

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 Education

BILL: SB 1412

INTRODUCER: Senator Powell

SUBJECT: Internship Tax Credit Program

DATE: February 14, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bouck	Sikes	ED	Pre-meeting
2.			FT	
3.			AP	

I. Summary:

SB 1412 creates the “Florida Internship Tax Credit Program” to authorize a tax credit of \$2,000 for each degree-seeking student intern employed by a corporation, up to a maximum of \$10,000 in any taxable year, beginning in taxable years on or after January 1, 2021. The bill also provides a definition of a degree-seeking student intern, responsibilities for postsecondary educational institutions and the Department of Revenue, and an authorization to carry forward any unused portion of a tax credit.

The bill does not have an impact on state revenues in 2020-2021, but is estimated to have a recurring impact of approximately \$14 million.

The bill takes effect on July 1, 2020.

II. Present Situation:

Internships

The National Association of Colleges and Employers (NACE) defines an internship as “a form of experiential learning that integrates knowledge and theory learned in the classroom with practical application and skill development in a professional setting. Internships give students the opportunity to gain valuable applied experience and make connections in professional fields they are considering for career paths; and give employers the opportunity to guide and evaluate talent.”¹

¹ National Association of Colleges and Employers, *Position Statement: U.S. Internships*, <http://www.naceweb.org/advocacy/position-statements/united-states-internships.aspx> (last visited Feb. 11, 2020).

NACE further defines criteria to determine if an experience is a legitimate internship:²

- The experience must be an extension of the classroom: a learning experience that provides for applying the knowledge gained in the classroom. It must not be simply to advance the operations of the employer or be the work that a regular employee would routinely perform.
- The skills or knowledge learned must be transferable to other employment settings.
- The experience has a defined beginning and end, and a job description with desired qualifications.
- There are clearly defined learning objectives or goals related to the professional goals of the student's academic coursework.
- There is supervision by a professional with expertise and educational or professional background in the field of the experience.
- There is routine feedback by the experienced supervisor.
- There are resources, equipment, and facilities provided by the host employer that support learning objectives/goals.

Internships are typically one-time work or service experiences related to the student's major or career goal. The internship plan generally involves students working in professional settings under the supervision and monitoring of practicing professionals. Internships can be paid³ or unpaid,⁴ and the student may or may not receive academic credit for performing the internship.⁵

Florida's Corporate Income Tax

It is the intent of the Legislature to subject corporations⁶ and other entities to taxation for the privilege of conducting business, deriving income, or existing within this state.⁷

² National Association of Colleges and Employers, *Position Statement: U.S. Internships*,

<http://www.naceweb.org/advocacy/position-statements/united-states-internships.aspx> (last visited Feb. 11, 2020).

³ The average hourly wage for interns in 2019 was \$19.05. National Association of Colleges and Employers, *2019 Internship & Co-op Survey Report, Executive Summary* (NACE Survey) (May 2019), available at <https://www.naceweb.org/uploadedfiles/files/2019/publication/executive-summary/2019-nace-internship-and-co-op-survey-executive-summary.pdf>, at 5.

⁴ The U.S. Department of Labor (USDOL) provides information to help determine whether or not interns and students are considered employees entitled to minimum wages and overtime pay under the Fair Labor Standards Act. That test requires courts to analyze the "economic reality" of the intern's relationship with his or her employer to evaluate whether the internship is primarily for the economic benefit of the employer or primarily for the educational benefit of the intern. USDOL, U.S. Wage and Hour Division, *Fact Sheet #71: Internship Programs Under the Fair Labor Standards Act* (updated Jan. 2018), available at <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/whdfs71.pdf>.

⁵ NACE Survey, *supra* note 3, at 2.

⁶ "Corporation" includes all domestic corporations; foreign corporations qualified to do business in this state or actually doing business in this state; specified corporations included in chapters 605, 609, 617, 618, 621, 622, and 623; foreign corporations not for profit carrying on their activities in this state; and all other organizations, associations, legal entities, and artificial persons created by or pursuant to the statutes of this state, the United States, or any other state, territory, possession, or jurisdiction. The term "corporation" does not include proprietorships; partnerships of any type; limited liability companies that are taxable as partnerships for federal income tax purposes; state or public fairs or expositions, under chapter 616; estates of decedents or incompetents; testamentary trusts; or private trusts. Section 220.03(1)(e), F.S.

⁷ Section 220.02(1), F.S.

Certain corporations doing business in Florida must pay a tax of 5.5 percent on income earned in Florida.⁸ The calculation of Florida corporate income tax starts with a corporation's federal taxable income.⁹ Taxable income earned by corporations operating in more than one state is taxed in Florida on an apportioned basis using a formula based 25 percent on property, 25 percent on payroll, and 50 percent on sales.¹⁰ Income that is apportioned to Florida using this formula is then subject to the Florida income tax. The first \$50,000 of net income is exempt, effective with tax years beginning January 1, 2013.¹¹

The Revenue Estimating Conference estimates 2020-2021 fiscal year gross corporate income tax collections of approximately \$2.76 billion.¹²

Corporate Tax Credits

Florida offers tax credits, refunds, and other incentives against the Florida corporate income tax liability to promote business development and job creation within the state.¹³ Such incentives related to employment include:

- The Rural and Urban Job Tax Credit Programs, which provide an incentive for eligible businesses, located within designated rural counties and urban areas, to create new jobs,¹⁴ valued at \$100,000 in 2019-2020.¹⁵
- Subtraction for Florida Employees Included in Calculation of Federal Employment Credits, which authorizes a deduction for the amount of wages and salaries paid to Florida employees for the taxable year for which no deduction is allowed under the Internal Revenue Code,¹⁶ valued at \$17.4 million in 2019-2020.¹⁷
- Enterprise Zone Jobs Tax Credit, which provides a credit of wages paid to new eligible employees who are residents of a Florida enterprise zone,¹⁸ valued at \$700,000 in 2019-2020.¹⁹

⁸ Florida Revenue Estimating Conference, *2020 Florida Tax Handbook*, (Tax Handbook-2020), available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2020.pdf>, at 61. For taxable years beginning January 1, 2019 through December 31, 2021, the rate is 4.458 percent, pursuant to s. 220.1105, F.S. *Id.*

⁹ Section 220.12, F.S.

¹⁰ Tax Handbook-2020, *supra* note 8. *See also* s. 220.15, F.S.

¹¹ *Id.* *See also* s. 220.14, F.S.

¹² Tax Handbook-2020, *supra* note 8.

¹³ Florida Department of Revenue, *Corporate Income Tax Incentives*, https://floridarevenue.com/taxes/taxesfees/Pages/corp_tax_incent.aspx (last visited Feb. 12, 2020).

¹⁴ Sections 220.1895 and 212.098, F.S., and ss. 220.1895 and 212.097, F.S.

¹⁵ Florida Revenue Estimating Conference, *2019 Florida Tax Handbook*, (Tax Handbook-2019), available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2019.pdf>, at 65.

¹⁶ Section 220.13(1)(b)3, F.S.

¹⁷ Tax Handbook-2019, *supra* note 15.

¹⁸ Section 220.181, F.S.

¹⁹ Tax Handbook-2019, *supra* note 15.

Credits against either the corporate income tax or the franchise tax are applied in an order established in law.²⁰ There is presently no credit available against corporate income tax for employing degree-seeking student interns.²¹

III. Effect of Proposed Changes:

The bill creates s. 220.198, F.S., to establish the “Florida Internship Tax Credit Program,” which authorizes a tax credit of \$2,000 for each degree-seeking student intern employed by a corporation, up to a maximum of \$10,000 in any taxable year, beginning in taxable years on or after January 1, 2021. The bill also provides a definition of a degree-seeking student intern, responsibilities for postsecondary educational institutions and the Department of Revenue (DOR), and an authorization to carry forward any unused portion of a tax credit.

The bill defines a “degree-seeking student intern” as a person who is enrolled as a degree-seeking student at a state university, a Florida College System institution, a career center operated by a school district, or a charter technical career center.

The bill authorizes a taxpayer²² credit against the corporate income tax established in chapter 200, F.S., in the amount of \$2,000 per degree-seeking student intern employed by the taxpayer, subject to documentation by the state university, FCS institution, career center operated by a school district, or charter technical career center regarding the degree-seeking student’s enrollment status.²³ The bill establishes a maximum credit of \$10,000 in any taxable year, and authorizes a taxpayer to carry forward any unused portion of a tax credit for up to two taxable years.

Finally, the bill requires the DOR to adopt rules governing the manner and form of applications for the tax credit and establishing qualification requirements for the tax credit. The rule may need to specify requirements not in the bill, such as timelines for approval of tax credits, and what entity receives the documentation of the student’s enrollment status.

²⁰ Section 220.02(8), F.S. The credits are applied in the following order: those enumerated in s. 631.828,²⁰ those enumerated in s. 220.191, those enumerated in s. 220.181, those enumerated in s. 220.183, those enumerated in s. 220.182, those enumerated in s. 220.1895, those enumerated in s. 220.195, those enumerated in s. 220.184, those enumerated in s. 220.186, those enumerated in s. 220.1845, those enumerated in s. 220.19, those enumerated in s. 220.185, those enumerated in s. 220.1875, those enumerated in s. 220.192, those enumerated in s. 220.193, those enumerated in s. 288.9916, those enumerated in s. 220.1899, those enumerated in s. 220.194, and those enumerated in s. 220.196. *Id.*

²¹ Department of Revenue, *2020 Agency Legislative Bill Analysis of SB 1412* (Jan. 24, 2020), at 2.

²² “Taxpayer” means any corporation subject to the tax imposed by the Florida income tax code established in chapter 200, F.S., and includes all corporations for which a consolidated return is filed under s. 220.131, F.S., but does not include a specified corporation having no individuals. Section 220.03(1)(z), F.S.

²³ The Family Educational Rights and Privacy Act (FERPA) authorizes an educational institution to disclose directory information without prior consent of the student, but requires the institution to publicly designate such directory information. 20 U.S.C. s. 1232g; 34 CFR, s. 99.37. Directory information includes, but is not limited to, the student’s name; address; telephone listing; electronic mail address; photograph; date and place of birth; major field of study; grade level; enrollment status (e.g., undergraduate or graduate, full-time or part-time); dates of attendance; participation in officially recognized activities and sports; weight and height of members of athletic teams; degrees, honors, and awards received; and the most recent educational agency or institution attended. Directory information does not include the student’s social security number or the student’s identification number, subject to exceptions. 34 CFR s 99.3.

The tax credit established in the bill may provide an incentive for businesses to provide or increase internship opportunities for students.

The bill takes effect on July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Corporations that employ student interns specified in the bill and meet specified requirements may decrease their tax liability up to \$10,000 in any taxable year.

C. Government Sector Impact:

The Revenue Estimating Conference (conference) estimated no fiscal impact in 2020-2021, because the bill specifies the beginning of the tax credit in taxable years on or after January 1, 2021. However, the conference estimates a fiscal impact of \$14.2 million in 2021-2022, increasing to \$14.8 million in 2024-2025. The conference based its estimate on 2017 corporate income tax data to identify businesses with a positive tax liability after all other credits.²⁴

²⁴ Revenue Estimating Conference, *Revenue Impact Results* (Jan. 24, 2020), available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2020/_pdf/Impact0124.pdf, at 288.

The Department of Revenue estimates that implementation of the internship tax credit will require approximately 316 contractor hours, and 624 in-house hours, to provide modifications to the SUNTAX system. The cost is estimated at \$29,388 for 2021-2022.

VI. Technical Deficiencies:

The bill uses the term “degree-seeking student intern” in the provision of a tax credit established in the bill. However, career centers operated by school districts and charter technical career centers currently do not offer associate or baccalaureate degrees,²⁵ and so their students are not considered “degree-seeking.” The sponsor may consider changing the definition to “student intern” and specify that the student must be enrolled in a degree, career certificate, or diploma program at a specified Florida postsecondary education institution.

VII. Related Issues:

The bill does not define an “internship” experience, and so it is unclear if any type of work-based educational experience may qualify, such as co-operative education, apprenticeships, practicums, service learning, clinical experience, or virtual internships. The bill does not define a minimum length for an internship, if the internship may be paid or unpaid, and if the student must be receiving academic course credit for the internship experience. In addition, the Department of Revenue identified several issues:²⁶

- The bill does not amend s. 220.02(8), F.S., to specify in which order this tax credit is to be claimed against corporate income tax relative to other credits that may be claimed.
- A tax credit provision in chapter 220, F.S., typically corresponds to an addition to s. 220.13, F.S., to prevent a taxpayer from taking an item or expense as a deduction from federal income and Florida income, and then also taking the same item or expense as a tax credit against Florida corporate income tax. The bill does not provide such corresponding provision.
- It is unclear whether an affiliated group filing a consolidated Florida return may take a tax credit of up to \$10,000 per corporation included in the consolidated filing, or whether the tax credit is limited to \$10,000 per filed return.

VIII. Statutes Affected:

This bill creates section 220.198 of the Florida Statutes.

²⁵ Workforce education programs may be conducted by a Florida College System (FCS) institution or a school district, except that college credit in an associate in applied science or an associate in science degree may be awarded only by a FCS institution. Section 1011.80(2), F.S. Career centers offer adult general education, career certificates, applied technology diplomas, continuing workforce education, and apprenticeship and preapprenticeship programs. Section 1011.80(1), F.S. In 2017-2018, Lake Technical College, the state’s only charter technical center, offered only adult general education and career certificate programs. Florida Department of Education, *A Comparison of State of Florida Charter Technical Career Centers to District Non-Charter Career Centers, 2017-18*, available at <http://www.fldoe.org/core/fileparse.php/9904/urlt/charterreview18.pdf>, at 5.

²⁶ Department of Revenue, *2020 Agency Legislative Bill Analysis of SB 1412* (Jan. 24, 2020), at 5.

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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