

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 Finance and Tax

BILL: CS/SB 258

INTRODUCER: Finance and Tax Committee and Senator Jones

SUBJECT: Internship Tax Credit Program

DATE: March 12, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brick</u>	<u>Bouck</u>	<u>ED</u>	Favorable
2.	<u>Kim</u>	<u>Babin</u>	<u>FT</u>	Fav/CS
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 258 creates the “Florida Internship Tax Credit Program,” which authorizes a corporate income tax credit of \$2,000 for each student intern employed by a qualified business, up to a maximum of \$10,000 in any taxable year, for taxable years beginning on or after January 1, 2022. The bill defines terms, specifies eligibility conditions for the credit, authorizes the carryforward of unused credits for a specified period, and authorizes the Department of Revenue (department) to adopt rules.

The Revenue Estimating Conference determined SB 258 will reduce General Revenue Fund receipts by \$4.4 million beginning in Fiscal Year 2021-2022 and by at least \$4.4 million each fiscal year thereafter. CS/SB 258 has not been reviewed by the Revenue Estimating Conference, but staff estimates that the changes do not significantly affect the fiscal impact.

The bill takes effect on July 1, 2021, except for the department’s emergency rulemaking authority, which takes effect upon becoming a law.

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

The 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

Florida imposes a tax on the taxable income of certain corporations and financial institutions doing business in Florida.⁶ The current rate is 4.458 percent⁷ of a taxpayer’s net income for its taxable year (the calendar or fiscal year or period upon which its net income is computed).⁸

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 Mar. 11, 2021).

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 Mar. 11, 2021).

³ The average hourly wage for interns in 2020 was \$19.54. National Association of Colleges and Employers, *2020 Internship & Co-op Survey Report, Executive Summary* (NACE Survey) (2020), available at <https://www.naceweb.org/uploadedfiles/files/2020/publication/executive-summary/2020-nace-internship-and-co-op-survey-executive-summary.pdf>, at 3.

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 Chapter 220, F.S.

⁷ The tax rate was adjusted downward to 4.458 percent pursuant to s. 220.1105, F.S., for taxable years beginning on or after January 1, 2019. Pursuant to s. 220.1105(5), F.S., the rate is scheduled to return to 5.5 percent for taxable years beginning on or after January 1, 2022.

⁸ Sections 220.11(2) and 220.63(2), F.S.

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 taxable years beginning January 1, 2013.¹¹

The Revenue Estimating Conference estimates Fiscal Year 2021-2022 gross corporate income tax collections of approximately \$2.67 billion.¹² All revenue from the corporate income tax is paid into the General Revenue Fund.¹³

Corporate Income Tax Credits

Florida offers credits, refunds, and other incentives against Florida corporate income tax liability to promote business development and job creation within the state.¹⁴ Some incentives related to employment include:

- The Rural Job Tax Credit Program, which provides credits against sales tax or corporate income tax liability for eligible businesses located within qualified rural areas, up to a maximum credit amount of \$5 million per calendar year.¹⁵
- The Urban High-Crime Area Job Tax Credit Program, which provides credits against sales tax or corporate income tax liability for eligible businesses located within qualified high-crime areas, up to a maximum credit amount of \$5 million per calendar year.¹⁶
- Subtraction for Florida Employees Included in Calculation of Federal Employment Credits, which authorizes a deduction¹⁷ for the amount of wages and salaries paid to Florida employees for the taxable year for which no deduction is allowed under section 280C(a) of the Internal Revenue Code¹⁸, valued at \$17.9 million in 2020-2021.¹⁹

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 student interns.

⁹ Section 220.12, F.S.

¹⁰ Section 220.15, F.S.

¹¹ Section 220.14, F.S.

¹² Florida Revenue Estimating Conference, *General Revenue Fund, Changes to the Estimate* (December 21, 2020), available at <http://edr.state.fl.us/Content/conferences/generalrevenue/grchng.pdf> (last visited Mar. 11, 2021).

¹³ Section 220.701, F.S.

¹⁴ Florida Department of Revenue, *Corporate Income Tax Incentives (Incentives Related to Jobs)*, https://floridarevenue.com/taxes/taxesfees/Pages/corp_tax_incent.aspx (last visited Mar. 11, 2021).

¹⁵ Sections 212.098 and 220.1895, F.S.

¹⁶ Sections 212.097 and 220.1895, F.S.

¹⁷ Section 220.13(1)(b)3, F.S.

¹⁸ 26 U.S.C. s. 280C(a).

¹⁹ Office of Economic and Demographic Research, The Florida Legislature, *Florida Tax Handbook, Including Fiscal Impact of Potential Changes*, 67 (2020), available at <http://www.edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2020.pdf> (last visited Mar. 11, 2021).

²⁰ Section 220.02(8), F.S.

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 student intern employed by a qualified business, up to a maximum of \$10,000 in any taxable year, for taxable years beginning on or after January 1, 2022.

The bill amends s. 220.02, F.S., to specify the order in which the credit is applied in relation to other corporate income tax credits. The bill amends s. 220.13, F.S., to require a taxpayer to add claimed credit amounts back to its taxable income, which prevents the taxpayer from claiming the amount as both a credit and a deduction.

The bill defines a “student intern” as a person who has completed at least 60 credit hours at a state university or a Florida College System institution; a person who is enrolled in a career center operated by a school district under s. 1001.44, F.S., or a charter technical career center; or any graduate student enrolled at a state university. The bill defines “full time” as at least 30 hours per week. The bill defines a “qualified business” as a business that is in existence and has been continuously operating for at least three years.

The bill authorizes a qualified business to receive a credit against Florida corporate income tax liability in the amount of \$2,000 per student intern employed by the qualified business. Under the bill, a business would qualify to receive the tax credit if:

- The business employed at least one student in an internship in which the student worked full time for at least nine consecutive weeks, and the qualified business provides the department documentation evidencing each internship claimed;
- At the start of an internship, each student intern provides the qualified business with verification by the student intern’s state university, Florida College System institution, career center operated by a school district under s. 1001.44, F.S., or charter technical career center that the student intern is enrolled and maintains a minimum grade point average of 2.0 on a 4.0 scale; and
- The qualified business provides the department documentation for the current taxable year to show that at least 20 percent of the business’s full-time employees were previously employed by that business as student interns, or the business:
 - For the three prior years on average, employed ten or fewer full-time employees;
 - Previously hired at least one student intern; and
 - For the current taxable year, employs on a full-time basis at least one employee who was previously employed by the business as a student intern.

The bill establishes a maximum credit of \$10,000 in any taxable year and authorizes a qualified business to carry forward any unused portion of the tax credit for up to two taxable years.

The bill authorizes the department 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 which entity receives the documentation of the student’s enrollment status. The bill also authorizes the department to adopt emergency rules, which are effective for 6 months after adoption and may

be renewed during the pendency of procedures to adopt permanent rules. The emergency rulemaking authority expires July 1, 2022.

The bill takes effect on July 1, 2021, except for the department's emergency rulemaking authority, which takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties and municipalities to spend funds, limit their ability to raise revenue, or reduce the percentage of a state tax shared with them. Therefore, the mandates provisions of s. 18, Art. VII of the State Constitution do not apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

The bill does not create or raise state taxes or fees. Therefore, the requirements of s. 19, Art. VII of the State Constitution do not apply.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference determined SB 258 will reduce General Revenue Fund receipts by \$4.4 million beginning in Fiscal Year 2021-2022 and by at least \$4.4 million each fiscal year thereafter. CS/SB 258 has not been reviewed by the Revenue Estimating Conference, but staff estimates that the changes do not significantly affect the fiscal impact.

B. Private Sector Impact:

Qualified businesses that employ student interns specified in the bill and meet specified requirements may decrease their corporate income tax liability by up to \$10,000 in any taxable year. The tax credit established in the bill may provide an incentive for qualified businesses to provide internship opportunities for students.

C. Government Sector Impact:

The department estimates it requires a \$37,497 appropriation in Fiscal Year 2022-2023 to implement the bill.²¹

VI. Technical Deficiencies:

None.

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 specify if the internship may be paid or unpaid, or if the student must be receiving academic course credit for the internship experience.

VIII. Statutes Affected:

The bill creates section 220.198 of the Florida Statutes.

The bill amends the following sections of the Florida Statutes: ss. 220.02 and 220.13.

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

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

CS by Finance and Tax on March 11, 2021:

The CS:

- Specifies the order in which the internship tax credit is claimed relative to other credits.
- Prevents the taxpayer from claiming the credit amount as both a credit and a deduction.
- Provides that the credit may be applied against a taxpayer’s current tax liability.
- Specifies documentation the taxpayer must provide to the department regarding its interns and revises the verification an intern must provide to the qualified business.
- Authorizes the department to adopt emergency rules.
- Makes clarifying and technical changes.

B. Amendments:

None.

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

²¹ Florida Dep’t of Revenue, *Senate Bill 258 Bill Analysis* (Jan. 26, 2021) (on file with the Senate Committee on Finance and Tax).