

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 531 Student Internships

SPONSOR(S): Post-Secondary Education & Lifelong Learning Subcommittee, Daley, Robinson, F. and others

TIED BILLS: None **IDEN./SIM. BILLS:** CS/SB 258

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Post-Secondary Education & Lifelong Learning Subcommittee	16 Y, 0 N, As CS	Sleap	Kiner
2) Ways & Means Committee			
3) Education & Employment Committee			
4) Appropriations Committee			

SUMMARY ANALYSIS

The bill creates the "Florida Internship Tax Credit Program" (internship tax credit), which authorizes a qualified business to receive a tax credit against Florida corporate income tax liability, beginning on or after January 1, 2022, in the amount of \$2,000 per student intern employed by the qualified business.

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

The bill establishes a time period for which the internship tax credit may be awarded as only during fiscal years 2022-2023 and 2023-2024, and sets a maximum amount of tax credits which may be granted to all qualified businesses as \$250,000 for each of those fiscal years.

The bill defines a qualified business which may receive the internship tax credit, the minimum number of hours the student intern must work, and additional responsibilities of the student and business to participate.

The bill requires each baccalaureate degree program offered at a Florida College System or state university system institution to offer an internship elective course beginning with students initially enrolling in the 2022-2023 academic year. The bill requires the elective course to allow a student to earn between three and six credit hours while completing a paid or unpaid internship in conjunction with classroom instruction.

The fiscal impact is indeterminate. See Fiscal Comments.

Except as otherwise provided, the bill has an effective date of July 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

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

To ensure that an experience can be defined as an internship, the NACE establishes the following seven criteria which must be met by the experience:

1. The experience is 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.
2. The skills or knowledge learned must be transferable to other employment settings.
3. The experience has a defined beginning and end, and a job description with desired qualifications.
4. There are clearly defined learning objectives or goals related to the professional goals of the student’s academic coursework.
5. There is supervision by a professional with expertise and educational or professional background in the field of the experience.
6. There is routine feedback by the experienced supervisor.
7. There are resources, equipment, and facilities provided by the host employer that support the learning objectives or goals.²

If the seven criteria are met, NACE considers the experience to be a legitimate internship.³

Internships are typically one-time work or service experiences related to the student’s major or career goal.⁴ An internship generally involves a student working in a professional setting under the supervision and monitoring of a practicing professional. Internships can be paid⁵ or unpaid,⁶ and the student may or may not receive academic credit for performing the internship.⁷

Florida’s Corporate Income Tax

¹ National Association of Colleges and Employers, *Position Statement: U.S. Internships* (August 2018), <https://www.nacweb.org/about-us/advocacy/position-statements/position-statement-us-internships/> (last visited March 26, 2021).

² *Id.*

³ *Id.*

⁴ National Association of Colleges and Employers, *2020 Internship & Co-op Survey Report, Executive Summary* (2020), at 2, available at <https://www.nacweb.org/uploadedfiles/files/2020/publication/executive-summary/2020-nace-internship-and-co-op-survey-executive-summary.pdf>

⁵ *Id.* at 3. The average hourly wage for interns in 2020 was \$19.54.

⁶ 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>.

⁷ National Association of Colleges and Employers, *2020 Internship & Co-op Survey Report, Executive Summary* (2020), at 2, available at <https://www.nacweb.org/uploadedfiles/files/2020/publication/executive-summary/2020-nace-internship-and-co-op-survey-executive-summary.pdf>.

Florida imposes a tax on the taxable income of certain corporations and financial institutions doing business in Florida.⁸ The current rate is 4.458 percent⁹ of a taxpayer's net income for its taxable year (the calendar or fiscal year or period upon which its net income is computed).¹⁰

The calculation of Florida corporate income tax starts with a corporation's federal taxable income.¹¹ 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.¹² 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, 2013.¹³

The Revenue Estimating Conference estimates Fiscal Year (FY) 2021-2022 gross corporate income tax collections of approximately \$2.67 billion.¹⁴ All revenue from the corporate income tax is paid into the General Revenue Fund.¹⁵

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.¹⁶ 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.¹⁷
- 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.¹⁸
- Subtraction for Florida Employees Included in Calculation of Federal Employment Credits, which authorizes a deduction¹⁹ 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 Code²⁰, valued at \$17.9 million in 2020-2021.²¹

Credits against either the corporate income tax or the franchise tax are applied in an order established in law.²² There is presently no credit available against corporate income tax for employing student interns.

Postsecondary Baccalaureate Degree

⁸ Chapter 220, F.S.

⁹ 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.

¹⁰ Sections 220.11(2) and 220.63(2), F.S.

¹¹ Section 220.12, F.S.

¹² Section 220.15, F.S.

¹³ Section 220.14, F.S.

¹⁴ Florida Revenue Estimating Conference, General Revenue Fund, Changes to the Estimate (December 21, 2020), at 3, available at <http://edr.state.fl.us/Content/conferences/generalrevenue/grchng.pdf>.

¹⁵ Section 220.701, F.S.

¹⁶ Florida Department of Revenue, *Corporate Income Tax Incentives, Incentives Related to Jobs*, https://floridarevenue.com/taxes/taxesfees/Pages/corp_tax_incent.aspx (last visited March 26, 2021).

¹⁷ Sections 212.098 and 220.1895, F.S.

¹⁸ Section 212.097 and 220.1895, F.S.

¹⁹ Section 220.13(1)(b)3., F.S.

²⁰ 26 U.S.C. s. 280C(a).

²¹ Office of Economic and Demographic Research, Florida Revenue Estimating Conference, *2020 Florida Tax Handbook Including Fiscal Impact of Potential Changes*, at 67, available at <http://www.edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2020.pdf>.

²² Section 220.02(8), F.S.

Current law requires a baccalaureate degree to be no more than 120 semester hours of college credit, unless prior approval has been granted by the Board of Governors or State Board of Education, as applicable, and include 36 semester hours of general education coursework.²³

Since academic year 2015-2016, students entering a Florida College System (FCS) or State University System (SUS) institution are required to complete at least one identified core course in the subject areas of communication, mathematics, social sciences, humanities, and natural sciences.²⁴ All public postsecondary educational institutions are required to accept these courses as meeting general education core course requirements.²⁵ After completing the general education core course requirement, the remaining courses and credits that fulfill the total 36-hour general education requirement for an associate in arts or baccalaureate degree are at the discretion of the FCS or SUS institution.²⁶

Effect of Proposed Changes

Florida Internship Tax Credit Program

The bill creates the “Florida Internship Tax Credit Program” (internship tax credit), which authorizes a tax credit of \$2,000 per 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 specifies the order in which the internship tax credit should be applied in relation to other corporate income tax credits. Additionally, the bill requires a corporate income taxpayer to add claimed tax credit amounts back to its taxable income, preventing such taxpayer from claiming the amount of the internship tax credit as both a credit and a deduction.

The bill authorizes a qualified business to receive a credit against Florida corporate income tax liability, beginning on or after January 1, 2022, in the amount of \$2,000 per student intern employed by the qualified business. Under the bill, a business would qualify to receive the internship tax credit if:

- The business employed for compensation at least one student intern in the taxable year for which the business applies for the internship tax credit, and the business provides to the Department of Revenue (DOR) documentation evidencing each internship claimed;
- At the start of an internship, each student intern provides the business with verification by the student intern’s state university or Florida College System institution, that the student intern is enrolled and has maintained a minimum grade point average of 2.0 on a 4.0 scale, or if the school does not issue grade point averages, that the student is enrolled and in good standing. Verification from the school, along with evidence of required employment must be included with the application for the internship tax credit; and
- An officer of the business attests to the DOR 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 3 prior years on average, employed ten or fewer full-time employees;
 - Previously hired at least one student intern; and
 - For the current taxable year, the business 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 tax credit of \$10,000 in any taxable year and authorizes a qualified business to carry forward any unused portion of the internship tax credit for up to two taxable years.

The bill establishes a time period for which the internship tax credit may be awarded as only during FY 2022-2023 and FY 2023-2024, and sets a maximum amount of internship tax credits which may be granted to all qualified businesses as \$250,000 for each of those fiscal years.

²³ Section 1007.25(9), F.S.

²⁴ Section 1007.25(3), F.S.

²⁵ *Id.*

²⁶ Florida Board of Governors, General Education Core Course Options, Regulation 8.005(1) and Rule 6A-14.0303(5), F.A.C.

The bill defines a student intern as a person who is enrolled in and has completed at least 60 credit hours at a SUS or FCS institution; a person who is enrolled in and satisfactorily completed at least half of the number of courses required for the program in which enrolled at a career center operated by a school district or a charter technical career center; or any graduate student enrolled at a SUS institution. The bill defines "full time" as at least 30 hours per week and defines a qualified business as a business that is in existence and has been continuously operating in Florida for at least 3 years. The bill defines internship as a full-time, paid employment in Florida of a student intern for nine or more consecutive weeks, regardless of whether the student earned educational credit for such work.

The bill requires the DOR to approve applications for the internship tax credit before any tax credit may be taken on a return and authorizes the DOR to adopt rules governing the manner and form of applications, the period during which applications may be submitted, and establishing qualification requirements for the internship tax credit.

The bill also authorizes the DOR to adopt emergency rules, which are effective for six months after adoption and may be renewed during the pendency of procedures to adopt permanent rules. The emergency rulemaking authority takes effect upon becoming law and expires on July 1, 2024.

Baccalaureate Degree Internship Electives

Beginning with students initially enrolling at a FCS or SUS institution in the 2022-2023 academic year, the bill requires each baccalaureate degree program offered at an institution to offer an internship elective course. The bill requires the elective course to allow a student to earn between three and six credit hours while completing a paid or unpaid internship in conjunction with classroom instruction. The bill provides that credit hours earned through the internship elective are not calculated as hours required to earn a baccalaureate degree and thus will not be subject to the excess credit hour surcharge.

B. SECTION DIRECTORY:

- Section 1.** Amends s. 220.02, F.S.; specifying the order in which the Florida Internship Tax Credit Program corporate income tax credit created by this act is applied.
- Section 2.** Amends s. 220.13, F.S.; requiring certain claimed tax credit amounts to be added to a taxpayer's adjusted federal income.
- Section 3.** Creates s. 220.198, F.S.; providing a short title; providing definitions; providing a corporate income tax credit for qualified businesses employing student interns if certain criteria are met; specifying the amount of the credit a qualified business may claim per student intern; specifying a limit on the credit claimed per taxable year; specifying a limit on the combined total amount of tax credits to qualified businesses during specified fiscal years; authorizing the Department of Revenue to adopt certain rules; authorizing a qualified business to carry forward unused credit for a certain time; specifying that the tax credits may be granted for taxes incurred in specified fiscal years; authorizing the department to adopt emergency rules; providing for expiration of that authority.
- Section 4.** Authorizes the Department of Revenue to adopt rules.
- Section 5.** Amends s. 1007.25, F.S.; requiring that an elective course be offered for each baccalaureate degree program in which a student may earn credit hours while completing an internship in conjunction with classroom instruction; requiring the chairs of the State Board of Education and the Board of Governors to jointly appoint a faculty committee to develop such elective course for each baccalaureate degree program.
- Section 6.** Amends s. 1009.286, F.S.; specifying that certain credit hours earned by students are not calculated as hours required to earn a baccalaureate degree.
- Section 7.** Provides an effective date of July 1, 2021, except as otherwise provided in the bill.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Indeterminate. The bill caps the amount of tax credits which may be granted to all qualified businesses at \$250,000 for fiscal year 2022-2023 and fiscal year 2023-2024.

2. Expenditures:

The Department of Revenue estimates the bill would require one-time costs in the amount of \$37,500 to make necessary modifications to department systems.²⁷

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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 to students.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes the Department of Revenue (DOR) to adopt rules to implement the Florida Internship Tax Credit Program and authorizes DOR to adopt emergency rules, which are effective for six months after adoption and may be renewed during the pendency of procedures to adopt permanent rules.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

²⁷ Florida Department of Revenue, Agency Analysis of 2021 Senate Bill 258, Fiscal Impact Analysis (Jan. 26, 2021).

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On April 1, 2021, the Post-Secondary Education & Lifelong Learning Subcommittee adopted a proposed committee substitute (PCS) and reported the bill favorably as a committee substitute. The PCS differs from the bill as originally filed by:

- Specifying the order in which the internship tax credit should be applied in relation to other corporate income tax credits and requires a corporate income taxpayer to add claimed tax credit amounts back to its taxable income.
- Providing definitions for the program including:
 - “Full time” to mean “at least 30 hours per week”;
 - “Internship” to mean “the full-time, paid employment in the state of a student intern for nine or more consecutive weeks, regardless of whether the student earned educational credit for such work”;
 - “Qualified business” to mean “one that is in existence and has been continuously operating in the state for at least 3 years”; and
 - “Student intern” to mean “a person enrolled in and has completed at least 60 credit hours, is enrolled and satisfactorily completed at least half of the courses required for the program the student is enrolled.”
- Providing that an eligible business would qualify to receive the internship tax credit if:
 - The business employed for compensation at least one student intern in the taxable year for which the business applies for the internship tax credit, and the business provides to the Department of Revenue (DOR) documentation evidencing each internship claimed;
 - At the start of an internship, each student intern provides the business with verification by the student intern’s state university or Florida College System (FCS) institution, that the student intern is enrolled and has maintained a minimum grade point average of 2.0 on a 4.0 scale, or if the school does not issue grade point averages, that the student is enrolled and in good standing. Verification from the school, along with evidence of required employment must be included with the application for the internship tax credit; and
 - An officer of the business attests to the DOR 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 3 prior years on average, employed ten or fewer full-time employees;
 - Previously hired at least one student intern; and
 - For the current taxable year, the business employs on a full-time basis at least one employee who was previously employed by the business as a student intern.
- Establishing a time period for which the internship tax credit may be awarded as only during fiscal years 2022-2023 and 2023-2024, and a maximum amount of internship tax credits which may be granted to all qualified businesses as \$250,000 for each of those fiscal years.
- Authorizing the DOR to adopt emergency rules to implement the tax credit program.
- Requiring each baccalaureate degree program offered at a FCS or state university system institution to offer an internship elective course beginning with students initially enrolling in the 2022-2023 academic year.
- Requiring the internship elective course to allow a student to earn between three and six credit hours while completing a paid or unpaid internship in conjunction with classroom instruction and provides that credit hours earned through the internship elective are not subject to the excess credit hour surcharge.

The bill analysis is drafted to the committee substitute adopted by the Post-Secondary Education & Lifelong Learning Subcommittee.