

By Senator Stargel

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1 A bill to be entitled
 2 An act relating to the capital investment tax credit;
 3 amending s. 220.191, F.S.; deleting unused terms;
 4 revising the definition of the term "qualifying
 5 project"; deleting a provision prohibiting the use of
 6 tax credits by certain affiliated companies or related
 7 entities under certain circumstances; requiring a
 8 qualifying business to demonstrate to the Department
 9 of Economic Opportunity that it qualifies for the tax
 10 credits and requiring the department to so notify the
 11 Department of Revenue; providing a maximum amount of
 12 capital investment tax credits that may be granted
 13 annually; providing an effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

16
 17 Section 1. Paragraphs (d) and (g) of subsection (1),
 18 paragraphs (a) and (c) of subsection (3), and subsection (7) of
 19 section 220.191, Florida Statutes, are amended, and subsection
 20 (9) is added to that section, to read:

21 220.191 Capital investment tax credit.—

22 (1) DEFINITIONS.—For purposes of this section:

23 ~~(d) "Income generated by or arising out of the qualifying~~
 24 ~~project" means the qualifying project's annual taxable income as~~
 25 ~~determined by generally accepted accounting principles and under~~
 26 ~~s. 220.13.~~

27 (f)(g) "Qualifying project" means a facility in this state
 28 meeting one or more of the following criteria:

29 1. Is a new or expanding facility that ~~in this state which~~

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30 creates at least 100 new jobs in this state and is in one of the
31 high-impact sectors identified by Enterprise Florida, Inc., and
32 is certified by the Department of Economic Opportunity pursuant
33 to s. 288.108(6), including, but not limited to, aviation,
34 aerospace, automotive, and silicon technology industries.
35 However, between July 1, 2011, and June 30, 2014, the
36 requirement that a facility be in a high-impact sector is waived
37 for an ~~any~~ otherwise eligible business from another state which
38 locates all or a portion of its business to a disproportionately
39 affected county. For purposes of this section, the term
40 "disproportionally affected county" means Bay County, Escambia
41 County, Franklin County, Gulf County, Okaloosa County, Santa
42 Rosa County, Walton County, or Wakulla County.

43 2. Is a new or expanded facility that ~~in this state which~~
44 is engaged in a target industry designated pursuant to the
45 procedure specified in s. 288.106(2) and ~~which~~ is induced by
46 this credit to create ~~or retain at least 1,000 jobs in this~~
47 ~~state, provided that~~ at least 100 of these jobs paying ~~are new,~~
48 ~~pay~~ an annual average wage of at least 115 ~~130~~ percent of the
49 average private sector wage in the area as defined in s.
50 288.106(2), and make a cumulative capital investment of at least
51 \$100 million. ~~Jobs may be considered retained only if there is~~
52 ~~significant evidence that the loss of jobs is imminent.~~
53 ~~Notwithstanding subsection (2), annual credits against the tax~~
54 ~~imposed by this chapter may not exceed 50 percent of the~~
55 ~~increased annual corporate income tax liability or the premium~~
56 ~~tax liability generated by or arising out of a project~~
57 ~~qualifying under this subparagraph. A facility that qualifies~~
58 ~~under this subparagraph for an annual credit against the tax~~

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59 ~~imposed by this chapter may take the tax credit for a period not~~
60 ~~to exceed 5 years.~~

61 3. Is a new or expanded facility that is engaged in a
62 target industry business as defined in s. 288.106(2) and is
63 induced by this credit to create at least 1,000 jobs paying an
64 annual wage of at least 100 percent of the average private
65 sector wage in the area, as defined in s. 288.106(2), and make a
66 cumulative capital investment of at least \$100 million.

67 ~~4.3. Is~~ Is a new or expanded headquarters facility that ~~in~~
68 ~~this state which~~ locates in an enterprise zone and brownfield
69 area and is induced by this credit to create at least 1,500 jobs
70 which on average pay at least 200 percent of the statewide
71 average annual private sector wage, as published by the
72 Department of Economic Opportunity, and which new or expanded
73 headquarters facility makes a cumulative capital investment in
74 this state of at least \$250 million.

75 5. Is an existing facility within a target business
76 industry as defined in s. 288.106 which makes a cumulative
77 capital investment in this state of at least \$25 million.

78 (3) (a) Notwithstanding subsection (2), an annual credit
79 against the tax imposed by this chapter shall be granted to a
80 qualifying business that ~~which~~ establishes a qualifying project
81 pursuant to subparagraph (1) (g) 4. ~~(1) (g) 3.~~, in an amount equal
82 to the lesser of \$15 million or 5 percent of the eligible
83 capital costs made in connection with a qualifying project, for
84 up to a period not to exceed 20 years beginning with the
85 commencement of operations of the project. The tax credit shall
86 be granted against the corporate income tax liability of the
87 qualifying business and as further provided in paragraph (c).

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88 The total tax credit provided pursuant to this subsection shall
89 be equal to no more than 100 percent of the eligible capital
90 costs of the qualifying project.

91 (c) The credit granted under this subsection may be used in
92 whole or in part by the qualifying business or any corporation
93 that is ~~either~~ a member of that qualifying business's affiliated
94 group of corporations, is a related entity taxable as a
95 cooperative under subchapter T of the Internal Revenue Code, or,
96 if the qualifying business is an entity taxable as a cooperative
97 under subchapter T of the Internal Revenue Code, is related to
98 the qualifying business. An ~~Any~~ entity related to the qualifying
99 business may continue to file as a member of a Florida-nexus
100 consolidated group pursuant to a prior election made under s.
101 220.131(1), Florida Statutes (1985), even if the parent of the
102 group changes due to a direct or indirect acquisition of the
103 former common parent of the group. A ~~Any~~ credit can be used by
104 any of the affiliated companies or related entities referenced
105 in this paragraph to the same extent as it could have been used
106 by the qualifying business. ~~However, any such use shall not~~
107 ~~operate to increase the amount of the credit or extend the~~
108 ~~period within which the credit must be used.~~

109 (7) ~~It shall be the responsibility of~~ The qualifying
110 business is responsible for ~~to~~ affirmatively demonstrating
111 ~~demonstrate~~ to the satisfaction of the Department of Economic
112 Opportunity Revenue that such business meets the applicable job
113 creation and capital investment requirements of this section.
114 The Department of Economic Opportunity shall notify the
115 Department of Revenue in writing that the qualifying business
116 has satisfied such requirements before issuing tax credits

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117 pursuant to this section.

118 (9) The total amount of tax credits issued under this
119 section may not exceed \$50 million annually.

120 Section 2. This act shall take effect July 1, 2014.