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 Appropriations

BILL: CS/CS/SB 922

INTRODUCER: Appropriations Committee; Commerce and Tourism Committee; and Senator Gruters

SUBJECT: Economic Development

DATE: March 2, 2020 REVISED: ___________

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Reeves	McKay	CM	**Fav/CS**
2.	Howard	Kidd	AHS	**Recommend: Favorable**
3.	Hrdlicka	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 922 provides that certain businesses that relocate to, or expand into, a county affected by Hurricane Michael are eligible to receive an increased “tax refund” under the Qualified Target Industry Tax Refund Program, and authorizes certain businesses located in a county affected by Hurricane Michael to apply for an economic recovery extension.

The bill removes the scheduled date after which an applicant may not be certified for the program. The bill makes the program permanent.

The bill may have a significant yet indeterminate fiscal impact on state expenditures. Payment for performance under the program is subject to specific annual appropriation by the legislature.

The bill takes effect on July 1, 2020.

II. Present Situation:

Qualified Target Industry Tax Refund Program

The Qualified Target Industry (QTI) Tax Refund Program was created by the Legislature in 1994[1] to encourage the creation and retention of high-quality, high-wage jobs by providing a

[1] Chapter 94-136, s. 76, Laws of Fla.

state grant equal to the amount paid for certain state and local taxes[2] to eligible businesses creating jobs in certain target industries.[3] The amount of the tax refund awarded through the program is determined by the number of jobs created by, the average annual wages paid by, and the location of the eligible business. Under current law, no additional applicants may be certified under the program after June 30, 2020; existing agreements will continue in effect according to their terms.[4]

In order to be eligible to receive a grant, a business must apply to be certified as a qualified target industry business with the Department of Economic Opportunity (DEO).[5] Businesses must be engaged in one of Florida's target industries as identified by the DEO and Enterprise Florida, Inc. (EFI).[6] The current qualified target industries are aviation and aerospace; life sciences; manufacturing; defense and homeland security; information technology; financial and professional services; logistics and distribution; research and development; cleantech; and corporate headquarters.[7]

Qualified target industry businesses are eligible to receive a tax refund equal to $3,000 per newly created job. If a business is located in a rural community or an enterprise zone, the amount is increased to $6,000 per created job.[8] Qualified target industry businesses may also be eligible for the following additional tax refund payments:[9]

- $1,000 per created job if such jobs pay an average annual wage of at least 150 percent of the average private sector wage in a business's area;
- $2,000 per created job if such jobs pay an average annual wage of at least 200 percent of the average private sector wage in a business's area;
- $1,000 per created job if a business's local financial support is equal to the state's incentive award; and

[2] Tax refunds may be claimed for the following taxes paid: sales and use taxes, corporate income taxes, insurance premium taxes, intangible personal property taxes, excise taxes, ad valorem taxes, certain state communication services taxes, excise taxes on documents. *See* s. 288.106(3)(9), F.S.

[3] Section 288.106(1), F.S.

[4] Section 288.106(9), F.S.

[5] Section 288.106(4), F.S.

[6] Section 288.106(2)(q), F.S. Every three years, beginning January 1, 2011, DEO must consult with EFI, economic development organizations, the State University System, local governments, employee and employer organizations, market analysts, and economists to review and revise the list of target industries. Target industries are determined according to criteria found in statute.

[7] Enterprise Florida, Inc., *Qualified Targeted Industries for Incentives*, available at https://www.enterpriseflorida.com/wp-content/uploads/SI_Targeted_Industries.pdf (last visited January 22, 2020).

[8] Section 288.106(3)(b)1., F.S.

[9] Section 288.106(3)(b), F.S.

- $2,000 per created job if a business falls within one of the designated high-impact sectors[10] or increases exports of its goods through a seaport[11] or airport in the state by at least 10 percent by value or tonnage in each of the years the business receives a tax refund payment.

A qualified target industry business cannot receive more than $1.5 million in any fiscal year, or more than $2.5 million in any fiscal year if the business is located in an enterprise zone.[12] The total state share of payments may not exceed $35 million.[13]

To date, 1,360 businesses have been approved to participate in the QTI program and over $260 million has been awarded. In Fiscal Year 2018-2019, 7,462 jobs were created by 321 businesses actively participating in the program. The total number of jobs created exceeded the number of total new jobs expected to be created by 3,184.[14]

QTI Agreement

Each qualified target industry business must enter into a written agreement with the DEO that specifies certain criteria that must be met in order to be eligible for a payment, including receipts showing the amount of taxes paid and data showing that the business met its performance requirements.[15] Compliance with the terms and conditions of the agreement is a condition precedent for the receipt of a tax refund each year unless the department grants the business an economic recovery extension.[16]

In the event of negative economic conditions in a business's industry, a named hurricane or tropical storm, or specific acts of terrorism, a qualified target industry business may request an economic recovery extension. The request must provide evidence detailing how the aforementioned conditions have prevented a business from carrying out the terms of its agreement.[17] Upon approval, the DEO will renegotiate a business's agreement. Agreements may not be extended for more than 2 years, and a business that receives an extension may not receive

[10] Pursuant to s. 288.108(6), F.S., EFI must consult with the DEO, economic development organizations, the State University System, local governments, employee and employer organizations, market analysts, and economists every three years, beginning January 1, 2011, to review the designated high-impact sectors. The sectors currently designated as high impact are transportation equipment (including aviation and aerospace), information technology, life sciences, financial services, corporate headquarters, and clean energy. *See* Office of Program Policy Analysis and Government Accountability, *Florida Economic Development Program Evaluations – Year 7*, 17 (2019), available at http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1916rpt.pdf (last visited January 22, 2020).

[11] Section 288.106(3)(b)4.b., F.S., limits seaports to the ports of Jacksonville, Tampa, Port Everglades, Miami, Port Canaveral, Ft. Pierce, Palm Beach, Port Manatee, Port St. Joe, Panama City, St. Petersburg, Pensacola, Fernandina, and Key West.

[12] Section 288.106(3)(c), F.S.

[13] Section 288.095(3)(a), F.S.

[14] Florida Department of Economic Opportunity, 2019 Incentives Report, 7-8, available at http://www.floridajobs.org/docs/default-source/reports-and-legislation/2018-2019-annual-incentives-report---final.pdf?sfvrsn=c2a340b0_2 (last visited February 4, 2020).

[15] Section 288.106(5)(a), F.S. The DEO may waive the requirement for proof of taxes paid in future years for a business that provides the DEO with proof that, in a single year, the business has paid an amount of certain state taxes that is at least equal to the total amount of payments that the business would receive through successful completion of its agreement. Section 288.106(6), F.S.

[16] Section 288.106(5)(b), F.S.

[17] Section 288.106(5)(b)1., F.S.

a tax refund for the period covered by the extension.[18] Requests for an economic recovery extension were permitted in lieu of any claim scheduled between January 1, 2009, and July 1, 2012.[19]

Disproportionally Affected Counties

In response to the Deepwater Horizon oil spill, the Legislature enacted a special incentive within the QTI program to encourage business investment in the counties disproportionally affected by the oil spill.[20] The DEO was authorized to waive any or all wage or local financial support requirements between July 1, 2011, and June 30, 2014, for a business located in a Disproportionally Affected County. Disproportionally Affected Counties are currently defined as Bay County, Escambia County, Franklin County, Gulf County, Okaloosa County, Santa Rosa County, Walton County, or Wakulla County. During this period, a qualified target industry business that relocated all or part of its business to one of such counties from another state was eligible for a tax refund of up to $6,000 per job created.[21]

Hurricane Michael

Hurricane Michael made landfall in the Florida Panhandle as a Category 5 Hurricane on October 10, 2018. The storm, the fourth most powerful hurricane to hit the country, remained at category 3 strength as it traveled into southwest Georgia. Storm surge and 160 mph winds caused destruction and losses of almost $7 billion along the hurricane's path.[22] In the year following the storm, FEMA has provided $1.9 billion in federal funds for housing assistance, disaster loans, public assistance grants, and hazard mitigation grants.[23] Businesses have been slow to reopen, largely due to a shortage of workers worsened by the lack of affordable housing in the area.[24]

III. Effect of Proposed Changes:

Qualified Target Industry Tax Refund Program (Sections 1 and 2)

The bill creates two new provisions related to businesses located in a county affected by Hurricane Michael. The bill amends s. 288.106(8), F.S., to replace references to a "Disproportionally Affected County" with a "county affected by Hurricane Michael." The bill defines a "county affected by Hurricane Michael" as Bay, Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Okaloosa, Wakulla, Walton, or Washington County.

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[18] Section 288.106(5)(b)3., F.S.
[19] Section 288.106(5)(b)1., F.S.
[20] Chapter 2011-142, s. 150, Laws of Fla.
[21] Section 288.106(8), F.S.
[22] Associated Press, *A year after Michael, Florida community still in crisis*, October 9, 2019, available at https://apnews.com/0d260a9ec44545458ab1f25b6f969a5a (last visited February 4, 2020).
[23] Federal Emergency Management Agency, *Florida Hurricane Michael*, available at https://www.fema.gov/disaster/4399 (last visited February 4, 2020).
[24] National Public Radio, *Recovery is Slow in the Florida Panhandle a Year after Hurricane Michael*, October 10, 2019, available at: https://www.npr.org/2019/10/10/768722573/recovery-is-slow-in-the-florida-panhandle-a-year-after-hurricane-michael (last visited February 4, 2020).

The bill amends s. 288.106(5)(b)4., F.S., to allow a qualified target industry business located in a county affected by Hurricane Michael to request an economic recovery extension in lieu of any claim scheduled to be submitted after January 1, 2021, but before July 1, 2023.

The bill allows the DEO to waive wage and local financial support requirements for businesses that locate or expand in a county affected by Hurricane Michael. The DEO may waive such requirements between July 1, 2020, and June 30, 2023. The bill requires that the DEO's decision to waive such requirements be stated in writing. Under the bill, a business that "relocates from another state to, or establishes its business or expands its existing business in, a county affected by Hurricane Michael" is eligible for a payment of up to $10,000 per job created.

The bill repeals the provision that prohibits the certification of applicants after June 30, 2020. In effect, the bill permanently reauthorizes the program.

The bill amends s. 189.033, F.S., to remove a cross-reference and provides that, as used in s. 189.033, F.S., the term "disproportionally affected county" retains its original definition of Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, Walton, or Wakulla County.

Effective Date (Section 3)

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:

The maximum grant award available to a qualified target industry business that relocates to or expands into to a county affected by Hurricane Michael is $10,000 per created job, which could incentivize certain businesses to relocate to or expand into those areas.

Businesses that are located in a county affected by Hurricane Michael that are unable to meet the terms of their current agreements with the DEO may benefit from receiving an economic recovery extension and extending the term of the agreement by up to two years.

C. Government Sector Impact:

The bill may have a significant yet indeterminate fiscal impact on future state expenditures. Payment of QTI contracts or agreements are subject to specific annual appropriation by the legislature.[25] The annual funding cap of $35 million, pursuant to s. 288.095(3)(a), F.S., still applies.

The bill allows applicants to be certified for the QTI program after June 30, 2020. The DEO will be able to enter into new contracts or agreements under the program.

The bill creates a special incentive of up to $10,000 per employee for QTI projects within a county affected by Hurricane Michael.[26]

Additionally, payments that otherwise may not have been made because the business could not meet the terms of the agreement, may be made over a longer term if the business qualified for an economic recovery extension.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 189.003 and 288.106.

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[25] Section 288.106(5)(d), F.S.

[26] Department of Economic Opportunity, *Senate Bill 922 Fiscal Analysis* (November 18, 2019) (on file with the Senate Appropriations Subcommittee on Health and Human Services).

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS/CS by Appropriations on February 27, 2020:
The committee substitute removes the provisions related to surf pools.

CS by Commerce and Tourism on January 21, 2020:
- Deletes a cross-reference to the definition of "disproportionally affected county";
- Defines "disproportionally affected county" in place of the cross-reference;
- Defines "surf pool";
- Provides that certain surf pools are exempt from supervision established in ch. 514, F.S., if a local government has permitted such a surf pool through a special use permit process; and
- Updates a reference to a redesignated statute.

B. Amendments:

None.