

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 Committee on Commerce and Tourism

BILL: CS/CS/SB 110

INTRODUCER: Commerce and Tourism Committee, Military and Veterans Affairs, Space, and Domestic Security Committee, Senator Soto and others

SUBJECT: Corporate Income Tax

DATE: February 3, 2014 REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Spaulding</u>	<u>Ryon</u>	<u>MS</u>	<u>Fav/CS</u>
2. <u>Askey</u>	<u>Hrdlicka</u>	<u>CM</u>	<u>Fav/CS</u>
3. _____	_____	<u>AFT</u>	_____
4. _____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 110 creates the “Florida Veterans Employment Act” to allow a business to qualify for a one-time corporate income tax credit of \$5,000 for each veteran the business hires. A business may qualify for an additional one-time \$5,000 corporate income tax credit for hiring a veteran with a service-connected disability.

There is a state-wide total limit of \$10 million per calendar year for these credits. The credits can be earned for veterans hired on or after January 1, 2015, and the credit will expire December 31, 2019.

II. Present Situation:

In the United States there are over 21 million living veterans, of which, over 1.6 million reside in Florida.¹ Florida is the state with the third largest veteran population. A person who has served in the active military and who has been honorably discharged or released from active duty under honorable conditions is eligible for a number of veterans’ benefits provided by the state of Florida.²

¹ U.S. Census Bureau, Florida Quick Facts, <http://quickfacts.census.gov/qfd/states/12000.html>, last viewed January 17, 2014.

² Section 1.01(14), F.S.; see also Florida Department of Veterans’ Affairs, Benefits and Services, http://floridavets.org/?page_id=9, last viewed January 27, 2014.

Service-Connected Disabled Veterans

Florida also has the third largest population of disabled veterans in the nation.³ The U.S. Department of Veterans Affairs (USDVA) is the federal agency tasked with making the official determination of the existence of a service-connected disability. The term “disabled veteran” is defined in the U.S. Code as an individual who has served on active duty in the armed forces, has been separated under honorable conditions, and has established the existence of a service-connected disability. Generally, a disabled veteran receives compensation, disability retirement benefits, or a pension pursuant to public statute administered by the USDVA or a military department.⁴

The term “service-connected” is further defined in the U.S. Code to mean that the disability or death suffered by the veteran was incurred or aggravated in the line of duty in active military, naval, or air service.⁵ Veterans who have been determined by the USDVA to have a service-connected disability are eligible for monthly disability compensation. Disability compensation is a monetary benefit paid directly to the veteran by the USDVA. The amount of compensation varies with the degree of disability and the number of dependents the veteran has. After a medical examination, the USDVA assigns the veteran a disability rating in ten percent increments from 0 percent⁶-100 percent. This starts the process for which a disabled veteran is eligible to receive monthly disability compensation and certain USDVA medical benefits.⁷ In 2012, the USDVA paid over \$3.3 billion in disability compensation to Florida veterans.⁸

The chart below shows the number of veterans in Florida by age range receiving disability compensation from the USDVA.⁹

Veterans in Florida receiving disability compensation from the USDVA by age range (2012)

	Under 45	Between 45-54	Between 55-74	Over 74	Total
Service-connected disabled veteran	23,193	77,936	124,359	46,749	272,168

There are instances in which a veteran’s service-connected disability is not determined by the USDVA. In this instance, the Department of Defense (DoD) would determine the existence of a disability and provide compensation to the veteran. This is the case when a service member acquires a medical condition or physical disability that renders him or her unfit to perform his or her required duties while on active duty. The service member may be separated or retired from the military for medical reasons. The process to determine medical fitness for continued duty involves the following two boards: the Medical Evaluation Board and the Physical Evaluation Board. The secretaries of the military departments have the authority to make the final

³ Florida Department of Veterans’ Affairs, Fast Facts, http://floridavets.org/?page_id=50, last viewed January 17, 2014.

⁴ 5 USC § 2108(2).

⁵ 38 USC § 101(16).

⁶ A 0 percent disability rating means the USDVA has acknowledged a disability, but the disability is not severe enough to rate a monetary benefit. The disability can be reevaluated in the future if the disability worsens.

⁷ Federal Benefits for Veterans, Dependents and Survivors, Chapter 1 Health Care Benefits http://www.va.gov/opa/publications/benefits_book/benefits_chap01.asp, last viewed January 17, 2014; Federal Benefits for Veterans, Dependents and Survivors, Chapter 2 Service-Connected Disabilities, Disability Compensation, http://www.va.gov/opa/publications/benefits_book/benefits_chap02.asp, last viewed January 17, 2014.

⁸ Data provided by the Florida Department of Veterans Affairs, November 21, 2013. On file with the Military and Veterans Affairs, Space, and Domestic Security Committee.

⁹ *Id.*

determination of disability in each case.¹⁰ When the determination has been made that a service member must retire due to medical reasons related to the member's service in the military, the member may decide whether to receive military retirement benefits from the DoD or disability compensation from the USDVA.

Employment Initiatives for Veterans in Florida

The general unemployment rate in the United States in 2012 was 7.9 percent.¹¹ The unemployment rate among veterans who have served in the armed forces since September 2001 was 9.9 percent during the same period.¹² Florida has been successful in creating opportunities specifically for veterans to find work in the state.

The Florida Department of Economic Opportunity offers a range of services to veterans including recruitment services, training grants, and links to federal programs offering certain employer incentives to hire veterans.¹³ Workforce Florida, Inc., Hiring Florida's Heroes initiative works with employers to connect them with veterans possessing needed skills.¹⁴ As part of the initiative, Workforce Florida, Inc., created the Employ Florida VETS portal within the Employ Florida Marketplace as a resource for veterans to find employment and employment-related service, to connect a veteran to the USDVA, and as a resource for employers to hire veterans.¹⁵

Currently, Florida does not offer any corporate tax incentive for a privately owned company to hire a veteran.

Corporate Income Tax in Florida

Businesses in Florida must pay a corporate income tax of 5.5 percent on income earned in Florida. Taxable income earned in more than one state is taxed in Florida on an apportioned basis.¹⁶ Current law provides an exemption for the first \$50,000 of net income for businesses in Florida.¹⁷ The Revenue Estimating Conference recently estimated that 11,501 businesses have income in excess of \$50,000 that would be subject to the corporate income tax.¹⁸

III. Effect of Proposed Changes:

Section 1 creates s. 220.197, F.S., to establish the "Florida Veterans Employment Act" to encourage businesses to hire veterans, on a full-time basis. A business may qualify for a one-

¹⁰ 10 USC § 1201.

¹¹ U.S. Department of Labor, Bureau of Labor Statistics, <http://www.bls.gov/news.release/vet.a.htm>, last viewed January 17, 2014.

¹² *Id.*

¹³ Florida Department of Economic Opportunity, <http://www.floridajobs.org/job-seekers-community-services/job-search-and-career-planning/job-search-resources/for-veterans>, last viewed January 17, 2014.

¹⁴ Workforce Florida, Hiring Florida's Heroes, <http://www.workforceflorida.com/PrioritiesInitiatives/vets/HiringFloridasHeroes.php>, last viewed January 17, 2014.

¹⁵ Employ Florida, Veterans Portal, <https://www.employflorida.com/portals/veteran/default.asp?pg=welcme>, last viewed January 17, 2014.

¹⁶ Florida Revenue Estimating Conference, *2013 Florida Tax Handbook*, p.63.

¹⁷ Section 220.14, F.S.

¹⁸ See Revenue Estimating Conference, Analysis: SB 134 (January 10, 2014), <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2014/pdf/page6-7.pdf>, last viewed January 17, 2014.

time corporate income tax credit of \$5,000 for hiring a veteran on or after January 1, 2015. Before a business can claim the tax credit, the business must pay \$5,000 in gross salary to the veteran. The business is eligible for an additional \$5,000 credit for hiring a veteran who has a service-connected disability recognized by the USDVA. To be eligible for the additional \$5,000 tax credit for hiring a disabled veteran, the business must pay an additional \$5,000 in gross salary to the veteran.

Veterans previously employed by another business of the same controlled group of corporations, as defined in 26 USC § 1563(a), may not be claimed by the business for purposes of this credit. To claim these credits, the business must submit an application and receive approval from the Department of Revenue (DOR). The credit will be approved on a first-come, first-served basis, based on completed applications received by the DOR. The DOR may not approve more than \$10 million in total tax credits per calendar year.

This act expires on December 31, 2019. A business that is awarded a credit may carry forward any unused credit for a period not to exceed two years. The bill authorizes the Department of Revenue to adopt rules to administer the tax credits.

Section 2 amends s. 220.02 F.S., to designate that the corporate income tax credits provided in the bill will be applied to a business's state tax liability last after all other credits.

Section 3 amends s. 220.13, F.S., to add the corporate income tax credits related to hiring veterans to factors associated with adjusted federal income. It also makes minor grammatical corrections to the section.

Section 4 authorizes the executive director of the DOR to adopt emergency rules, for up to 1 year, to implement this act. This emergency rule making authority expires on July 1, 2017.

Section 5 provides an effective date of July 1, 2014.

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 Revenue Estimating Conference adopted an estimate of a negative recurring fiscal impact on general revenue of \$10 million for FY 2015-16 through FY 2018-19.¹⁹

B. Private Sector Impact:

A business can claim a one-time corporate income tax credit of \$5,000 for each veteran that the business hires. A business may qualify for an additional one-time \$5,000 corporate income tax credit for hiring a veteran who is receiving disability payments from the USDVA or the DoD for a service-connected disability.

C. Government Sector Impact:

The DOR reported that there would be an insignificant increase in the DOR fiscal expenditures.²⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

The DOR is authorized to adopt rules governing the application for the tax credits and to establish guidelines to establish eligibility for the tax credits.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 220.02 and 220.13. This bill creates section 220.197 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS/CS by Commerce and Tourism on February 3, 2014:**

The committee substitute extends DOR's emergency rulemaking authority by 2 years, until July 1, 2017. The committee substitute clarifies that the veteran must be hired in the state for the business to claim the tax credit. Additionally, scrivener's errors were corrected related to subsection numbering.

¹⁹ Revenue Estimating Conference *Analysis: CS/SB 110*, (January 10, 2014).

<http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2014/pdf/page28-29.pdf>, last visited January 17, 2014.

²⁰ Department of Revenue, *Legislative Bill Analysis: CS/SB 110* (January 13, 2014).

CS by Military and Veterans Affairs, Space, and Domestic Security on December 10, 2013:

The committee substitute limits the Department of Revenue to the approval of no more than \$10 million of corporate tax credits per calendar year for the Florida Veterans Employment Act and creates an application process for the Department to approve and track the credit. It also changes the effective dates, allowing the Department sufficient time to update the corporate income tax form, draft emergency rules, and notify taxpayers of the availability of the credit. The term “controlled group” is defined using the same definition used by the Internal Revenue Service [26 USC § 1563(a)].

B. Amendments:

None.