

By Senator Garcia

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1                                   A bill to be entitled  
2       An act relating to small business growth; amending s.  
3       220.02, F.S.; specifying the order for applying the  
4       corporate income tax credit for corporations  
5       contracting with small businesses; amending s. 220.13,  
6       F.S.; adding the tax credit for corporations  
7       contracting with small businesses to the allowable  
8       adjustment of federal income; creating s. 220.197,  
9       F.S.; providing definitions; authorizing a tax credit  
10      of a specified amount for application against the  
11      corporate income tax for certain corporations engaging  
12      in contractual business relationships with certain  
13      small businesses; specifying eligibility requirements;  
14      providing for certification of eligibility by the  
15      Department of Economic Opportunity; providing  
16      limitations on the amount of the tax credit and  
17      prohibiting a corporation from carrying forward or  
18      backward any unused amount; authorizing the Department  
19      of Economic Opportunity and the Department of Revenue  
20      to adopt rules; providing an effective date.

21  
22 Be It Enacted by the Legislature of the State of Florida:

23  
24       Section 1. Subsection (8) of section 220.02, Florida  
25 Statutes, is amended to read:

26       220.02 Legislative intent.—

27       (8) It is the intent of the Legislature that credits  
28 against either the corporate income tax or the franchise tax be  
29 applied in the following order: those enumerated in s. 631.828,

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30 those enumerated in s. 220.191, those enumerated in s. 220.181,  
31 those enumerated in s. 220.183, those enumerated in s. 220.182,  
32 those enumerated in s. 220.1895, those enumerated in s. 220.195,  
33 those enumerated in s. 220.184, those enumerated in s. 220.186,  
34 those enumerated in s. 220.1845, those enumerated in s. 220.19,  
35 those enumerated in s. 220.185, those enumerated in s. 220.1875,  
36 those enumerated in s. 220.192, those enumerated in s. 220.193,  
37 those enumerated in s. 288.9916, those enumerated in s.  
38 220.1899, those enumerated in s. 220.1896, those enumerated in  
39 s. 220.194, ~~and~~ those enumerated in s. 220.196, and those  
40 enumerated in s. 220.197.

41 Section 2. Paragraph (a) of subsection (1) of section  
42 220.13, Florida Statutes, is amended to read:

43 220.13 "Adjusted federal income" defined.—

44 (1) The term "adjusted federal income" means an amount  
45 equal to the taxpayer's taxable income as defined in subsection  
46 (2), or such taxable income of more than one taxpayer as  
47 provided in s. 220.131, for the taxable year, adjusted as  
48 follows:

49 (a) *Additions.*—There shall be added to such taxable income:

50 1. The amount of any tax upon or measured by income,  
51 excluding taxes based on gross receipts or revenues, paid or  
52 accrued as a liability to the District of Columbia or any state  
53 of the United States which is deductible from gross income in  
54 the computation of taxable income for the taxable year.

55 2. The amount of interest which is excluded from taxable  
56 income under s. 103(a) of the Internal Revenue Code or any other  
57 federal law, less the associated expenses disallowed in the  
58 computation of taxable income under s. 265 of the Internal

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59 Revenue Code or any other law, excluding 60 percent of any  
60 amounts included in alternative minimum taxable income, as  
61 defined in s. 55(b)(2) of the Internal Revenue Code, if the  
62 taxpayer pays tax under s. 220.11(3).

63 3. In the case of a regulated investment company or real  
64 estate investment trust, an amount equal to the excess of the  
65 net long-term capital gain for the taxable year over the amount  
66 of the capital gain dividends attributable to the taxable year.

67 4. That portion of the wages or salaries paid or incurred  
68 for the taxable year which is equal to the amount of the credit  
69 allowable for the taxable year under s. 220.181. This  
70 subparagraph shall expire on the date specified in s. 290.016  
71 for the expiration of the Florida Enterprise Zone Act.

72 5. That portion of the ad valorem school taxes paid or  
73 incurred for the taxable year which is equal to the amount of  
74 the credit allowable for the taxable year under s. 220.182. This  
75 subparagraph shall expire on the date specified in s. 290.016  
76 for the expiration of the Florida Enterprise Zone Act.

77 6. The amount taken as a credit under s. 220.195 which is  
78 deductible from gross income in the computation of taxable  
79 income for the taxable year.

80 7. That portion of assessments to fund a guaranty  
81 association incurred for the taxable year which is equal to the  
82 amount of the credit allowable for the taxable year.

83 8. In the case of a nonprofit corporation which holds a  
84 pari-mutuel permit and which is exempt from federal income tax  
85 as a farmers' cooperative, an amount equal to the excess of the  
86 gross income attributable to the pari-mutuel operations over the  
87 attributable expenses for the taxable year.

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88 9. The amount taken as a credit for the taxable year under  
89 s. 220.1895.

90 10. Up to nine percent of the eligible basis of any  
91 designated project which is equal to the credit allowable for  
92 the taxable year under s. 220.185.

93 11. The amount taken as a credit for the taxable year under  
94 s. 220.1875. The addition in this subparagraph is intended to  
95 ensure that the same amount is not allowed for the tax purposes  
96 of this state as both a deduction from income and a credit  
97 against the tax. This addition is not intended to result in  
98 adding the same expense back to income more than once.

99 12. The amount taken as a credit for the taxable year under  
100 s. 220.192.

101 13. The amount taken as a credit for the taxable year under  
102 s. 220.193.

103 14. Any portion of a qualified investment, as defined in s.  
104 288.9913, which is claimed as a deduction by the taxpayer and  
105 taken as a credit against income tax pursuant to s. 288.9916.

106 15. The costs to acquire a tax credit pursuant to s.  
107 288.1254(5) that are deducted from or otherwise reduce federal  
108 taxable income for the taxable year.

109 16. The amount taken as a credit for the taxable year  
110 pursuant to s. 220.194.

111 17. The amount taken as a credit for the taxable year under  
112 s. 220.196. The addition in this subparagraph is intended to  
113 ensure that the same amount is not allowed for the tax purposes  
114 of this state as both a deduction from income and a credit  
115 against the tax. The addition is not intended to result in  
116 adding the same expense back to income more than once.

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117 18. The amount taken as a credit for the taxable year  
118 pursuant to s. 220.197.

119 Section 3. Section 220.197, Florida Statutes, is created to  
120 read:

121 220.197 Corporate tax credit for corporations contracting  
122 with small businesses.-

123 (1) As used in this section, the term:

124 (a) "Business contract" means a written agreement between a  
125 corporation and a small business that has been executed.

126 (b) "Corporation" means a business that employs 300 or more  
127 full-time employees in this state, but does not include a  
128 financial organization as defined in s. 220.15(6) or a bank,  
129 savings association, international banking facility, or banking  
130 organization as defined in s. 220.62.

131 (c) "Department" means the Department of Economic  
132 Opportunity.

133 (d) "Small business" means a business that employs 25 or  
134 fewer full-time employees in the state and 25 or fewer full-time  
135 employees outside the state. If the total number of jobs in the  
136 state increases to more than 25 full-time employees, due to the  
137 requirements provided in subparagraph (3)(c)4., the business  
138 still qualifies as a small business.

139 (e) "New employee" means a person who begins a full-time  
140 job within a small business, and who has not been previously  
141 employed in a full-time job within the preceding 12 months by  
142 the small business.

143 (f) "Job" means a full-time employed position, as  
144 consistent with terms used by the Department of Economic  
145 Opportunity and the United States Department of Labor for

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146 purposes of unemployment compensation tax administration and  
147 employment estimation resulting directly from a business  
148 operation in this state.

149 (2) If the department determines that a corporation and a  
150 small business have met the requirements of this section, the  
151 corporation is eligible for a credit against its corporate  
152 income tax liability under s. 220.11.

153 (3) In order to qualify for the credits provided in  
154 subsection (2):

155 (a) A corporation must execute a business contract with a  
156 small business for the purchase of goods or services. The terms  
157 of the business contract must include, but are not limited to,  
158 the following:

159 1. The corporation must pay at least \$100,000 to the small  
160 business for goods or services within 1 year after the business  
161 contract is executed; and

162 2. The small business must hire, within 60 days after the  
163 business contract is executed, at least two new employees for 1  
164 year.

165 (b) The corporation and the small business must not be  
166 related parties or engaged in a business contract before July 1,  
167 2012.

168 (c) The corporation and the small business must submit an  
169 application to the department, within 90 days after the business  
170 contract is executed, which includes, but need not be limited  
171 to:

172 1. A copy of the business contract;  
173 2. The name, address, and salary or hourly wages paid to  
174 each new employee of the small business within the past year;

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175 3. The name, address, and salary or hourly wages paid to  
176 each new employee of the small business hired after the  
177 execution of the business contract; and

178 4. Evidence that demonstrates to the department that the  
179 total number of jobs in the small business is at least two more  
180 than the total number before the date the business contract was  
181 executed.

182 (4) The department shall review the initial application and  
183 notify the corporation and small business of any omission and  
184 request additional information, if needed. The application shall  
185 be deemed complete upon receipt of all requested information.  
186 The department shall provisionally certify, within 10 working  
187 days, each complete application that contains the information  
188 required pursuant to this subsection, and a copy of the  
189 provisional certification must be transmitted to the executive  
190 director of the Department of Revenue. The department shall  
191 notify the corporation and the small business, within 10 working  
192 days, in writing, if the application has been provisionally  
193 certified.

194 (5) The corporation and the small business, within 60 days  
195 after satisfying the terms of the business contract, must  
196 certify to the department, in writing, and demonstrate to the  
197 satisfaction of the department that the conditions of this  
198 section have been met. The corporation must also notify the  
199 department that it intends to claim the credit authorized under  
200 this section against its corporate income tax liability under s.  
201 220.11 on the first tax return due after receipt of final  
202 approval from the department.

203 (6) Upon final certification by the department, the

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204 corporation may take a credit equal to 10 percent of the  
205 payments made to the small business under the terms of the  
206 business contract during the taxable year against its corporate  
207 income tax liability under s. 220.11, except:

208 (a) A corporation may not claim a tax credit in excess of  
209 its corporate income tax liability under s. 220.11. If the  
210 credit granted under this section is not fully taken in any  
211 single year because of insufficient tax liability on the part of  
212 the corporation, the unused amount may not be carried forward or  
213 backward.

214 (b) The credits earned in this section may not be sold or  
215 transferred.

216 (7) Any corporation who fraudulently claims to have  
217 qualified for the credits provided in this section is liable for  
218 repayment of any credits taken plus a mandatory penalty of 100  
219 percent of the credit plus interest at the rate provided in this  
220 chapter, and such corporation commits a misdemeanor of the  
221 second degree, punishable as provided in s. 775.082 or s.  
222 775.083.

223 (8) The department and the Department of Revenue may adopt  
224 rules to administer this section.

225 Section 4. This act shall take effect January 1, 2013.