." The report encourages the state to take advantage of the changing global trade patterns, represented in part by the future expansion of the Panama Canal, and:

- Capture a larger share of the containerized imports originating in Asia and serving Florida businesses and consumers, about half of which enter the nation through seaports in other states today;
- Expand export markets for Florida businesses by filling these import containers with Florida goods and using more efficient logistics patterns to attract advanced manufacturing and other export related industries to Florida; and
- Emerge as a global hub for trade and investment, leveraging its location on north-south and east-west trade lanes to become a critical point for processing, assembly, and shipping of goods to markets throughout the eastern United States, Canada, the Caribbean, and Latin America.

The report makes several recommendations to enhance Florida's position in global logistics and trade including: Identify global trade and logistics as a statewide targeted industry and a focus area for Enterprise Florida, Workforce Florida, the Florida Department of Transportation, and other state agencies.

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<sup>2</sup> Florida Trade and Logistics Report, p. 11. December 2010, Florida Chamber Foundation.

## **Wage Calculation**

The governing body of the county where the project is located has the responsibility of notifying the Office of Tourism, Trade, and Economic Development and Enterprise Florida of the average private sector wage calculation that shall be used as the wage commitment for a qualified target industry business.

## **Changes Made By the Bill**

The bill revises the definition of “target industry business” in s. 288.106(2)(t), F.S. The following is added to the six current criteria the Office of Tourism, Trade, and Economic Development and Enterprise Florida, Inc. use to identify target industries:

Enhance Trade.-The industry should facilitate the growth and development of domestic and international trade and logistics. Special consideration should be given to industries that strengthen the state’s positions as a global trade and logistics hub.

This addition will codify the inclusion of global logistics on the list of qualified target industries for the incentive.

The bill allows the governing board of whichever local government entity is providing local financial support for the project to notify the Office of Tourism, Trade, and Economic Development and Enterprise Florida of the average private sector wage calculation that shall be used as the wage commitment for a qualified target industry business.

The bill provides that it takes effect July 1, 2011.

### **B. SECTION DIRECTORY:**

Section 1. Amends the definition of “target industry business” in. 288.106(2)(t), F.S., to include enhancing trade criteria. Modifies notification procedures for wage commitments.

Section 2. Provides an effective date of July 1, 2011.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Providing additional focus on global trade and logistics may increase Florida's trade capacity and global logistics industry and encourage private sector economic activity.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On April 5, 2011, the Finance and Tax Committee amended the bill to change the party responsible for making the wage commitment calculation notification from the local county governing board to the governing board of whichever local government entity is providing local financing.

The analysis has been updated to reflect the above change.