

By Senator Soto

14-00702-13

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1 A bill to be entitled
2 An act relating to economic development; creating s.
3 220.1945, F.S.; providing definitions; providing tax
4 credits for use by a corporation against the state
5 corporate income tax in an amount equal to a specified
6 percentage of the corporation's payments to a small
7 business providing goods or services to the
8 corporation pursuant to a contract; providing
9 qualification criteria; requiring a business to submit
10 an application to the Department of Economic
11 Opportunity for approval to earn credits; providing
12 application requirements; providing procedures and
13 requirements for department approval; specifying the
14 amount of the tax credit; prohibiting tax credits from
15 being carried forward or backward or being transferred
16 or sold; providing criminal and administrative
17 penalties for fraudulently claiming tax credits;
18 authorizing the Department of Economic Opportunity and
19 the Department of Revenue to adopt rules; amending s.
20 220.02, F.S.; revising the order in which credits
21 against the corporate income tax or franchise tax may
22 be taken to include certain credits relating to a
23 corporation's execution of a business contract with a
24 small business; amending s. 220.13, F.S.; redefining
25 the term "adjusted federal income" to include the
26 amount of such tax credits; providing an effective
27 date.

28
29 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Section 220.1945, Florida Statutes, is created to read:

220.1945 Corporate tax credit for corporations contracting with small businesses.-

(1) For the purposes of the credit provided in this section, the term:

(a) "Business contract" means a written agreement between a corporation and a small business.

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

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

(d) "Job" means a full-time position as consistent with terms used by the Department of Economic Opportunity and the United States Department of Labor for purposes of unemployment compensation tax administration and employment estimation resulting directly from a business operation in this state.

(e) "New employee" means a person who begins a full-time job within a small business but does not include any person who has been employed during the preceding 12 months in a full-time job within the small business.

(f)1. "Small business" means a business that employs 25 or fewer full-time employees in the state and 25 or fewer full-time employees outside of the state.

2. A business that initially qualifies as a small business

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59 under subparagraph 1. remains qualified as a small business if,
60 as a result of the business's fulfillment of the requirements of
61 subparagraph (3)(c)4., the business employs more than 25 full-
62 time employees.

63 (2) Upon an affirmative showing by a corporation and a
64 small business to the satisfaction of the department that the
65 requirements of this section have been met, the corporation is
66 eligible for a credit against its corporate income tax liability
67 under s. 220.11.

68 (3) In order to qualify for the credits provided in this
69 section:

70 (a) A corporation must execute a business contract for the
71 purchase of goods or services with a small business. The terms
72 of the business contract must include, but are not limited to,
73 the following:

74 1. The corporation must pay at least \$100,000 to the small
75 business for goods or services within 1 year after the business
76 contract is signed by both the corporation and the small
77 business.

78 2. The small business must hire, within 60 days after the
79 business contract is signed by both the corporation and the
80 small business, at least two new employees for 1 year.

81 (b) The corporation and the small business must be
82 unrelated parties that were not engaged in a contractual
83 business relationship with each other before July 1, 2013.

84 (c) The corporation and the small business must file with
85 the department, within 90 days after the business contract is
86 signed by both the corporation and the small business, an
87 application including, but not limited to, the following:

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88 1. A business contract signed by both the corporation and
89 the small business.

90 2. The names, addresses of, and salary or hourly wages
91 paid, to all employees of the small business within the past
92 year.

93 3. The names, addresses of, and salary or hourly wages
94 paid, to any new employees of the small business after the
95 signing of the business contract by both the corporation and the
96 small business.

97 4. Evidence demonstrating to the department that the total
98 number of jobs at the small business grew by at least two after
99 the date the business contract was signed by both the
100 corporation and the small business.

101 (4) The department shall review the initial application
102 and, if necessary, notify the corporation and small business of
103 any omissions and request additional information. An application
104 is complete upon receipt of all requested information. The
105 department shall provisionally certify, within 10 working days,
106 all complete applications containing the information required
107 under this section. A copy of the provisional certification
108 shall be transmitted to the executive director of the Department
109 of Revenue. The department shall also inform the corporation and
110 the small business in writing within 10 working days after the
111 date that the department provisionally certifies an application.

112 (5) (a) Within 60 days after satisfying the terms of the
113 business contract, the corporation and the small business must
114 notify the department, in writing, that:

115 1. All of the conditions required under this section have
116 been met.

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117 2. The corporation intends to claim the credit authorized
118 under this section against its corporate income tax liability
119 under s. 220.11 on the first return due after receipt of final
120 approval from the department.

121 (b) It is the responsibility of the corporation and the
122 small business to affirmatively demonstrate to the satisfaction
123 of the department that the conditions of this section have been
124 met.

125 (6) (a) After final certification by the department, the
126 corporation may take a credit against its corporate income tax
127 liability under s. 220.11 equal to 10 percent of the payments
128 made to the small business during the taxable year under the
129 terms of the business contract.

130 (b) A corporation may not claim a tax credit in excess of
131 its corporate income tax liability under s. 220.11. If the
132 credit granted under this section is not fully taken in any
133 single year because of insufficient tax liability on the part of
134 the corporation, the unused amount may not be carried forward or
135 backward.

136 (c) The credits earned under this section may not be sold
137 or transferred.

138 (7) Any corporation that fraudulently claims to be
139 qualified for tax credits under this section commits a
140 misdemeanor of the second degree, punishable as provided in s.
141 775.082 or s. 775.083. In addition, the corporation is
142 administratively liable for repayment of any tax credits
143 fraudulently taken plus a mandatory penalty of 100 percent of
144 the credit plus interest at the rate provided in this chapter.

145 (8) The department and the Department of Revenue may adopt

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146 rules to administer this section.

147 Section 2. Subsection (8) of section 220.02, Florida
148 Statutes, is amended to read:

149 220.02 Legislative intent.—

150 (8) It is the intent of the Legislature that credits
151 against either the corporate income tax or the franchise tax be
152 applied in the following order: those enumerated in s. 631.828,
153 those enumerated in s. 220.191, those enumerated in s. 220.181,
154 those enumerated in s. 220.183, those enumerated in s. 220.182,
155 those enumerated in s. 220.1895, those enumerated in s. 220.195,
156 those enumerated in s. 220.184, those enumerated in s. 220.186,
157 those enumerated in s. 220.1845, those enumerated in s. 220.19,
158 those enumerated in s. 220.185, those enumerated in s. 220.1875,
159 those enumerated in s. 220.192, those enumerated in s. 220.193,
160 those enumerated in s. 288.9916, those enumerated in s.
161 220.1899, those enumerated in s. 220.1896, those enumerated in
162 s. 220.194, ~~and~~ those enumerated in s. 220.196, and those
163 enumerated in s. 220.1945.

164 Section 3. Paragraph (a) of subsection (1) of section
165 220.13, Florida Statutes, is amended to read:

166 220.13 "Adjusted federal income" defined.—

167 (1) The term "adjusted federal income" means an amount
168 equal to the taxpayer's taxable income as defined in subsection
169 (2), or such taxable income of more than one taxpayer as
170 provided in s. 220.131, for the taxable year, adjusted as
171 follows:

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

173 1. The amount of any tax upon or measured by income,
174 excluding taxes based on gross receipts or revenues, paid or

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175 accrued as a liability to the District of Columbia or any state
176 of the United States which is deductible from gross income in
177 the computation of taxable income for the taxable year.

178 2. The amount of interest which is excluded from taxable
179 income under s. 103(a) of the Internal Revenue Code or any other
180 federal law, less the associated expenses disallowed in the
181 computation of taxable income under s. 265 of the Internal
182 Revenue Code or any other law, excluding 60 percent of any
183 amounts included in alternative minimum taxable income, as
184 defined in s. 55(b)(2) of the Internal Revenue Code, if the
185 taxpayer pays tax under s. 220.11(3).

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

190 4. That portion of the wages or salaries paid or incurred
191 for the taxable year which is equal to the amount of the credit
192 allowable for the taxable year under s. 220.181. This
193 subparagraph shall expire on the date specified in s. 290.016
194 for the expiration of the Florida Enterprise Zone Act.

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

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

203 7. That portion of assessments to fund a guaranty

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204 association incurred for the taxable year which is equal to the
205 amount of the credit allowable for the taxable year.

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

211 9. The amount taken as a credit for the taxable year under
212 s. 220.1895.

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

216 11. The amount taken as a credit for the taxable year under
217 s. 220.1875. The addition in this subparagraph is intended to
218 ensure that the same amount is not allowed for the tax purposes
219 of this state as both a deduction from income and a credit
220 against the tax. This addition is not intended to result in
221 adding the same expense back to income more than once.

222 12. The amount taken as a credit for the taxable year under
223 s. 220.192.

224 13. The amount taken as a credit for the taxable year under
225 s. 220.193.

226 14. Any portion of a qualified investment, as defined in s.
227 288.9913, which is claimed as a deduction by the taxpayer and
228 taken as a credit against income tax pursuant to s. 288.9916.

229 15. The costs to acquire a tax credit pursuant to s.
230 288.1254(5) that are deducted from or otherwise reduce federal
231 taxable income for the taxable year.

232 16. The amount taken as a credit for the taxable year

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233 pursuant to s. 220.194.

234 17. The amount taken as a credit for the taxable year under
235 s. 220.196. The addition in this subparagraph is intended to
236 ensure that the same amount is not allowed for the tax purposes
237 of this state as both a deduction from income and a credit
238 against the tax. The addition is not intended to result in
239 adding the same expense back to income more than once.

240 18. The amount taken as a credit for the taxable year
241 pursuant to s. 220.1945.

242 Section 4. This act shall take effect January 1, 2014.