

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/SB 980

INTRODUCER: Commerce and Tourism Committee and Senator Soto

SUBJECT: Defense Contracting

DATE: March 16, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Siples	McKay	CM	Fav/CS
2.			FT	
3.			AP	

I. Summary:

CS/SB 980 creates an incentive that allows a defense industry contractor to reduce the income used in the calculation of its Florida corporate tax liability by an amount equal to 4 percent of a subcontract worth more than \$250,000 that is awarded to a Florida small business subcontractor.

II. Present Situation:

Florida's Defense Industry

Florida is home to three of ten unified combatant commands and hosts two of only four Navy deep-water ports in the country with adjacent airfields, the military's only space launch facility on the east coast, the Marine Corps' only maritime prepositioning facility, and one of only three Navy Fleet Readiness Centers. The state also hosts several critical research, development, testing and evaluation centers. In addition, the Joint Gulf Range Complex connects test and training ranges that extend from Key West to Northwest Florida and across the eastern Gulf of Mexico, and encompasses 180,000 square miles of Department of Defense-controlled airspace.¹

Defense spending in Florida was directly or indirectly responsible for \$73.4 billion, or 9.4 percent, of gross state product in 2011.² In 2011, Florida businesses generated \$13.6 billion in U.S. Department of Defense (DoD) contract awards, ranking the state 5th in the nation.³ Total defense spending also accounts for more than 758,000 jobs around the state.⁴

¹ Enterprise Florida, Inc. (EFI), *Florida Defense Factbook*, January 2013, available at <http://www.enterpriseflorida.com/wp-content/uploads/Factbook-20133.pdf> (last visited Mar. 6, 2015).

² EFI, *Florida Defense Industry Economic Impact Analysis*, January 2013, available at <http://www.enterpriseflorida.com/wp-content/uploads/Haas-Study-20131.pdf> (last visited Mar. 6, 2015).

³ EFI, *Defense and Homeland Security*, available at <http://www.enterpriseflorida.com/wp-content/uploads/brief-defense-homeland-security-florida.pdf> (last visited Mar. 6, 2015).

⁴ EFI, *Florida Defense Factbook*. Direct employment includes 61,189 military personnel, 24,705 civilian personnel, and 12,449 National Guard personnel.

According to the federal government, 61,597 contracts have been awarded to prime contractors by the DoD and the National Aeronautics and Space Administration for work done in the State of Florida for federal fiscal years 2014 and 2015.⁵ Combined, these contracts have a total value of approximately \$11.8 billion. There have almost 2,600 subcontracts awarded through those 61,597 contracts, valued at more than \$1.8 billion.⁶

Federal Contracting Overview

The typical federal procurement process involves an agency identifying the goods and services it needs, determining the most appropriate method for purchasing those items, and carrying out an acquisition process. Under most procurement processes, an agency posts a solicitation on the Federal Business Opportunities website. Interested businesses prepare their offers in response to the solicitation, and agency personnel evaluate the offers. To be eligible to compete for government contracts, a business must obtain a Data Universal Numbering System number and register with the System for Award Management. Many agencies provide assistance and services to potential and existing federal contractors.

Businesses may also serve as subcontractors for other businesses (known as prime contractors) that have been awarded federal contracts. Most federal agencies typically release information on their websites listing prime contractors that have been awarded federal contracts. Other agencies, including the General Services Administration, Department of Homeland Security, and Small Business Administration provide more specific information regarding subcontracting opportunities with prime contractors on their websites.⁷

Corporate Income Tax in Florida

Florida imposes a 5.5 percent income tax on corporations doing business in Florida.⁸ The tax is generally referred to as the “corporate income tax” and is imposed on a taxpayer’s “net income.”⁹ Net income is determined by using the following process:

- Determine the taxpayer’s taxable income on its federal return;
- Make certain statutory adjustments (additions and subtractions);
- Determine Florida’s portion of the taxpayer’s total income (apportionment); and
- Subtract Florida’s statutory exemption, which is currently equal to \$50,000.

A taxpayer’s corporate income tax liability is determined by multiplying the taxpayer’s net income by the applicable tax rate, which is normally 5.5 percent.¹⁰

⁵ United States Office of Management and Budget, USASpending.gov (information may be obtained by using search criteria for Department of Defense and National Aerospace and Space Administration, prime contracts, performed in Florida, and by fiscal years 2014 and 2015), available at <http://usaspending.gov/> (last visited Mar. 6, 2015).

⁶ United States Office of Management and Budget, USASpending.gov (information may be obtained by using search criteria for Department of Defense, subaward contracts, performed in Florida, and by fiscal years 2014 and 2015), available at <http://usaspending.gov/> (last visited Mar. 6, 2015).

⁷ L. Elaine Halchin, Congressional Research Service, *Overview of the Federal Procurement Process and Resources*, September 11, 2012, available at <https://www.fas.org/sgp/crs/misc/RS22536.pdf> (last visited Mar. 6, 2015).

⁸ Section 220.11, F.S.

⁹ See s. 220.12, F.S.

¹⁰ The tax rate can be 3.3 percent in some limited situations due to the Alternative Minimum Tax.

Florida provides several incentives that will reduce the amount of corporate income tax owed.¹¹ Generally, these incentives are granted in the form of tax credits, which are applied after the taxpayer's corporate income tax liability is determined through the process outlined above. In some instances, Florida grants incentives in the form of alternative apportionment methods.¹²

III. Effect of Proposed Changes:

Section 1 creates s. 288.1046, F.S., the Defense Works in Florida Incentive. The incentive allows certain contractors to reduce their adjusted federal taxable income by an amount equal to 4 percent of the value of subcontracts awarded to certain subcontractors. The subtraction will be taken at the stage in the calculation where the taxpayer makes certain statutory adjustments to the income determined from the federal tax return.

Requirements to Qualify for the Defense Works in Florida Incentive

Prime Contractor. The bill requires that the prime contractor be a business entity operating in Florida that is awarded a contract directly from the federal government.

Only contracts that include qualified defense work qualify for the 4 percent subtraction. Qualified defense work is defined as a contract involving manufacturing, engineering, construction, distribution, research, development, or other activities related to equipment, supplies, technology, or other goods or services that directly or indirectly support the United States Armed Forces or that can be reasonably determined to support national security, including space-related activities.

Subcontractor. The bill requires the subcontractor to have its primary place of business in Florida, have 250 employees or fewer at the time the subcontract is awarded, and have no subsidiary or affiliate relationship to the prime contractor.

Subcontract. The 4 percent subtraction is only available for subcontracts worth more than \$250,000 and that include "qualified defense work," but excludes subcontracts executed before July 1, 2015.

Claiming the Defense Work in Florida Incentive

The bill provides that the prime contractor may claim the 4 percent subtraction by applying to the Department of Economic Opportunity (DEO). The prime contractor may claim more than one qualified subcontract; however, each subcontract requires a separate application. The bill authorizes the DEO to establish processes for application approval, appeal, and accountability, as necessary. The DEO is also authorized to consult with Enterprise Florida, Inc., and the Florida Defense Support Task Force.

¹¹ See generally ss. 220.153 – 220.196, F.S.

¹² See s. 220.153, F.S.

Within 10 days of certification, the DEO must provide a letter of certification to the applicant and a copy of the letter to the Department of Revenue. For multi-year contracts, the DEO must certify the full amount of the award in the calendar year the contract was awarded and the Florida prime contractor may claim the incentive in the taxable year in which the payment is made to the Florida small business subcontractor.

The bill allows the prime contractor to claim the 4 percent subtraction in the taxable years in which payments are made to the subcontractor.

Limitations on Certifications by the DEO

The bill limits each prime contractor to \$250 million in aggregate awards.

The maximum amount of certifications the DEO may certify in a calendar year for all contractors is \$2.5 billion in aggregate awards.

Section 2 amends s. 220.13(b)(1), F.S., to include the 4 percent subtraction as an allowable subtraction in the computation of adjusted federal income used in the calculation of Florida corporate tax liability.

Section 3 provides an effective date of July 1, 2015.

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 has determined that HB 529, which is substantively similar to SB 980, will reduce General Revenue Fund receipts by \$5.5 million in Fiscal Year 2015-2016 and future years.¹³

¹³ Revenue Estimating Conference Impact Conference Results from February 18, 2015, on House Bill 529, *available at* <http://edr.state.fl.us/content/conferences/revenueimpact/archives/2015/pdf/impact0220.pdf> (last visited Mar. 9, 2015).

B. Private Sector Impact:

The bill may have a positive fiscal impact on defense industry prime contractors that will be able to reduce corporate tax liability and may encourage Florida prime contractors to award subcontracts to small businesses within Florida.

C. Government Sector Impact:

The Department of Revenue indicates that there will be an insignificant fiscal impact.¹⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill grants rulemaking authority to the DEO and the Department of Revenue to administer the provisions of the bill.

VIII. Statutes Affected:

This bill substantially amends section 220.13 of the Florida Statutes.

This bill creates section 288.1046 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Commerce and Tourism on March 16, 2015:

Clarifies that in the computation of the adjusted federal income for Florida corporate tax purposes, the subtraction of the 4 percent of a certified qualified subcontract award is to be divided by the apportionment factor.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

¹⁴ Florida Department of Revenue, *2015 Legislative Bill Analysis, Senate Bill 980*, (Mar. 2, 2015) (on file with the Senate Commerce and Tourism Committee).