

By the Committee on Commerce and Tourism; and Senator Soto

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1 A bill to be entitled
2 An act relating to defense contracting; creating s.
3 288.1046, F.S.; establishing the Defense Works in
4 Florida Incentive; providing definitions; authorizing
5 a Florida prime contractor to apply to the Department
6 of Economic Opportunity to certify that it may reduce
7 its computation of adjusted federal income by a
8 specified amount; providing application requirements
9 and procedures; providing caps for the aggregate
10 amount of qualified subcontract awards that may be
11 certified per calendar year; authorizing the
12 Department of Economic Opportunity and the Department
13 of Revenue to adopt rules; amending s. 220.13, F.S.;
14 revising the definition of the term "adjusted federal
15 income" to provide for a reduction in taxable income
16 equal to a specified amount of qualified subcontract
17 awards certified by the Department of Economic
18 Opportunity; providing an effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

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

24 288.1046 Defense Works in Florida Incentive.—

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

26 (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 business
29 entity that:

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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 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 awarded
40 for manufacturing, engineering, construction, distribution,
41 research, development, or other activities related to equipment,
42 supplies, technology, or other goods or services that directly
43 or indirectly support the United States Armed Forces or that can
44 be reasonably determined to support national security, including
45 space-related activities.

46 (e) "Qualified subcontract award" means qualified defense
47 work, in part or in whole, subcontracted from a Florida prime
48 contractor to a Florida small business subcontractor, which is
49 executed in the state and valued at more than \$250,000. The term
50 does not include subcontracts executed before July 1, 2015.

51 (2) A Florida prime contractor may apply to the department
52 to certify that it may reduce its computation of adjusted
53 federal income under s. 220.13 by 4 percent of the qualified
54 subcontract award, divided by the apportionment factor as
55 defined in s. 220.15, if such prime contractor:

56 (a) Is subject to chapter 220;

57 (b) Is awarded qualified defense work; and

58 (c) Makes a qualified subcontract award.

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59 (3) A Florida prime contractor may reduce its adjusted
60 federal income under subsection (2) only for taxable years
61 beginning on or after January 1, 2016, and must apply separately
62 to the department for each qualified subcontract award and
63 provide the department required documentation, including, but
64 not limited to, the award application and copies of contracts,
65 tax records, or employment records.

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

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

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

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

79 (c) The department may certify in total, per calendar year,
80 up to \$2.5 billion in aggregate qualified subcontract awards.

81 (d) For a multiyear qualified subcontract award, the
82 department shall certify the full amount of the award under
83 paragraphs (b) and (c) in the calendar year in which it was
84 awarded.

85 (e) The Florida prime contractor may reduce its adjusted
86 federal income under subsection (2) in the taxable years in
87 which payments are made to the Florida small business

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88 subcontractor.

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

91 Section 2. Paragraph (b) of subsection (1) of section
92 220.13, Florida Statutes, is amended to read:

93 220.13 "Adjusted federal income" defined.—

94 (1) The term "adjusted federal income" means an amount
95 equal to the taxpayer's taxable income as defined in subsection
96 (2), or such taxable income of more than one taxpayer as
97 provided in s. 220.131, for the taxable year, adjusted as
98 follows:

99 (b) *Subtractions.*—

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

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

106 b. The net capital loss allowable for federal income tax
107 purposes under s. 1212 of the Internal Revenue Code for the
108 taxable year,

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

112 d. The excess contributions deductions allowable for
113 federal income tax purposes under s. 404 of the Internal Revenue
114 Code for the taxable year.

115

116 However, a net operating loss and a capital loss shall never be

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117 carried back as a deduction to a prior taxable year, but all
118 deductions attributable to such losses shall be deemed net
119 operating loss carryovers and capital loss carryovers,
120 respectively, and treated in the same manner, to the same
121 extent, and for the same time periods as are prescribed for such
122 carryovers in ss. 172 and 1212, respectively, of the Internal
123 Revenue Code.

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

126 a. Dividends treated as received from sources without the
127 United States, as determined under s. 862 of the Internal
128 Revenue Code.

129 b. All amounts included in taxable income under s. 78 or s.
130 951 of the Internal Revenue Code.

131

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

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

145 4. There shall be subtracted from such taxable income any

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146 amount of nonbusiness income included therein.

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

153 861(a)(2)(A) of the Internal Revenue Code, not including credits
154 allowed under ss. 902 and 960 of the Internal Revenue Code,
155 withholding taxes on dividends within the meaning of sub-
156 subparagraph 2.a., and withholding taxes on royalties, interest,
157 technical service fees, and capital gains.

158 6. There shall be subtracted from such taxable income 4
159 percent of the amount of the qualified subcontract award
160 certified by the Department of Economic Opportunity and paid to
161 the subcontractor pursuant to s. 288.1046, divided by the
162 apportionment factor as defined in s. 220.15.

163 ~~7.6.~~ Notwithstanding any other provision of this code,
164 except with respect to amounts subtracted pursuant to
165 subparagraphs 1. and 3., any increment of any apportionment
166 factor which is directly related to an increment of gross
167 receipts or income which is deducted, subtracted, or otherwise
168 excluded in determining adjusted federal income shall be
169 excluded from both the numerator and denominator of such
170 apportionment factor. Further, all valuations made for
171 apportionment factor purposes shall be made on a basis
172 consistent with the taxpayer's method of accounting for federal
173 income tax purposes.

174 Section 3. This act shall take effect July 1, 2015.