

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 Military Affairs, Space, and Domestic Security Committee

BILL: SB 1110

INTRODUCER: Senator Altman

SUBJECT: Tax Refund Programs

DATE: February 15, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fleming	Carter	MS	Favorable
2.	Toman	Yeatman	CA	Pre-meeting
3.			BC	
4.				
5.				
6.				

I. Summary:

The bill removes the maximum amount of tax refunds a participant of either the Qualified Defense Contractor and Spaceflight Business Tax Refund program or the Qualified Target Industry Tax Refund program may receive in all fiscal years in either program.

This bill substantially amends sections 288.1045 and 288.106 of the Florida Statutes.

II. Present Situation:

The Florida Department of Economic Opportunity (DEO), through its Division of Strategic Business Development, offers several economic development incentive programs aimed at addressing the specific needs of businesses as they look to expand or locate in Florida. These programs facilitate economic development projects by providing qualified businesses with opportunities to receive tax refunds, tax credits, tax exemptions, and cash grants. These incentive programs include the following:

- Qualified Target Industry Tax Refund (s. 288.106, F.S.);
- Brownfield Redevelopment Bonus Tax Refund (s. 288.107, F.S.);
- Qualified Defense and Space Contractor Tax Refund (s. 288.1045, F.S.);
- Quick Action Closing Fund (s. 288.1088, F.S.);
- Manufacturing and Spaceport Investment Incentive (s. 288.1083, F.S.);
- Economic Development Transportation Fund (s. 288.063, F.S.);
- High Impact Performance Incentive (s. 288.108, F.S.);
- Capital Investment Tax Credit (s. 22.191, F.S.);
- Innovation Incentive Program (s. 288.1089, F.S.);

- Semiconductor, Defense and Space Technologies Sales Tax Exemption (s. 212.08, F.S.); and
- Local Government Distressed Area Matching Grant (s. 288.0659, F.S.).

The table below summarizes the cumulative results for the incentive programs listed above for fiscal year 2011.

SUMMARY OF 2011 EXECUTED AGREEMENTS¹					
Number of Projects	Contracted New Jobs	Expected Capital Investment	Contracted Average Annual Wage	Maximum State Incentive Payments	Local Financial Support Commitments
101	13,072	\$1,427,566,867	\$48,629	\$76,262,824	\$50,377,174

Qualified Defense Contractor Tax Refund Program

The Legislature created the Qualified Defense Contractor Tax Refund² program in 1996 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. The program has been amended several times in the intervening years. In 2008, the program was amended to include eligible space flight businesses participating in aerospace activities. It is now called the Qualified Defense Contract and Spaceflight Business (QDSC) Refund Program. The QDSC program is set to expire on June 30, 2014.

The QDSC program’s basic incentive is a tax refund based on \$3,000 per retained or created job, which pays an annual wage of at least 115 percent of the area’s average annual wage and meets other conditions of the business’ agreement with the DEO. The per-job tax credit increases to \$6,000 if the business is located within a rural county or an enterprise zone, with a \$1,000 per job bonus if the job pays an annual average wage at least equal to 150 percent of the area’s private-sector wage and a \$2,000 per job bonus if the average annual wage is at least 200 percent of the area’s average private-sector wage.

Local financial support is a condition of the QDSC program. The program requires that an applicant provide a resolution adopted by the governing board of the county or municipality in which the project will be located, which recommends the applicant be approved for the program, and also commits to fund 20 percent of the annual tax refund for a qualified applicant. There exists a local financial support exemption option under certain circumstances.

A qualified applicant may not receive refunds of more than 25 percent of the total tax refunds provided in the tax refund agreement in any fiscal year and no more than \$2.5 million in tax refunds in any fiscal year. Additionally, a qualified applicant may not receive more than \$7 million in tax refunds under the program. If an applicant reaches the cap, it does not qualify for additional projects, job creation, or refund payments under the program.

This tax incentive targets the following types of projects: consolidation of certain Department of

¹ Enterprise Florida Inc. *2011 Annual Incentives Report*. Available at: http://www.eflorida.com/IntelligenceCenter/download/ER/BRR_Incentives_Report.pdf (last visited Feb. 15, 2012).

² Section 288.1045, F.S.

Defense (DoD) contracts; conversion of DoD production jobs to non-defense production jobs; projects involving the reuse of defense-related facilities for specific activities; the manufacturing, processing, and assembly of space flight vehicles; and a number of other activities related to space flight.

A qualified defense contract or spaceflight business may claim refunds from one or more of the following taxes paid:

- Corporate income taxes;
- Sales and use taxes;
- Intangible personal property taxes;
- Excise taxes paid on documents;
- Ad valorem taxes;
- Corporate income taxes; and
- Certain state communications services taxes.³

Since the QDSC program's inception, 32 QDSC applications have been approved and 4 projects have been completed, meaning that the business has met the terms of its contract and received all eligible incentive payments. These 4 completed projects cumulatively created 1,459 new jobs, which far exceeded their initial commitment of 740 new jobs. There are currently six active⁴ QDSC projects, in which the businesses have cumulatively committed to creating 473 new jobs over the life of the contracts.⁵ In fiscal year 2011, \$2,037,000 in QDSC incentive awards was appropriated, in which \$1,629,600 was appropriated by the state. Two new QDSC contracts were executed in fiscal year 2011.⁶

Qualified Target Industry Incentive Tax Refund Program

The Qualified Target Industry (QTI) Incentive Tax Refund Program⁷ was created by the Legislature in 1994 as part of a retooling of Florida's economic development efforts. The QTI program was designed to encourage the recruitment or creation of higher-paying, higher-skilled jobs for Floridians, by awarding eligible businesses refunds of certain state or local taxes paid in exchange for creating jobs. The amount of refund is based on the wages paid, number of jobs created, and where in the state the eligible business chooses to locate or expand. The QTI program is set to expire on June 30, 2020.

A qualified target industry business may claim refunds from one or more of the following taxes paid:

- Sales and use taxes;
- Documentary stamp taxes;
- Ad valorem taxes;
- Corporate income taxes;

³ Section 288.1045(2)(f), F.S.

⁴ An active incentive project means a business is currently performing and in good standing.

⁵ The status of each incentive falls within one of six categories: active, inactive, terminated, vacated, withdrawn, or complete.

⁶ Information in this paragraph obtained from Enterprise Florida Inc.'s 2011 Annual Incentives Report. Available at: http://www.eflorida.com/IntelligenceCenter/download/ER/BRR_Incentives_Report.pdf (last visited Feb. 15, 2012).

⁷ Section 288.106, F.S.

- Insurance premium taxes;
- Intangible personal property taxes; and
- Certain state communications taxes under ch. 202, F.S.⁸

The target industry list includes a wide range of businesses that meet specific criteria and fall within the following industry categories: manufacturing facilities; finance and insurance services; wholesale trade; information industries; professional, scientific and technical services; management services; and administrative and support services.

In addition to meeting the definition of “target industry business,” a business also must:

- Agree to create 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. DEO may grant a waiver to the minimum 10 percent increase in new jobs by an existing business within an enterprise zone or 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. DEO may waive the wage requirement for businesses that locate in a rural county or city, in an enterprise zone, or in a brownfield area.
- Receive a commitment of a 20 percent match 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. If a local government provides less than its 20 percent match, DEO reduces the state award by the same amount.⁹

The QTI program offers a tax refund of \$3,000 per created job, which pays an annual wage of at least 115 percent of the area’s average annual wage and meets other conditions of the business’ agreement with DEO. The per-job tax credit increases to \$6,000 if the business is located within a rural county or an enterprise zone. Under this program, businesses are eligible for a number of bonus incentives if they meet certain criteria. For example, a business can receive a \$1,000 per job bonus if the job pays an annual average wage at least equal to 150 percent of the area’s private-sector wage and a \$2,000 per job bonus if the average annual wage is at least 200 percent of the area’s average private-sector wage.

A qualified target industry business may not receive more than \$1.5 million in refunds in a single fiscal year, or more than \$2.5 million if the project is located in an enterprise zone. Additionally, a qualified target industry business may not receive more than \$7 million in refund payments in all fiscal years, or more than \$7.5 million if the project is located in an enterprise zone.¹⁰ Section 288.095(3)(a), F.S., institutes an annual funding cap of \$35 million for both the QTI and the QDSC tax refund programs.

Since the inception of the QTI program, 1,013 QTI applications have been approved, 888 contracts have been executed, and 93 agreements have been completed.¹¹ Of those 888 projects,

⁸ Section 288.106(3)(d), F.S.

⁹ Effective July 1, 2011, DEO may reduce the local financial support requirements by one-half for a qualified target industry business located in Bay County, Escambia County, Franklin County, Gadsden County, Gulf County, Jefferson County, Leon County, Okaloosa County, Santa Rosa County, Wakulla County, or Walton County.

¹⁰ Section 288.106(3)(c), F.S.

¹¹ A completed incentive project is when a business has met the terms of its contract and received all eligible incentive payments.

268 remain active, meaning they are eligible to receive tax refunds through the QTI program. These 268 projects have committed to create 38,599 jobs cumulatively. The 93 completed agreements cumulatively created 28,628 new jobs, which far exceeded the initial commitment to create 18,369 new jobs. In fiscal year 2011, \$37,940,810 in QTI incentive awards was appropriated, in which \$30,352,648 was appropriated by the state. Seventy-two new QTI contracts were executed in fiscal year 2011.¹²

III. Effect of Proposed Changes:

Section 1 amends s. 288.1045, F.S., to delete a provision which restricts a qualified applicant from receiving more than \$7 million in tax refunds in all fiscal years it participates in the Qualified Defense Contractor and Spaceflight Business Tax Refund program.

Section 2 amends s. 288.106, F.S., to delete a provision which restricts a qualified target industry business from receiving more than \$7 million in refund payments in all fiscal years it participates in the Qualified Target Industry Tax Refund program, or more than \$7.5 million if the project is located in an enterprise zone.

Section 3 provides an effective date of July 1, 2012.

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:

The bill removes the lifetime cap for the amount of tax refund payments a single qualified business may receive in the QDSC and QTI tax refund programs. However, a qualified business would still be limited to the maximum annual tax refund amount of \$1.5 million or \$2.5 million depending on the program and the circumstances. In addition, the annual statutory funding cap of \$35 million pursuant to s. 288.095(3)(a), F.S., would still apply.

¹² Information in this paragraph obtained from Enterprise Florida Inc.'s 2011 Annual Incentives Report. Available at: http://www.eflorida.com/IntelligenceCenter/download/ER/BRR_Incentives_Report.pdf (last visited Feb. 15, 2012).

B. Private Sector Impact:

The bill removes the lifetime cap for the amount of tax refunds payments a single qualified business may receive in the QDSC and QTI tax refund programs. This would allow a single qualified applicant to have multiple projects, over multiple years, which in aggregate, qualify for refund payments in excess of current caps.

C. Government Sector Impact:

The removal of the lifetime tax refund cap may result in an increase in applications submitted to both programs, which may increase the workload of DEO.

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.)

None.

B. Amendments:

None.