

By Senator Soto

14-00030-14

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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 a
4 corporate tax credit against the state corporate
5 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 the corporation and
10 business to submit an application to the Department of
11 Economic Opportunity for approval to earn credits;
12 providing application requirements; providing
13 procedures and requirements for department approval;
14 specifying the amount of the tax credit; prohibiting
15 tax credits from being carried forward or backward or
16 being transferred or sold; providing criminal and
17 administrative penalties for fraudulently claiming tax
18 credits; authorizing the Department of Economic
19 Opportunity and the Department of Revenue to adopt
20 rules; amending s. 220.02, F.S.; revising the order in
21 which credits against the corporate income tax or
22 franchise tax may be taken to include certain credits
23 relating to a corporation's execution of a business
24 contract with a small business; amending s. 220.13,
25 F.S.; redefining the term "adjusted federal income" to
26 include the amount of such tax credits; providing an
27 effective date.

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

14-00030-14

201480__

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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) As used 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 consistent with terms used by the department 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 in a small business but does not include any person who has been employed during the preceding 12 months in a full-time job in the small business.

(f) "Small business" means a business that:

1. Employs 25 or fewer full-time employees in this state and 25 or fewer full-time employees outside of this state; or

2. Initially qualifies as a small business under subparagraph 1. but, as a result of the business's fulfillment

14-00030-14

201480__

59 of the requirements of subparagraph (3)(c)4., now employs more
60 than 25 full-time employees in this state.

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

66 (3) In order to qualify for the credits provided under this
67 section:

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

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

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

79 (b) The corporation and the small business must be
80 unrelated parties that were not engaged in a contractual
81 business relationship with each other before July 1, 2014.

82 (c) Within 90 days after the business contract is signed by
83 both the corporation and the small business, the corporation and
84 the small business files an application with the department that
85 includes, but is not limited to, the following:

86 1. The business contract signed by both the corporation and
87 the small business.

14-00030-14

201480__

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

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

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

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

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

113 (a) All of the conditions required under this section have
114 been met. It is the responsibility of the corporation and the
115 small business to affirmatively demonstrate to the satisfaction
116 of the department that the conditions of this section have been

14-00030-14

201480__

117 met.

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

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

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

133 (b) The credits earned under this section may not be sold
134 or transferred.

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

142 (8) The department and the Department of Revenue may adopt
143 rules to administer this section.

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

14-00030-14

201480__

146 220.02 Legislative intent.—

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

160 Section 3. Paragraph (a) of subsection (1) of section
161 220.13, Florida Statutes, is amended to read:

162 220.13 "Adjusted federal income" defined.—

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

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

169 1. The amount of any tax upon or measured by income,
170 excluding taxes based on gross receipts or revenues, paid or
171 accrued as a liability to the District of Columbia or any state
172 of the United States which is deductible from gross income in
173 the computation of taxable income for the taxable year.

174 2. The amount of interest which is excluded from taxable

14-00030-14

201480__

175 income under s. 103(a) of the Internal Revenue Code or any other
176 federal law, less the associated expenses disallowed in the
177 computation of taxable income under s. 265 of the Internal
178 Revenue Code or any other law, excluding 60 percent of any
179 amounts included in alternative minimum taxable income, as
180 defined in s. 55(b)(2) of the Internal Revenue Code, if the
181 taxpayer pays tax under s. 220.11(3).

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

186 4. That portion of the wages or salaries paid or incurred
187 for the taxable year which is equal to the amount of the credit
188 allowable for the taxable year under s. 220.181. This
189 subparagraph expires ~~shall expire~~ on the date specified in s.
190 290.016 for the expiration of the Florida Enterprise Zone Act.

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

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

199 7. That portion of assessments to fund a guaranty
200 association incurred for the taxable year which is equal to the
201 amount of the credit allowable for the taxable year.

202 8. In the case of a nonprofit corporation that ~~which~~ holds
203 a pari-mutuel permit and ~~which~~ is exempt from federal income tax

14-00030-14

201480__

204 as a farmers' cooperative, an amount equal to the excess of the
205 gross income attributable to the pari-mutuel operations over the
206 attributable expenses for the taxable year.

207 9. The amount taken as a credit for the taxable year under
208 s. 220.1895.

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

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

218 12. The amount taken as a credit for the taxable year under
219 s. 220.192.

220 13. The amount taken as a credit for the taxable year under
221 s. 220.193.

222 14. Any portion of a qualified investment, as defined in s.
223 288.9913, which is claimed as a deduction by the taxpayer and
224 taken as a credit against income tax pursuant to s. 288.9916.

225 15. The costs to acquire a tax credit pursuant to s.
226 288.1254(5) which ~~that~~ are deducted from or otherwise reduce
227 federal taxable income for the taxable year.

228 16. The amount taken as a credit for the taxable year under
229 ~~pursuant to~~ s. 220.194.

230 17. The amount taken as a credit for the taxable year under
231 s. 220.196. The addition in this subparagraph is intended to
232 ensure that the same amount is not allowed for the tax purposes

14-00030-14

201480__

233 of this state as both a deduction from income and a credit
234 against the tax. The addition is not intended to result in
235 adding the same expense back to income more than once.

236 18. The amount taken as a credit for the taxable year under
237 s. 220.1945.

238 Section 4. This act shall take effect July 1, 2014.