

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: SB 2572

INTRODUCER: Senator Altman

SUBJECT: Tax Credits

DATE: March 23, 2010

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hrdlicka	Cooper	CM	Favorable
2.			FT	
3.			GA	
4.			WPSC	
5.				
6.				

I. Summary:

The retirement of the Space Shuttle this year is projected to leave in its wake the loss of at least 9,000 Florida jobs directly associated with the program. State and regional economic development and workforce training agencies are developing strategies to address this potential loss of jobs, ranging from the recruitment of new companies to offering retraining in related fields.

Currently, aerospace companies can utilize, depending on their location and investment, 12 general business incentives and at least 4 business sales tax exemptions. Additionally, the Legislature has created the Qualified Defense Contractor and Spaceflight Business (QDSC) Tax Refund program, which reimburses a number of taxes to eligible companies based on job creation.

SB 2572 seeks to address, in part, the job-loss issue by creating two corporate income tax credits related to aerospace employment:

- The Aerospace-Sector Jobs Tax Credit is a maximum \$12,500 per qualified employee annually, and is based on wages subject to the unemployment tax. The credit is equal to 10 percent of the compensation paid each qualified employee for the first through fifth years of employment.
- The Tuition Reimbursement Tax Credit is equal to 50 percent of the tuition for which an aerospace business reimbursed a qualified employee in a single tax year. The credit may only be claimed if the qualified employee was awarded an undergraduate or graduate degree, a technical certification, or a certification from a training program offered by Workforce Florida, Inc., within 1 year after being hired by the aerospace business.

A business cannot claim both credits for the same employee. The maximum amount of credits any aerospace business may claim in a single calendar year is \$200,000; the total amount of credits claimed under the program in a calendar year by all eligible businesses is capped at \$2 million. Aerospace businesses may carry forward any unused credits up to 5 years.

The bill creates s. 220.1811, F.S., and amends ss. 220.02 and 220.13, F.S.

II. Present Situation:

Aerospace Work Force

The last mission for the Space Shuttle program is scheduled for September 2010. The “moon to Mars” successor program (known as Constellation) was scheduled to begin in 2015, however President Obama’s budget for 2011 cancels the Constellation program. If approved, the National Aeronautics and Space Administration (NASA) will instead focus on research and development for robotic exploration, and the development of human spaceflight vehicles will occur in the U.S. commercial market.¹ The intervening period between the retirement of the Space Shuttle program and whichever direction the space program takes next is referred to as the “shuttle gap,” in which a number of employees in the aerospace industry, in Florida and elsewhere, may lose their current jobs.²

In August 2007, the Brevard Workforce Development Board, Inc., (BWDB) estimated that shuttle-related activity in Florida supports a workforce level of approximately 9,235 employees (6,340 United Space Alliance employees and 2,895 sub-tier and related support contractor employees). The majority of this workforce is located at or near the Kennedy Space Center. However, the total economic impact of the Shuttle Program is statewide, and it has a specific shuttle-related supplier base of some 1,046 companies throughout the state.³

The BWDB further found that Shuttle workforce skills are highly translatable to any work that the state pursues as part of its next generation space activities. The BWDB estimates that one-third of the Florida Shuttle-related workforce will need transition assistance to a different industry or occupation, and one-third will need skills upgrades for the next generation space programs, public or private. The remaining one-third is expected to retire.⁴ Disregarding the number of employees who will retire, the BWDB estimates that at least 9,000 aerospace workers will lose their current positions.

In response to this anticipated shuttle gap, the 2008 Florida Legislature appropriated \$1.25 million to

...be used to provide services focused on retention and retraining of skilled talent in the space industry and shall include workforce skills analysis, training, and placement

¹ NASA, Fiscal Year 2011 Budget Estimates, available at http://www.nasa.gov/pdf/420990main_FY_2011_Budget_Overview_1_Feb_2010.pdf (last visited 3/20/2010).

² Efforts to Address Workforce Issues Related to the Space Program, The Florida Senate Committee on Commerce, Issue Brief 2009-305 (October 2008), at http://www.flsenate.gov/data/Publications/2009/Senate/reports/interim_reports/pdf/2009-305cm.pdf (last visited 3/22/2010).

³ Brevard Workforce Development Board, Inc., “Aerospace Workforce Outlook Report,” Executive Summary, August 2007.

⁴ Brevard Workforce Development Board, Inc., “Aerospace Workforce Outlook Report,” Executive Summary, August 2007.

services, and may include communications efforts. Workforce Florida, Inc., shall develop a plan to implement this program.⁵

Besides retraining efforts, BWDB, the local economic development council, Space Florida, Enterprise Florida, Inc., and other entities are working to recruit new aerospace-related companies or technology-based businesses that could employ the already-skilled Shuttle workforce.

The Qualified Defense Contractor and Spaceflight Business (QDSC) Tax Refund Program⁶ Amended in 2008 to include aerospace companies,⁷ the QDSC was designed to recruit, retain, and encourage expansion of the high-wage, high-skilled jobs in a competitive industry. This tax incentive targets the following types of projects: consolidation of certain Department of Defense (DOD) contracts; conversion of DOD production jobs to non-defense production jobs; projects involving the reuse of defense-related facilities for specific activities; the manufacturing, processing, and assembly of space flight vehicles; and a number of other activities related to space flight.

Upon entering into a contract with the Governor's Office of Tourism, Trade, and Economic Development (OTTED), a qualified company is allowed tax refund payments equal to:

- \$3,000 times the number of jobs specified in the tax refund agreement; or
- \$6,000 times the number of jobs if the project is located in a rural county or an enterprise zone; and
- Additionally, a qualified company is allowed additional tax refund payments equal to either:
 - \$1,000 times the number of jobs specified in the tax refund agreement if such jobs pay an annual average wage of at least 150 percent of the average private sector wage in the area; or
 - \$2,000 times the number of jobs created if such jobs pay an annual average wage of at least 200 percent of the average private sector wage in the area.

A qualified company may receive no more than \$2.5 million in tax refunds pursuant to the QDSC program in any fiscal year and no more than \$7.5 million over the term of its agreement with OTTED.

The qualified business may receive refunds from the following types of taxes paid:

- Corporate income taxes paid pursuant to ch. 220, F.S., beginning with the first taxable year of the business which begins after entering into the agreement.
- Sales and use taxes paid pursuant to ch. 212, F.S.
- Intangible personal property taxes paid pursuant to ch. 199, F.S.
- Emergency excise taxes paid pursuant to ch. 221, F.S.
- Excise taxes paid on documents pursuant to ch. 201, F.S.

⁵From the Special Employment Security Administration Trust Fund. Line Item 2202, ch. 2008-152, L.O.F. Workforce Florida, Inc., received federal funds and grants in 2009 to continue dislocated aerospace workforce initiatives (about \$2.2 million).

⁶ Section 288.1045, F.S.

⁷ Chapter 2008-89, L.O.F.

- Ad valorem taxes paid, as defined in s. 220.03(1)(a), F.S., on June 1, 1996.
- State communications services taxes administered under ch. 202, F.S.⁸

Since its inception, 41 QDSC applications have been received, and 30 have been approved. There are 9 active or complete QDSC projects, which have created or retained 2,244 jobs over the years with an average wage of nearly \$61,515, and which have received a total of \$9.5 million in tax refunds.⁹

III. Effect of Proposed Changes:

SB 2572 is one attempt to address the loss of high-skilled jobs in Florida due to the retirement of the Space Shuttle by encouraging new or existing aerospace businesses in Florida to expand their workforce, and to reimburse certain employees' education expenses.

Section 1 amends s. 220.02, F.S., to add the new corporate tax credits last in a list of existing tax credits, in the order in which they may be claimed against a corporate income tax liability.

Section 2 amends s. 220.13, F.S., to require corporate income taxpayers to add the amount of the new credits taken for a particular tax year to their adjusted federal income.

Section 3 creates s. 220.1811, F.S., which authorizes the two aerospace-related tax credits, the Aerospace Sector Jobs Tax Credit and the Tuition Reimbursement Tax Credit.

Definitions

The section defines three new terms:

- “Aerospace business” means a Florida company that is engaged in the aerospace industry, as defined in s. 331.03, F.S., as “the industry that designs and manufactures aircraft, rockets, missiles, spacecraft, satellites, space vehicles, space stations, space facilities or components thereof, and equipment, systems, facilities, simulators, programs, and related activities, including, but not limited to, the application of aerospace technologies in air-based, land-based, and sea-based platforms for commercial, civil, and defense purposes.”
- “Qualified employee” means a Florida resident who is:
 - First employed or re-employed by an aerospace business on or after January 1, 2011;
 - A recipient of either:
 - An undergraduate or graduate degree at an accredited college or university;
 - A technical degree or certification related to aerospace from a technical training institution; or

⁸This provision does not apply to the gross receipts tax imposed under ch. 203, F.S., and administered under ch. 202, F.S., or to the local communications services tax authorized by s. 202.19, F.S.

⁹Enterprise Florida Inc., 2009 Incentives Report, p. 17-18, available at http://www.eflorida.com/uploadedFiles/Florida_Knowledge_Center/My_eFlorida_EFI_and_Partners/Floridas_Economic_Perspective/2009%20Incentives%20Report.pdf (last visited 3/20/2010).

- Completed an aerospace development workforce training program coordinated by Workforce Florida, Inc.;
 - Not an owner, partner, or majority stockholder of an aerospace business; and
 - Employed for at least 6 months.
- “Tuition reimbursed to a qualified employee” means a lump-sum payment by an aerospace company to a qualified employee, which may not exceed the average annual tuition, as reported by the Board of Governors of the State University System, for a Florida resident enrolled as a full-time student in a public college or university. The term does not include the cost of books, fees, or room and board.

Tax Credits

The Aerospace Sector Jobs Tax Credit is a maximum \$12,500 per qualified employee annually, and is based on wages subject to the unemployment tax. The credit is equal to 10 percent of the compensation paid each qualified employee for the first through fifth years of employment.

The Tuition Reimbursement Tax Credit is equal to 50 percent of the tuition for which an aerospace business reimbursed a qualified employee in a single tax year. The credit may only be claimed if the qualified employee was awarded an undergraduate or graduate degree, a technical certification, or a certification from a Workforce Florida, Inc., training program within 1 year after being hired by the aerospace business. The business must claim the credit within 4 years of hiring the qualified employee. The bill leaves the amount of tuition to be reimbursed up to the business.

For both types of credits, aerospace businesses may carry forward any unused credits up to 5 years. The business may use the carryover credits in a subsequent year if its tax liability exceeds the unused credit even after applying other tax credits, pursuant to s. 220.02(8), F.S.

A business cannot claim both credits for the same employee. The maximum amount of credits any aerospace business may claim in a single calendar year is \$200,000; the total amount of credits claimed under the program in a calendar year by all eligible businesses is capped at \$2 million. Additionally, an aerospace business may not carry over more tax credits in an amended return than were claimed on the original return for the taxable year. This subsection does not limit increases in the amount of credit claimed on an amended return due to the use of any carryforward credits.

Application process

An aerospace business may apply to the Department of Revenue (DOR) for authorization to claim the new credits. The applications must be filed under oath and include the business’s name and address, documentation that it is an aerospace business, and for each employee for which a tax credit is sought, the:

- Employee’s name and documentation that he or she is a qualified employee;
- Salary or hourly wages, including the hourly wages paid to the qualified employee that are subject to unemployment tax;
- Location of the community college, college, university, technical institution, or training program from which the qualified employee received his or her degree; and
- Statement of whether the applicant is seeking an aerospace sector jobs tax credit or a tuition reimbursement tax credit.

The business bears the burden of demonstrating to DOR's satisfaction that it meets the requirements for the tax credits.

Penalties

Any aerospace business that fraudulently claims either of these credits is liable for repayment of the credit, plus a mandatory penalty in the amount of 200 percent of the credit, plus interest at the rate provided in s. 220.807, F.S. The business also is presumed to have committed a third-degree felony, which is punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.

Similarly, an aerospace business that makes an underpayment of tax as a result of a grossly overstated claim for either of these credits commits a third-degree felony. As used in the bill, the term "grossly overstated claim" means a claim in an amount in excess of 100 percent of the amount of credit allowable.

DOR is authorized to adopt rules to prescribe any necessary forms required to claim an Aerospace Sector Jobs Tax Credit and a Tuition Reimbursement Tax Credit, and to provide guidelines and procedures required to administer the program.

Section 220.1811, F.S., with the exception of the credit-carryover provisions and the limits on the carryover of credits, expires December 31, 2020. An aerospace business may not claim a new tax credit created by this bill after that date. However, an aerospace business may claim tax credits carried over pursuant to paragraph (2)(e) or paragraph (3)(c), if they are still within the 5-year window.

Section 4 provides an effective date of January 1, 2011, and specifies that the bill is applicable to tax years that begin on or after that date.

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:

The Revenue Estimating Conference met on March 19, 2010, and determined that the tax credits created by this bill would have an annual recurring impact of \$2 million.

B. Private Sector Impact:

Aerospace company workers may benefit if their employers are encouraged, by the availability of the tax credit, to reimburse their tuition expenses. Aerospace companies may benefit because they could use either the jobs tax credit or the tuition reimbursement tax credit to expand their workforce and hire employees who are continuing their education.

C. Government Sector Impact:

DOR estimates that to implement the two new tax credits it will incur a cost of \$43,200 to modify the SUNTAX system. Other changes, including Taxpayer Information Publications, tax form changes, returns processing, and revenue accounting to determine eligibility for the tax credits, can be managed with existing resources or at no additional costs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

In federal FY 2008, NASA estimated the total impact of the agency's activity in Florida was \$4.1 billion in output, \$2.1 billion of household income, and 40,802 jobs. "This activity also generated \$246 million of federal taxes and \$103 million of state and local taxes. The largest share of the impact – 98% of the output impact, 99% of the income impact and 99% of the employment impact – occurred in Central Florida."¹⁰

For the Tuition Reimbursement Tax Credit, the bill leaves the amount of tuition to be reimbursed up to the business. Thus in one situation, a business could decide to reimburse a new employee's entire 4 years of college tuition, and in another situation, a business may only reimburse the last year of tuition, or a portion there of, during which the employee worked for the business.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial 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.

¹⁰ See NASA, [Economic Impact of NASA in Florida FY 2008](http://www.nasa.gov/centers/kennedy/pdf/318131main_economic-impact08.pdf), available at http://www.nasa.gov/centers/kennedy/pdf/318131main_economic-impact08.pdf (last visited 3/20/2010).