

**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 Commerce Committee

BILL: CS/SB 1856

INTRODUCER: Commerce Committee and Commerce Committee

SUBJECT: The Qualified Target Industry Tax Refund Program

DATE: March 18, 2010

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pugh	Cooper	CM	Fav/CS
2.			FT	
3.			TA	
4.			WPSC	
5.				
6.				

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

The Qualified Target Industry (QTI) Incentive Tax Refund Program, in s. 288.106, F.S., was created in 1994 as part of a retooling of Florida’s economic development efforts. The QTI program was designed to encourage the recruitment or creation of higher-paying, higher-skilled jobs for Floridians, by awarding eligible businesses refunds of certain state or local taxes paid in exchange for creating jobs. The amount of the refund is based on the wages paid, number of jobs created, and where in the state the eligible business chooses to locate or expand, but the minimum is \$3,000 per employee over the term of the incentive agreement signed by the business and the Governor’s Office of Tourism, Trade and Economic Development (OTTED).

The QTI program sunsets on June 30, 2010.

CS/SB 1856 makes a number of changes to the QTI program. The significant changes include:

- Extending the QTI program until June 30, 2015.
- Directing OTTED to begin a post-award evaluation of QTI projects.
- Directing OTTED and EFI to review and revise the Targeted Industry List, with assistance from academics and stakeholders, every 3 years.

- Codifying Enterprise Florida Inc.'s (EFI's) practice of calculating a return on investment (ROI) for QTI projects, and creating a definition of "ROI."
- Requiring the Legislature's Office of Economic and Demographic Research (EDR) to review and evaluate the methodology and model used by EFI to calculate the ROI, and report its findings to the Legislature.
- Exempting renewable-energy economic development projects from the requirement that qualified target industries must be independent of Florida resources and markets.

CS/SB 1856 takes effect July 1, 2010.

## II. Present Situation:

### Background

The QTI program was created by the Legislature in 1994 as part of an extensive rewrite of economic development programs<sup>1</sup> under the purview of the now-defunct Department of Commerce.<sup>2</sup> According to the original legislation, the QTI program was intended to promote the state's policy to "encourage the growth of a high-value-added employment and economic base by providing tax refunds to qualified target industry businesses that create new high-wage employment opportunities in this state by expanding existing businesses within [Florida] or by bringing new businesses to this state."<sup>3</sup>

The QTI statute has been amended 16 times since its creation,<sup>4</sup> and the basic amount of its incentive payment to businesses reduced, but its mission has not changed. The program's focus remains on creating jobs in what state economic development agencies consider preferable professions that pay higher-than-average wages. EFI, the state's business-recruitment entity, describes QTI as "the cornerstone of Florida's economic development toolbox."<sup>5</sup> EFI has computed an estimated ROI of \$14.52 in state taxes generated for every \$1 in QTI incentive funds awarded since QTI's inception.<sup>6</sup>

Commerce Committee staff researched other states' incentive programs, and found that 32 states offer a combined 45 incentives that focus on job creation. Thirty-six of the incentives target certain industries, and 27 have a wage requirement typically higher than the applicable local or state annual average salary.<sup>7</sup>

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<sup>1</sup> Ch. 94-136, L.O.F. The QTI provisions are in section 76 of the legislation.

<sup>2</sup> The Department of Commerce was abolished in 1996, with passage of ch. 96-320, L.O.F. The Governor's Office of Tourism, Trade, and Economic Development (OTTED) currently has many of the department's former responsibilities.

<sup>3</sup> Section 288.106(1), F.S., as originally passed. This language was deleted in 2000.

<sup>4</sup> A synopsis of the key changes to s. 288.106, F.S., over the 15 years of its existence is Appendix I of the Commerce Committee's interim project on the QTI sunset review, IR 2010-211. Available at

[http://www.flsenate.gov/data/Publications/2010/Senate/reports/interim\\_reports/pdf/2010-211cm.pdf](http://www.flsenate.gov/data/Publications/2010/Senate/reports/interim_reports/pdf/2010-211cm.pdf).

<sup>5</sup> 2009 Incentives Report, page 8. Published by EFI. Available at:

[http://www.efflorida.com/uploadedFiles/Florida\\_Knowledge\\_Center/My\\_eFlorida\\_EFI\\_and\\_Partners/Floridas\\_Economic\\_Perspective/2009%20Incentives%20Report.pdf](http://www.efflorida.com/uploadedFiles/Florida_Knowledge_Center/My_eFlorida_EFI_and_Partners/Floridas_Economic_Perspective/2009%20Incentives%20Report.pdf). Free registration required. Site last visited Jan. 24, 2010.

<sup>6</sup> Ibid. Page 13. The estimated ROI is based on the commitments made by the QTI businesses in their QTI agreements with OTTED.

<sup>7</sup> Based on research by Commerce Committee staff.

The current statute governing the QTI incentive program is detailed in its program definitions, program incentives, and the application and review process. A brief description of each follows.

#### Key definitions

A “*target industry business*” is defined as either a corporate headquarters or any business that is engaged in one of the target industries identified by OTTED and EFI as meeting the statutory criteria in s. 288.106(1)(o), F.S. Those criteria are:

- Industry forecasts should indicate strong expectation for future growth in both employment and output, according to the most recent available data.
- The industry should have stability, not be subject to periodic layoffs, whether due to seasonality or sensitivity to volatile economic variables such as weather, and relatively resistant to recession, so that the demand for its products or services is not necessarily subject to decline during an economic downturn.
- The industry should pay relatively high wages compared to statewide or area salary averages.<sup>8</sup>
- The industry should be both market and resource independent. In other words, the business should not be reliant on Florida consumers to purchase its products or services in order to be profitable, nor should it rely on Florida resources – which is undefined but presumably could mean natural resources such as water, solar energy, organic compounds, or ores.
- The industry should contribute toward diversifying, strengthening, or expanding the state's or area's economic base, as indicated by analysis of employment and output shares compared to national and regional trends. Special consideration should be given to industries that strengthen regional economies by adding value to basic products or building regional industrial clusters as indicated by industry analysis.
- The industry should have strong positive impacts on or benefits to state and regional economies.

Within the definition of “target industry business,” the statute provides that “special consideration should be given to Florida's growing access to international markets or to replacing imports,” and to the “development of strong industrial clusters that include defense and homeland security businesses.”

Specifically excluded in s. 288.106(1)(o), F.S., as target industries are: any business engaged in retail activities; any electrical utility company; any phosphate or other solid-minerals severance, mining, or processing operation; any oil or gas exploration or production operation; or any business subject to regulation by the state Division of Hotels and Restaurants. Implicitly excluded is agriculture.<sup>9</sup>

The “targeted industry list” is a list of seven industrial categories, with several business types listed under each. It is published in EFI’s annual Incentives Report and is attached to OTTED’s annual legislative budget request. Originally, the list of target industries was approved

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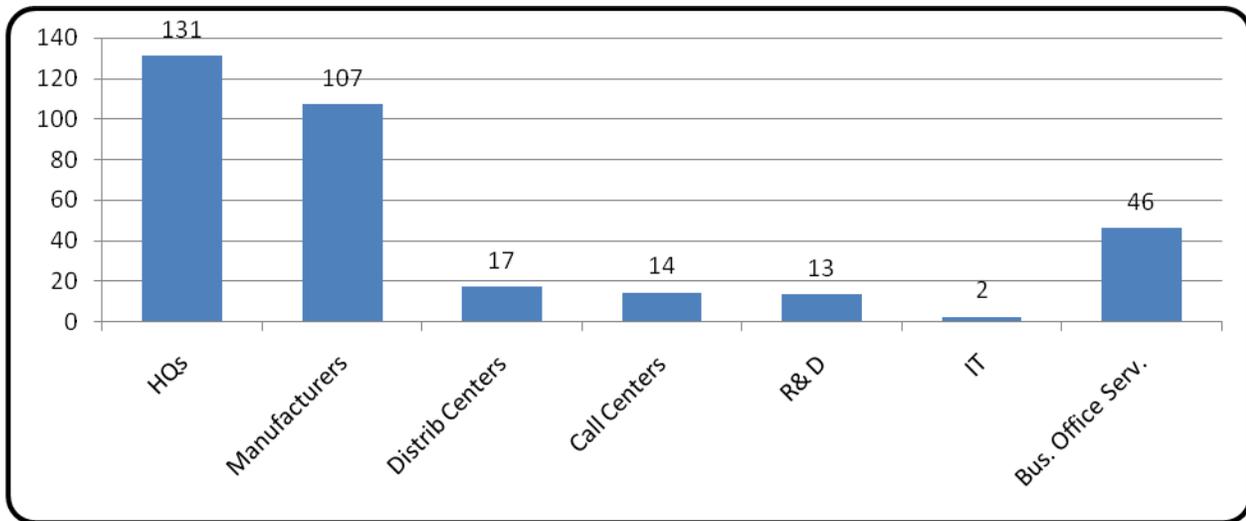
<sup>8</sup> Florida’s 2007 average wage was \$38,933, according to EFI.

<sup>9</sup> This was confirmed in an interview with EFI and OTTED staff on Oct. 12, 2009.

by the Legislature, but since 1996 the list has been developed by OTTED, in consultation with EFI.<sup>10</sup>

The seven categories are manufacturing facilities; finance and insurance services; wholesale trade; information industries; professional, scientific, and technical services; management services; and administrative and support services. There are 36 individual types of businesses within the seven industrial categories, ranging from pharmaceutical manufacturing, to film production, to customer support centers.<sup>11</sup>

**Table 1. Industry Break-down of Currently Active QTI Projects<sup>12</sup>**



Any business, no matter how it is structured for tax or liability purposes, is eligible for QTI as long as it is one of the targeted industry groups and meets the other statutory criteria. So, limited liability corporations, partnerships, even sole proprietorships, are eligible.

Another key definition in s. 288.106, F.S., is “average private sector wage in the area,” which can mean either the statewide average annual private-sector wage, or the average annual private-sector wage in the county or standard metropolitan area (MSA)<sup>13</sup> where the business is locating or expanding. Which one of these three is used as the basis for computing an applicant business’ average annual wage requirement is part of the negotiation process between EFI and the applicant business. Depending on the business’ prospective location, there could be a wide variance in the average private-sector salaries paid in these three geographic areas.

<sup>10</sup> The targeted industry list was amended most recently in 2009 by the Governor, at EFI’s request, to add five business types: Space Research and Technology; Flight and Professional Training; Professional and Management Development Training; Wholesale Electronic Markets, Agents and Brokers; and Leather and Allied Product Manufacturing. The Governor also adopted an EFI recommendation to give “special consideration” to industries engaged in the manufacture of alternative energy.

<sup>11</sup> Supra FN 4, Appendix II.

<sup>12</sup> Based on information provided by OTTED in August 2009.

<sup>13</sup> “Standard Metropolitan Area” apparently is shorthand for Metropolitan Statistical Area (MSA) or Standard Metropolitan Statistical Area (SMSA). As defined by the U.S. Office of Budget and Management, MSAs (the currently preferred term) are urban population areas that are economically and socially integrated. They are used by federal agencies for statistical purposes and are the basis for distribution of some types of federal grants.

### Other eligibility criteria

Meeting the definition of “targeted industry business” is just the first step for a business interested in applying for a QTI incentive. The business also must:

- Agree to create at least 10 new jobs or, if a Florida business planning to expand its operations, agree to create a net increase in employment of at least 10 percent. OTTED may grant a waiver to the minimum 10-percent increase in new jobs by an existing business within an enterprise zone or a rural county.<sup>14</sup>
- Agree to pay each new employee an annual salary that is at least 115 percent of the average private sector wage in the area. OTTED may waive the wage requirement for businesses that locate in a rural county or city, in an enterprise zone, or in a brownfield area, if requested and justified in writing by the local governmental entity and EFI.
- Receive a commitment of a 20-percent match (cash or in-kind) from the local government where the business proposes to locate or expand. The form of the commitment must be a resolution passed by the county commission. The local match can include the amount of ad valorem tax abatement or the appraised market value of publicly owned land or structures deeded to or leased by the QTI business. If a local government provides less than its 20-percent match, OTTED reduces the state award by the same amount.

### Incentive Amount

Businesses within the definition of a targeted industry and which locate or expand in Florida are eligible for a basic tax refund of \$3,000 per new job created. As depicted in **Table 2**, the tax refund increases to \$6,000 per job for businesses that locate in an enterprise zone<sup>15</sup> or rural county.<sup>16</sup>

A targeted industry business also is eligible for a \$1,000-per-job bonus if it pays more than 150 percent of the average area wage, and a \$2,000-per-job bonus if the wage exceeds 200 percent of the average area wage. Businesses that operate in a brownfield area are eligible for the so-called “brownfield bonus” of an additional \$2,500 per new job.<sup>17</sup>

No business may receive more than \$1.5 million in QTI refunds in a single fiscal year, or more than \$5 million total over the term of its agreement with OTTED. The exception is for QTI businesses located in an enterprise zone, where the 1-year cap is \$2 million and the overall cap is \$7.5 million. Also, no business may receive more than 25 percent of the total award in a single fiscal year – consequently, QTI contracts between OTTED and a business typically are for a term of 4 years.<sup>18</sup>

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<sup>14</sup> Section 288.106(3)(b)2., F.S.

<sup>15</sup> More information about enterprise zones may be found in ss. 290.001-290.016, F.S.

<sup>16</sup> The QTI statute defines a rural county as one with a population no greater than 75,000 persons, or a county that has a maximum 100,000 population and is contiguous to a county of 75,000 or fewer persons. This definition is internally inconsistent with other sections in ch. 288, F.S., which define a county with a maximum 125,000 population and contiguous to a county of 75,000 or fewer persons as a “rural county.”

<sup>17</sup> Section 288.107(2), F.S.

<sup>18</sup> Although 4 years is the most common term of these agreements, a few over the years have been for 6 years.

**Table 2. QTI Tax Refund Available Per Job**

QTI Tax Refund per Job <sup>19</sup>	Location of New Job	Percent of Annual Average Area Wage
\$3,000	Statewide	115%
\$4,000	Statewide	150%
\$5,000	Statewide	200%
\$6,000	EZ or Rural County	115%
\$7,000	EZ or Rural County	150%
\$8,000	EZ or Rural County	200%

*(Note: \$2,500 would be added to each of the per-job refund categories for projects within a brownfield.)*

Taxes eligible for refund from the state under the QTI program are:<sup>20</sup>

- Corporate income taxes under ch. 220, F.S.;
- Insurance premium tax under s. 624.509, F.S.;
- Taxes on the sales, use, and other transactions under ch. 212, F.S.;
- Intangible personal property taxes under ch. 199, F.S.;
- Emergency excise taxes under ch. 221, F.S.;
- Excise taxes on documents under ch. 201, F.S.;
- Ad valorem taxes paid, as defined in s. 220.03(1), F.S.;<sup>21</sup> and
- Certain state communications services taxes administered under ch. 202, F.S.

The state only refunds to QTI businesses the taxes paid, up to the amount of the QTI incentive.

In s. 288.095(3)(a), F.S., the amount of annual state funding for the QTI and Qualified Defense Contract and Space Business<sup>22</sup> (commonly referred to as QDSC) tax refunds is capped at \$35 million. Historically, the majority of the funds are paid out as QTI tax refunds because QTI is the more popular of the two incentive programs. In FY 2009-2010, the Legislature appropriated a lump sum of \$21,637,000 collectively for the QTI, QDSC, and the High Impact Business Incentive Program

Application Process

In its application for certification, a target industry business must describe its proposed new or expanded operations, including the number of jobs it plans to create and the wages for those jobs; a brief statement on the role the tax refunds will play in the business’s decision to locate in Florida; and an estimate on what proportion of the sales for its product or services will be made to out-of-state customers.

The application also must be accompanied by a resolution from the county or municipality in which the business will be located. The resolution must recommend that the business be certified as a qualified target industry business and commit the county or municipality to provide local financial support of at least 20 percent of the tax refund available under the program for the

<sup>19</sup> Each of these numbers would be \$2,500 higher if the business locates or expands in a brownfield.

<sup>20</sup> Section 288.106 (2)(c), F.S.

<sup>21</sup> Local governments may decide to waive ad valorem taxes to a QTI business as its 20-percent match.

<sup>22</sup> Section 288.1045, F.S.

business to be eligible for a full refund<sup>23</sup> unless the local contribution is waived under the conditions mentioned earlier. If a local government chooses to exercise the option to be exempt from the local financial support requirements of the program, then the business is not eligible for more than 80 percent of the tax refunds that would otherwise be available to it under the program.

Upon receipt of a completed application, OTTED must review the application based on a number of statutorily specified criteria, including the economic benefit of the jobs to be created by the applicant business; the effect of the QTI tax refunds on the viability of the project and the probability that the business will relocate or expand in Florida; and the business' expected long-term commitment to Florida.<sup>24</sup>

Although OTTED must consider the above criteria in evaluating a QTI application, the statute does not establish minimum standards that must be met for certification, nor does it require OTTED to certify any business as a QTI business. If the application is approved, the OTTED director will certify, by letter, the business as a QTI business and state the value of the tax refund available to the business.

After a business is certified as a QTI business and wishes to receive the tax refunds, it must enter into a tax refund agreement with OTTED within 120 days of the certification.<sup>25</sup> The agreement incorporates the application for certification as a QTI business, and the proposed number of jobs and salary projections will become contract requirements. The contract also will clearly state that the agreement to pay tax refunds is contingent upon appropriations from the Legislature.<sup>26</sup>

All QTI businesses must file their claims for a tax refund by January 31 of each year, based on their tax expenditures of the prior calendar year. If a QTI business does not timely submit a claim for refunds or otherwise does not comply with the terms of its agreement with OTTED, it will be terminated from the QTI program.<sup>27</sup> If it submits fraudulent claims for tax refunds, it must repay the refund amount to the Economic Development Trust Fund, plus pay into the state's General Revenue Fund a penalty equal to 200 percent of the tax refund it received; additionally, the business is considered guilty of a third-degree felony, punishable by a maximum \$5,000 fine and up to 5 years in prison.<sup>28</sup>

#### Processing and Review of Tax Refund Claims

OTTED contracts with Sharpton, Brunson & Company (SBC),<sup>29</sup> a public accounting firm, to process the claims for tax refunds under the QTI program (and seven other state incentive

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<sup>23</sup> This is commonly referred to as the "20-percent local match." To obtain this local match, the business may have to agree to the local government's terms and conditions for eligibility, which may be stricter than the state's criteria.

<sup>24</sup> Complete list of evaluative criteria is in s.288.106(3)(c), F.S.

<sup>25</sup> It is not unusual for there to be a delay of 6 months to 12 months until the contract is signed by the business and returned to OTTED. The statute does not specify a penalty if the 120 day-deadline is not met by the business.

<sup>26</sup> Section 288.106(4)(d), F.S.

<sup>27</sup> Section 288.106(4)(b), F.S.

<sup>28</sup> Section 288.106(2)(e)2., F.S., is awkwardly written. Presumably, the owner of the business would be subject to the incarceration penalty, not the "business" per se.

<sup>29</sup> The FY 2009-2010 purchase order for SBC's services is \$549,999.96. A copy of the purchase order is on file with the Commerce Committee. Information about SBC is available at its website, <http://www.sbccpa.com>. ( Last visited Oct. 29, 2009.)

programs). SBC verifies whether a QTI business has achieved its job creation and average wage commitments by researching unemployment compensation insurance records maintained by the Agency for Workforce Innovation, and verifies the amount of taxes paid by the business by examining receipts, tax bills, and copies of cancelled checks submitted as documentation. SBC also makes occasional site visits to QTI businesses to verify their operations.

Once the documentation has been verified, OTTED reimburses a QTI business for its eligible taxes paid the previous year, up to 25 percent of the total tax refund specified in the QTI agreement.

#### “Economic-Stimulus Exemption” Provision

Since 2002, the QTI statute has included a so-called “economic-stimulus exemption” for any QTI business that isn’t able to meet the job or wage requirements of its QTI agreement because of an industry-wide downturn, hardships imposed by the impact of named hurricane or tropical storm on the business, or specific acts of terrorism.<sup>30</sup> The QTI business must make its request for the exemption in writing to OTTED. The OTTED director will review the request, and consider such factors as the prior-year and current employment statistics for the business’ industry group, and must notify the business within 45 days, in writing, if the exemption will be granted. If approved, the business’ QTI agreement is suspended for up to 2 years, and the business will not receive QTI tax refunds during that time. At the end of the period, the agreement is reactivated, and if the business again can meet its job and wage commitments, it is eligible to receive the agreed-upon refunds from that point forward. The current window for economic-stimulus exemptions is January 1, 2009, to July 1, 2011.

According to EFI, 34 businesses have received this exemption since its inception through June 30, 2008.

#### Pro-rated Refund Provision

If a QTI business fails to fully comply with its job-creation and wage requirements, it may receive a prorated tax refund, less a 5-percent penalty. To be eligible for a prorated refund, the business must achieve at least 80 percent of its projected employment, and the average wage paid by the business must be at least 90 percent of the wage specified in its contract, but under no circumstance can the average wage paid fall below the statutory thresholds. And as mentioned earlier, a QTI business also will receive a prorated refund if the local match received by OTTED is less than 20 percent of the refund authorized under the QTI agreement.

#### EFI’s Role in the QTI Incentive Program

EFI is involved early in the QTI application process. It learns of a business’ interest in moving to or expanding in Florida from a local economic development organization, directly from the business, or from the Governor’s Office. EFI staff may meet with the prospective business’ representatives to learn more about the company and evaluate its eligibility for Florida’s incentives. If the company still expresses an interest in Florida as it narrows its location choices, the company is asked to complete an application for the QTI incentive program, if appropriate. EFI inputs that data into its economic impact model<sup>31</sup> to determine, among other things, the

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<sup>30</sup> Section 288.106(4)(b)1-5, F.S.

<sup>31</sup> The economic impact analysis model used by EFI is based on the RIMS II economic multipliers developed by the U.S.

estimated return-on-investment if the state were to offer the company incentives. This “payback ratio” indicates the amount of state taxes and related revenues that may be generated per tax dollar invested in incentives awarded to the business.

Based on its analysis, EFI recommends to OTTED whether to approve or reject an incentive package for a business.

### QTI Statistics

The QTI program predates both OTTED and EFI, but representatives of both entities believe their databases of information about the program and its recipients are reasonably accurate. Both entities maintain paper and electronic copies of various QTI documents.

EFI publishes an annual Incentives Report that includes statistics about all of the state incentive programs for which it assists in evaluating and recommending applicants.<sup>32</sup> In FY 2008-2009:

- 81 businesses applied for the QTI incentive and 59 were approved.<sup>33</sup> OTTED entered into 51 QTI agreements in FY 2008-2009.
- 49 of the 59 approved QTI businesses were “active” in FY 2007-2008, their first year in the program.
- Through their agreements with OTTED, these 49 businesses have committed to creating 8,382 jobs paying an average annual wage of \$51,257<sup>34</sup> over the term of their agreements.
- These businesses also have committed to invest \$1 billion in their new Florida operations.
- EFI’s economic model estimates that the 10-year return on investment to the state from these 49 companies may be \$12.33:\$1. That means that for every \$1 in state tax refunds returned to these 49 companies, an estimated \$12.33 in state tax revenues may be generated.<sup>35</sup>
- EFI further indicates that of the 49 active companies, 19 are located in enterprise zones, brownfields, a combination of the two, or in “general economic distress areas.”

As of June 30, 2009,<sup>36</sup> some 880 business projects have been recommended for the QTI incentive, and 848 have been approved by either the old Department of Commerce or OTTED. The state has entered into QTI agreements with 730 businesses. Of those, 260 projects are still active, meaning they are eligible to receive tax refunds through the QTI program. These 260 projects have committed to create 45,043 jobs, paying an average wage of \$44,916.

As noted above, EFI’s statistics about job creation, average wages, and company investment are commitments from the businesses that are accepted into the QTI program. OTTED maintains documentation of the actual jobs created, wages paid, and other data from the QTI businesses in its Electronic Data Information System (EDIS) because such information is necessary in order to

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Department of Commerce’s Bureau of Economic Analysis for each type of industry by region of each state. Over the years, EFI says, it has modified its RIMS II model to better reflect Florida’s tax code.

<sup>32</sup> Supra FN 5.

<sup>33</sup> The statistics cited in this section are on pages 11-13 of the 2009 Incentives Report, supra FN 5.

<sup>34</sup> EFI notes in the narrative on page 11 of the 2009 Incentives Report (supra FN 5) that these job and salary numbers are conservative estimates.

<sup>35</sup> A discussion of EFI’s economic model used to calculate the ROI is on pages 10 and 12-14 of IR 2010-211 (supra FN 4).

<sup>36</sup> Page 13 of EFI’s 2009 Incentives Report, supra FN 5.

process refund claims. EDIS indicates that, from the program's inception to August 2009, fewer than half of the 876 projects historically approved for the program either completed the term of their agreements or remain active in the program.<sup>37</sup>

#### Sunset Review

The Legislature typically schedules future repeal, or "sunset," of high-profile programs, in order to give those programs time to be fully implemented before they are reviewed to evaluate how well they are complying with their policy goals. Programs subject to sunset are researched and evaluated by substantive and appropriations committee staff prior to the legislative session in the year the repeal is scheduled to occur. The QTI program was last subject to a sunset review in 2005; the Legislature decided to re-enact the program, but also to review it again in 5 years.

The QTI program will sunset on June 30, 2010, unless it is re-enacted by the Legislature. However, any valid QTI refund agreements existing on that date will remain in force through their terms.

### **III. Effect of Proposed Changes:**

Section 1 amends s. 288.106, F.S., the QTI Tax Refund Program. The program's original intent language is restored and modified, in an effort to re-establish the program's primary policy goals of higher-wage job creation and the diversification and strengthening of the state's economy. This section's definitions and content also are reorganized for greater clarity, and obsolete phrases are deleted or updated.

Changes to this section also include:

- Redefining "jobs" to include temporary and leased employees, and persons hired through co-employment opportunities, to reflect the myriad ways in which workers are hired in the current job market.
- Specifying that renewable energy projects are exempt from the target industry requirement that QTI businesses be independent from Florida markets and Florida-based resources. This codifies an OTTED/EFI practice.
- Directing OTTED and its partners and economic stakeholders to conduct a periodic review of the target industries list and revise it, if necessary, to better reflect Florida's economic development goals. OTTED shall consult with economic development organizations, the State University System, local governments, employee and employer organizations, market analysts, and EFI in the review. The first evaluation should be conducted by January 1, 2011, and be conducted every 3 years thereafter. OTTED must submit the revised target industry list to the Governor, the President of the Senate, and the Speaker of the House of Representatives.
- Defining "return on investment" (ROI) as the gain in state revenues as a percentage of the state's economic incentive investment, which includes state grants, tax refunds, tax exemptions, tax credits, and any other types of state incentives. The ROI formula is expressed mathematically as:<sup>38</sup>

<sup>37</sup> Pages 7-8 of IR 2010-211, supra FN 4.

<sup>38</sup> The ROI formula proposed in CS/SB 1856 is consistent with generally accepted formulas. It is mathematically equivalent to the more common "Net Gain in State Revenues/State Investment." A sampling of information on ROI calculation includes: <http://www.investopedia.com/terms/r/returnoninvestment.asp>, <http://www.investorwords.com/4316/ROI.html>, and

$$\text{ROI} = \frac{\text{(the gain in state revenues - the state's investment)}}{\text{the state's investment}}$$

OTTED also must consider the potential ROI of a QTI applicant business in making its decision whether to approve the business for the refund incentive program.

- Directing EDR to review and evaluate the methodology and model used to calculate the ROI, and report its findings by September 1 of every third year, beginning September 1, 2010, to the President of the Senate and the Speaker of the House of Representatives.
- Requiring prospective QTI businesses to include, on their QTI applications, estimates on what proportion of their machinery, equipment and other capital resources purchased for their new or expanded Florida operations will be purchased out of state.
- Amending the contract requirements for future QTI recipients:
  - To allow OTTED to review the companies and evaluate whether they are continuing to contribute to their region's or to the state's economy, and
  - To require recipient businesses that do not complete their agreements to provide OTTED with the reasons why they dropped out.
- Renaming the "economic stimulus exemption" as the more descriptive "economic recovery extension," and adding another 12 months to the time period for QTI businesses to apply for it. The new deadline is July 1, 2012.
- Allowing QTI businesses that pay, in any 1 year, taxes that are at least equal to their QTI incentive award to file their tax documentation once, not every year. This is expected to codify a practice that reduces paperwork and duplicative effort for both the businesses and OTTED.
- Beginning with tax refund agreements signed after July 1, 2010, directing OTTED to "attempt to ascertain" the causes for any businesses failure to complete its agreement. OTTED must submit a report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1 of each year, beginning in 2011.
- Extending the QTI program to June 30, 2015, when it will be subject to another sunset review.

Section 2 corrects cross-references in s. 288.107, F.S., consistent with the changes proposed in Section 1 of the proposed committee bill.

Section 3 corrects cross-references in s. 290.00677, F.S., consistent with the changes proposed in Section 1 of the proposed committee bill.

Section 4 specifies this act shall take effect July 1, 2010.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

CS/SB 1856 does not create or raise any taxes or fees.

## B. Private Sector Impact:

CS/SB 1856 includes some streamlining to the QTI application and refund process, which may save QTI businesses time and money.

## C. Government Sector Impact:

OTTED has indicated it may need additional staff or budget resources to perform the post-award reviews.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

## A. Committee Substitute – Statement of Substantial Changes:

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

**CS by Commerce on March 17, 2010:**

- Restores the option in current law to allow the state's average annual private-sector wage as one of the baselines for computing the incentive's 115-percent wage requirement.

- Restores current law to include ad valorem taxes as eligible for refunds to QTI businesses.
- Expands the definition of “job” eligible to receive the incentive to include employees “obtained from a temporary employee agency, employee- leasing company, or through a union agreement or co-employed pursuant to a professional employer organization agreement.”
- Requires OTTED and EFI review and revise the Targeted Industry List, with assistance from academics and stakeholders, every 3years.
- Requires EDR to review and evaluate the methodology and model used by EFI to calculate project ROI’s, and to report its findings by September 1, 2010, and every 3 years thereafter, to the Legislature.
- Includes a requirement that incentive agreements specify that OTTED may conduct a review of the business to evaluate whether the business is continuing to contribute to the regional or state economy. In the event the business does not complete the agreement, the business will provide to OTTED the reasons as to why the business was unable to complete the agreement.
- Deletes the requirement that OTTED review QTI agreements entered into after 2006 to evaluate whether the business is continuing to contribute to the regional or state economy, and replaces it with a review of agreements entered into after 2010, in which the businesses have not completed the terms of the contract, to assess why businesses fail to complete their agreements.

B. Amendments:

None.