

**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 Appropriations Subcommittee on Transportation, Tourism, and Economic Development

BILL: SB 236

INTRODUCER: Senator Hukill

SUBJECT: Tax Refund Programs

DATE: February 19, 2013      REVISED: \_\_\_\_\_

|    | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION           |
|----|---------|----------------|-----------|------------------|
| 1. | Smith   | Hrdlicka       | CM        | <b>Favorable</b> |
| 2. | Pingree | Martin         | ATD       | <b>Favorable</b> |
| 3. |         |                | AP        |                  |
| 4. |         |                |           |                  |
| 5. |         |                |           |                  |
| 6. |         |                |           |                  |

**I. Summary:**

SB 236 removes the lifetime cap on the maximum amount of tax refunds a single qualified business may receive in the Qualified Defense Contractor and Spaceflight Business (QDSC) Tax Refund or the Qualified Target Industry (QTI) Tax Refund programs.

Removing the lifetime caps may ultimately increase the tax refund payment obligations of the state. At this time, it is unknown when increased obligations would occur, but it is anticipated that the increase could be accommodated within the appropriations provided for the QDSC and the QTI tax refund programs. See Section V.

This bill substantially amends sections 288.1045 and 288.106, Florida Statutes.

**II. Present Situation:**

The Department of Economic Opportunity (DEO) 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. Two of such programs are the Qualified Defense Contractor and Space Flight Business Tax Refund<sup>1</sup> and the Qualified Target Industry Tax Refund.<sup>2</sup>

<sup>1</sup> Section 288.1045, F.S.

<sup>2</sup> Section 288.106, F.S.

## Qualified Defense and Space Contractor Tax Refund Program

The Qualified Defense Contractor (QDC) program concept was created in 1993 by Executive Order No. 93-118, signed by Governor Chiles on August 13, 1993. The order was intended to respond to the state's concerns that reductions in federal defense spending could result in losses to high-wage, high-technology jobs in Florida. The Legislature codified the Qualified Defense Contractor (QDC) Tax Refund program in law in 1996.<sup>3</sup> The program has been amended several times in the intervening years. In 2008, the program was amended to include space flight businesses as eligible participants in the program and the program was renamed to reflect the inclusion of space flight businesses [Qualified Defense Contractor and Space Flight Business Tax Refund Program (QDSC)]. The program expires on June 30, 2014, under current law.<sup>4, 5</sup>

The QDSC program targets the following types of projects:

- New or consolidated Department of Defense (DOD) contracts;
- Conversion of DOD production jobs to non-defense production jobs;
- Projects involving the reuse of defense-related facilities for specific activities; or
- Contracts for the manufacturing, processing, and assembly of space flight products; and other activities related to space flight.

Depending on the type of projects, applicants must show that the project increases or creates jobs, the jobs pay a certain average annual wage, and other related information. In order to qualify for an award, an applicant business must receive a 20 percent match of the total award from the local government of jurisdiction where the project is to be located. The program requires that an applicant business provide a resolution by the local government's governing body, which recommends the applicant be approved for the program and also commits to fund 20 percent of the annual tax refund. An exemption from this requirement is provided for projects locating in a county designated as part of the Rural Economic Development Initiative (REDI) if the county's governing body adopts a resolution requesting exemption from the requirement for local financial support. Projects receiving the local match exemption may only receive 80 percent of the total tax refund award.

The QDSC program's incentive is a tax refund of \$3,000 per job created or retained, or \$6,000 per job if the business's project is located within a rural county or an enterprise zone. Additional refund payments are authorized for each job created or retained, as follows:

- \$1,000 refund payment if the business pays an average wage of 150 percent of the average private sector wage in the area; or
- \$2,000 refund payment if the business pays an average wage equal to at least 200 percent of the average private sector wage in the area.

A business 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

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<sup>3</sup> Ch. 96-348, L.O.F.

<sup>4</sup> Ch. 2008-89, L.O.F.

<sup>5</sup> Section 288.1045, F.S.

fiscal year. Additionally, a business may not receive more than \$7 million in tax refunds under the program. If a business reaches the cap, it does not qualify for additional projects or refund payments under the program.

If a business 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, pays at least 90 percent of the wages, and meets all other requirements of its performance agreement.

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 communication services taxes.

Since the QDSC program's inception, 33 QDSC applications have been approved, 15 contracts have been executed, and 5 projects have been completed, meaning that the business has met the terms of its contract and received all eligible incentive payments. Of those 15 executed contracts, 6 remain active, meaning they are eligible to receive tax refunds through the QDSC program. These 6 projects have committed to create 418 cumulative jobs. The 5 completed projects cumulatively created 1,521 new jobs, exceeding their initial commitment to create 795 new jobs.<sup>6</sup> In Fiscal Year 2011-2012, the DEO awarded \$2,180,000 in the QDSC incentives, of which \$1,744,000 was the state share and \$436,000 was the local government share.<sup>7</sup>

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

The Qualified Target Industry Tax Refund (QTI) program was created by the Legislature in 1994<sup>8</sup> to encourage the recruitment or creation of higher-paying, higher-skilled jobs in the state by awarding eligible businesses tax refunds in exchange for creating jobs in certain target industries. The refund award level is based on wages paid, number of jobs created, and the location in the state that the business chooses to locate or expand. The QTI program is set to expire on June 30, 2020, under current law.

In order to qualify for the program, an applicant business must fall into one of Florida's targeted industry categories, which are developed by DEO and Enterprise Florida, Inc. (EFI). A diagram of targeted industries is below:<sup>9</sup>

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<sup>6</sup> An active incentive project means a business is currently performing and in good standing.

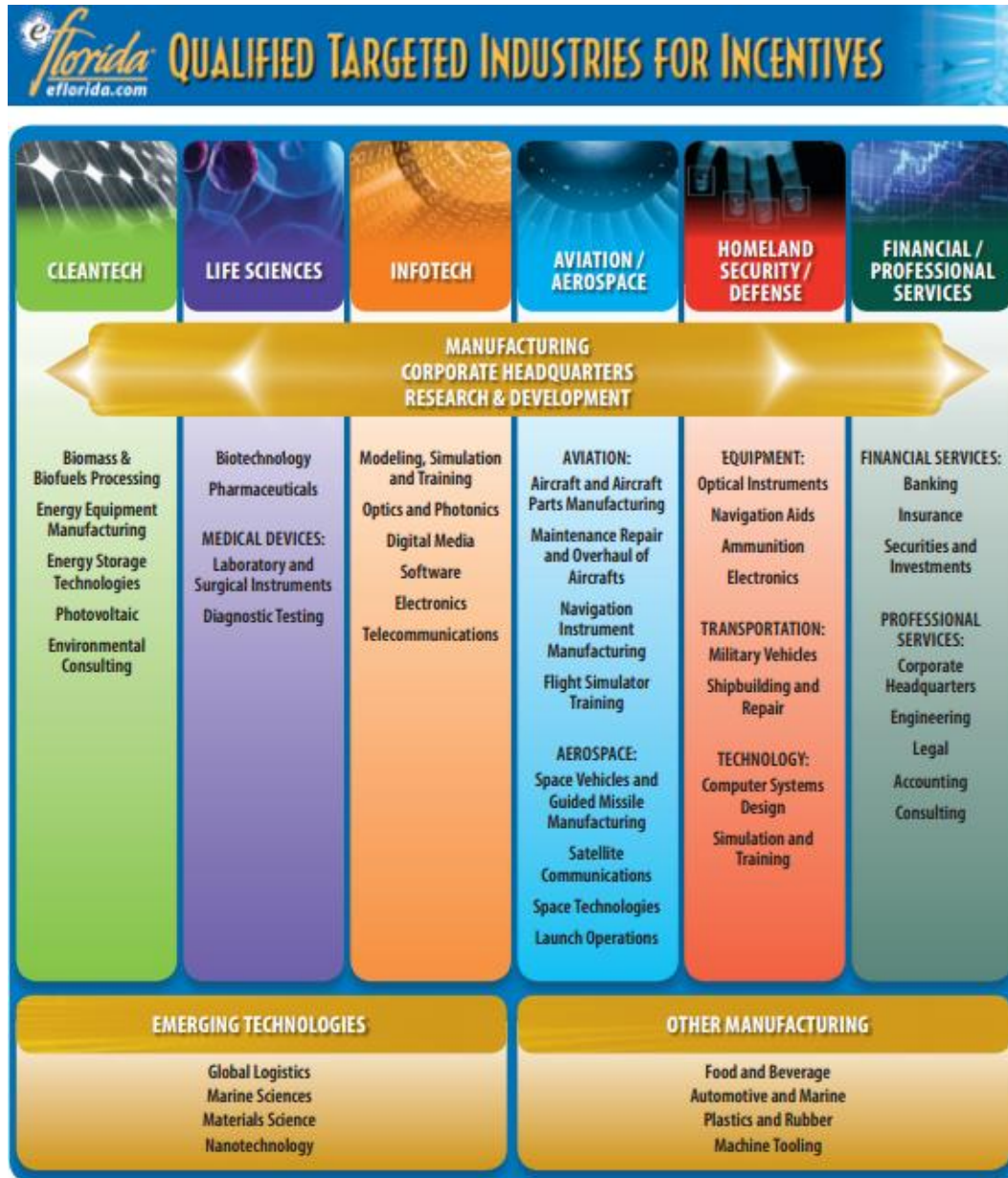
The status of each incentive falls within one of six categories: active, inactive, terminated, vacated, withdrawn, or complete.

<sup>7</sup> Information in this paragraph obtained from Enterprise Florida Inc.'s 2012 Annual Incentives Report. Available at: [http://www.eflorida.com/IntelligenceCenter/download/ER/BRR\\_Incentives\\_Report.pdf](http://www.eflorida.com/IntelligenceCenter/download/ER/BRR_Incentives_Report.pdf), (last visited January 22, 2013).

<sup>8</sup> Ch. 94-136, L.O.F., codified as s. 288.601, F.S.

<sup>9</sup> The diagram is from the 2011 DEO State Job Creation Plan. Available at:

[http://www.eflorida.com/download/state\\_of\\_Florida\\_job\\_creation\\_plan.pdf](http://www.eflorida.com/download/state_of_Florida_job_creation_plan.pdf), (last visited on January 18, 2013).



Additionally, a business 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 an existing business located in 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 or of the statewide private sector average wage. 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 or for manufacturing project.
- Receive a commitment of a 20 percent local match. Local matching funds may include funds from public or private sources. The form of the commitment must be included in a resolution

passed by the county commission of the county where the project will be located. If local financial support is less than 20 percent, DEO reduces the state award by the same amount.<sup>10,11</sup> If an applicant business's project will be located in a brownfield, a rural city, or a rural community, the 20 percent match requirement may be waived.

The QTI program offers a tax refund of \$3,000 per created job. The per-job tax refund increases to \$6,000 if the business is located within a rural county or an enterprise zone. The program allows for tax refunds in addition to the standard awards:

- \$1,000 per job if the business pays an average annual wage of at least 150 percent of the average private sector wage in the area the project is located;
- \$2,000 per job if the business pays an average annual wage of at least 200 percent of the average private sector wage in the area the project is located;
- \$1,000 per job if the local financial support is equal to that of the state's incentive award; and
- \$2,000 per job if the business falls within one of the high-impact sectors designated under s. 288.108, F.S., or increases exports of its goods through a seaport or airport in the state by at least 10 percent in value or tonnage in each of the years that the business receives a tax refund.

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.

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

Since the inception of the QTI program, 1,134 QTI applications have been approved, 967 contracts have been executed, and 97 agreements have been completed. Of those 967 projects, 335 remain active, meaning they are eligible to receive tax refunds through the QTI program. These 335 projects have committed to create 45,157 jobs cumulatively. The 97 completed

<sup>10</sup> Effective July 1, 2011, through June 30, 2014, 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.

<sup>11</sup> Effective July 1, 2011, through June 30, 2014, DEO may waive any or all wage or local financial support requirements for QTI businesses relocating from another state to a Disproportionately Affected County. DEO may also increase the QTI refund incentive to \$6,000 per job for such businesses. The Disproportionately Affected Counties are: Bay County, Escambia County, Franklin County, Gulf County, Okaloosa County, Santa Rosa County, and Walton County.

agreements cumulatively created 19,694 new jobs, above the initial commitment to create 19,094 new jobs. In Fiscal Year 2011-2012, the DEO awarded \$58,063,500 in QTI incentives, of which \$46,450,800 was the state share and \$11,612,700 was the local government share.<sup>12</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 288.1045, F.S., to remove the limitation 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 remove the limitation 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 that the bill's effective date is July 1, 2013.

### 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 provisions of s. 288.095(3)(a), F.S., which cap the total state share of tax refund payments at \$35 million per year for both tax refund programs, would still apply. Both programs will continue to be subject to annual legislative appropriations.

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<sup>12</sup> Information in this paragraph obtained from Enterprise Florida Inc.'s 2012 Annual Incentives Report. Available at: Available at: [http://www.eflorida.com/IntelligenceCenter/download/ER/BRR\\_Incentives\\_Report.pdf](http://www.eflorida.com/IntelligenceCenter/download/ER/BRR_Incentives_Report.pdf), (last visited January 22, 2013).

**B. Private Sector Impact:**

Businesses may receive an unlimited amount of QDSC or QTI tax refunds over its lifetime. However, awards for QDSC and QTI are still limited to annual award limitations and appropriations.

**C. Government Sector Impact:**

Section 288.095(3)(a), F.S., provides that the total state share of tax refund payments may not exceed \$35 million per year for the QDSC and QTI tax refund programs. Typically, funds appropriated each year for these programs exceed actual disbursements. For Fiscal Year 2011-12, the appropriations and disbursements of the state share of the tax refund payments were as follows:

| Tax Refund Program | Funding Source  | Appropriation | Disbursements |
|--------------------|-----------------|---------------|---------------|
| QDSC               | General Revenue | \$462,600     | \$243,600     |
| QTI                | General Revenue | \$14,341,020  | \$3,227,468   |

Removing the lifetime caps may ultimately increase the tax refund payment obligations of the state. At this time, it is unknown when increased obligations would occur, but it is anticipated that the increase could be accommodated within the funds available for the QDSC and the QTI tax refund programs. Beginning in Fiscal Year 2012-13, the State Economic Enhancement and Development (SEED) Trust Fund provides a recurring source of state funds for several economic development incentive programs, including the the QDSC and the QTI tax refund programs. In Fiscal Year 2013-14, \$140 million of recurring documentary stamp tax distributions will be deposited in this trust fund. Any future incremental increase in the QDSC or the QTI disbursements could be paid from this fund before remaining funds are obligated for other economic development incentive projects.

**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.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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