

A bill to be entitled

An act relating to defense contracting; creating s. 288.1046, F.S.; establishing the Defense Works in Florida Incentive; providing definitions; providing that certain prime contractors may apply to the Department of Economic Opportunity to certify that such contractors may reduce their computation of adjusted federal income by a certain amount when awarded a prime contract; providing requirements to apply for a reduction in computation of income; providing that a prime contractor must apply separately for each qualified subcontract award; providing guidelines for the department to certify an award; providing rulemaking authority; amending s. 220.13, F.S.; revising definition of "adjusted federal income" for corporate income tax purposes; providing for certain reduction in computation of income, to conform; providing an effective date.

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

Section 1. Section 288.1046, Florida Statutes, is created to read:

288.1046 Defense Works in Florida Incentive.—

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

(a) "Florida prime contractor" means a business entity

27 operating in the state that is awarded a prime contract.

28 (b) "Florida small business subcontractor" means a
29 business entity that:

30 1. Maintains its primary place of business in the state;

31 2. Has 250 or fewer employees at the time a qualified
32 subcontract award, as defined in paragraph (e), is made;

33 3. Is awarded a subcontract from a Florida prime
34 contractor; and

35 4. Has no subsidiary or affiliate business relationship to
36 the prime contractor making the award.

37 (c) "Prime contract" means a contract that is awarded
38 directly from the Federal Government.

39 (d) "Qualified defense work" means a prime contract
40 awarded for manufacturing, engineering, construction,
41 distribution, research, development, or other activities related
42 to equipment, supplies, technology, or other goods or services
43 that directly or indirectly support the United States Armed
44 Forces or that can be reasonably determined to support national
45 security, including space related activities. The term does not
46 include contracts awarded before October 1, 2013.

47 (e) "Qualified subcontract award" means qualified defense
48 work, in part or in whole, subcontracted from a Florida prime
49 contractor to a Florida small business subcontractor, which is
50 executed in the state, is valued at over \$250,000, and is
51 determined by the department to meet the criteria in paragraphs
52 (a) through (d).

53 (2) A Florida prime contractor may apply to the department
54 to certify that it may reduce its computation of adjusted
55 federal income under s. 220.13 by an amount equal to 4 percent
56 of the subcontract award if such prime contractor:

- 57 (a) Is subject to chapter 220;
58 (b) Is awarded qualified defense work; and
59 (c) Awards a qualified subcontract award.

60 (3) A Florida prime contractor may claim the incentive
61 under subsection (2) only for taxable years beginning on or
62 after January 1, 2014, and must apply separately to the
63 department, for each qualified subcontract award and provide the
64 department required documentation including, but not limited to,
65 the application for the award and copies of contracts, tax
66 records, or employment records.

67 (4) The department may establish application, approval,
68 appeal, and accountability processes as necessary. The
69 department may consult with Enterprise Florida, Inc., and the
70 Florida Defense Support Task Force as necessary to administer
71 this section.

72 (a) Within 10 days after certifying a qualified
73 subcontract award, the department shall provide:

- 74 1. A letter certifying the award to the applicant; and
75 2. A copy of the letter certifying the award to the
76 Department of Revenue.

77 (b) The department may certify, for each Florida prime
78 contractor applicant per calendar year, up to \$250 million in

79 aggregate qualified subcontract awards, resulting in no more
 80 than \$10 million in reduced taxable income and no more than
 81 \$550,000 in reduced taxes.

82 (c) The department may certify in total, per calendar
 83 year, up to \$2.5 billion in aggregate qualified subcontract
 84 awards, resulting in no more than \$100 million in reduced
 85 taxable income and no more than \$5.5 million in reduced taxes.

86 (d) For a multiyear qualified subcontract award:

87 1. The department shall certify the full amount of the
 88 award under paragraphs (b) and (c) in the calendar year it was
 89 awarded; and

90 2. The Florida prime contractor may claim the incentive in
 91 the taxable year in which payment is made to the Florida small
 92 business subcontractor.

93 (5) The department and the Department of Revenue may adopt
 94 rules to administer this section.

95 Section 2. Paragraph (b) of Subsection (1) of 220.13,
 96 Florida Statutes, is amended to read:

97 220.13 "Adjusted federal income" defined.—

98 (1) The term "adjusted federal income" means an amount
 99 equal to the taxpayer's taxable income as defined in subsection

100 (2), or such taxable income of more than one taxpayer as
 101 provided in s. 220.131, for the taxable year, adjusted as
 102 follows:

103 (b) Subtractions.—

104 1. There shall be subtracted from such taxable income:

105 a. The net operating loss deduction allowable for federal
106 income tax purposes under s. 172 of the Internal Revenue Code
107 for the taxable year, except that any net operating loss that is
108 transferred pursuant to s. 220.194(6) may not be deducted by the
109 seller,

110 b. The net capital loss allowable for federal income tax
111 purposes under s. 1212 of the Internal Revenue Code for the
112 taxable year,

113 c. The excess charitable contribution deduction allowable
114 for federal income tax purposes under s. 170(d)(2) of the
115 Internal Revenue Code for the taxable year, and

116 d. The excess contributions deductions allowable for
117 federal income tax purposes under s. 404 of the Internal Revenue
118 Code for the taxable year.

119
120 However, a net operating loss and a capital loss shall never be
121 carried back as a deduction to a prior taxable year, but all
122 deductions attributable to such losses shall be deemed net
123 operating loss carryovers and capital loss carryovers,
124 respectively, and treated in the same manner, to the same
125 extent, and for the same time periods as are prescribed for such
126 carryovers in ss. 172 and 1212, respectively, of the Internal
127 Revenue Code.

128 2. There shall be subtracted from such taxable income any
129 amount to the extent included therein the following:

130 a. Dividends treated as received from sources without the

131 United States, as determined under s. 862 of the Internal
 132 Revenue Code.

133 b. All amounts included in taxable income under s. 78 or
 134 s. 951 of the Internal Revenue Code.

135
 136 However, as to any amount subtracted under this subparagraph,
 137 there shall be added to such taxable income all expenses
 138 deducted on the taxpayer's return for the taxable year which are
 139 attributable, directly or indirectly, to such subtracted amount.
 140 Further, no amount shall be subtracted with respect to dividends
 141 paid or deemed paid by a Domestic International Sales
 142 Corporation.

143 3. In computing "adjusted federal income" for taxable
 144 years beginning after December 31, 1976, there shall be allowed
 145 as a deduction the amount of wages and salaries paid or incurred
 146 within this state for the taxable year for which no deduction is
 147 allowed pursuant to s. 280C(a) of the Internal Revenue Code
 148 (relating to credit for employment of certain new employees).

149 4. There shall be subtracted from such taxable income any
 150 amount of nonbusiness income included therein.

151 5. There shall be subtracted any amount of taxes of
 152 foreign countries allowable as credits for taxable years
 153 beginning on or after September 1, 1985, under s. 901 of the
 154 Internal Revenue Code to any corporation which derived less than
 155 20 percent of its gross income or loss for its taxable year
 156 ended in 1984 from sources within the United States, as

157 described in s. 861(a)(2)(A) of the Internal Revenue Code, not
158 including credits allowed under ss. 902 and 960 of the Internal
159 Revenue Code, withholding taxes on dividends within the meaning
160 of sub-subparagraph 2.a., and withholding taxes on royalties,
161 interest, technical service fees, and capital gains.

162 6. There shall be subtracted from such taxable income 4
163 percent of the amount of the subcontract award certified by the
164 Department of Economic Opportunity pursuant to s. 288.1046.

165 7. Notwithstanding any other provision of this code,
166 except with respect to amounts subtracted pursuant to
167 subparagraphs 1. and 3., any increment of any apportionment
168 factor which is directly related to an increment of gross
169 receipts or income which is deducted, subtracted, or otherwise
170 excluded in determining adjusted federal income shall be
171 excluded from both the numerator and denominator of such
172 apportionment factor. Further, all valuations made for
173 apportionment factor purposes shall be made on a basis
174 consistent with the taxpayer's method of accounting for federal
175 income tax purposes.

176 Section 3. This act shall take effect July 1, 2014.