

By the Committee on Commerce and Tourism; and Senator Evers

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1 A bill to be entitled
2 An act relating to defense contracting; creating s.
3 288.1046, F.S.; defining terms; authorizing certain
4 prime contractors to apply to the Department of
5 Economic Opportunity to certify that such contractors
6 may reduce their computation of adjusted federal
7 income by a certain amount when awarded a prime
8 contract; providing requirements to apply for a
9 reduction in computation of income; requiring a prime
10 contractor to apply separately for each qualified
11 subcontract award and to provide documentation;
12 providing guidelines for the department to certify an
13 award; authorizing the department and the Department
14 of Revenue to adopt rules; amending s. 220.13, F.S.;
15 revising the definition of the term "adjusted federal
16 income" for corporate income tax purposes; providing
17 for certain reduction in computation of income, to
18 conform; providing an effective date.

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20 Be It Enacted by the Legislature of the State of Florida:

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22 Section 1. Section 288.1046, Florida Statutes, is created
23 to read:

24 288.1046 Defense Works in Florida Incentive.—

25 (1) As used in this section, the term:

26 (a) "Florida prime contractor" means a business entity
27 operating in this state that is awarded a prime contract.

28 (b) "Florida small business subcontractor" means a business
29 entity that:

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30 1. Maintains its primary place of business in the state;

31 2. Has 250 or fewer employees at the time a qualified
32 subcontract award is made;

33 3. Is awarded a subcontract from a Florida prime
34 contractor; and

35 4. Has no subsidiary or affiliate business relationship to
36 the prime contractor making the award.

37 (c) "Prime contract" means a contract that is awarded
38 directly from the Federal Government.

39 (d) "Qualified defense work" means a prime contract awarded
40 for manufacturing, engineering, construction, distribution,
41 research, development, or other activities related to equipment,
42 supplies, technology, or other goods or services that directly
43 or indirectly support the United States Armed Forces or that can
44 be reasonably determined to support national security, including
45 space related activities. The term does not include contracts
46 awarded before October 1, 2013.

47 (e) "Qualified subcontract award" means qualified defense
48 work, in part or in whole, subcontracted from a Florida prime
49 contractor to a Florida small business subcontractor, which is
50 executed in the state and valued at more than \$250,000.

51 (2) A Florida prime contractor may apply to the department
52 to certify that it may reduce its computation of adjusted
53 federal income under s. 220.13 by an amount equal to 4 percent
54 of the subcontract award if such prime contractor:

55 (a) Is subject to chapter 220;

56 (b) Is awarded qualified defense work; and

57 (c) Awards a qualified subcontract award.

58 (3) A Florida prime contractor may claim the incentive

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59 under subsection (2) only for taxable years beginning on or
60 after January 1, 2014, and must apply separately to the
61 department for each qualified subcontract award and provide the
62 department required documentation, including, but not limited
63 to, the application for the award and copies of contracts, tax
64 records, or employment records.

65 (4) The department may establish application, approval,
66 appeal, and accountability processes as necessary. The
67 department may consult with Enterprise Florida, Inc., and the
68 Florida Defense Support Task Force as necessary to administer
69 this section.

70 (a) Within 10 days after certifying a qualified subcontract
71 award, the department shall provide:

- 72 1. A letter certifying the award to the applicant; and
73 2. A copy of the letter certifying the award to the
74 Department of Revenue.

75 (b) The department may certify, for each Florida prime
76 contractor applicant per calendar year, up to \$250 million in
77 aggregate qualified subcontract awards, equaling up to \$10
78 million in reduced taxable income and up to \$550,000 in reduced
79 taxes.

80 (c) The department may certify in total, per calendar year,
81 up to \$2.5 billion in aggregate qualified subcontract awards,
82 equaling up to \$100 million in reduced taxable income and up to
83 \$5.5 million in reduced taxes.

84 (d) For a multiyear qualified subcontract award:

- 85 1. The department shall certify the full amount of the
86 award under paragraphs (b) and (c) in the calendar year it was
87 awarded; and

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88 2. The Florida prime contractor may claim the incentive in
89 the taxable year in which payment is made to the Florida small
90 business subcontractor.

91 (5) The department and the Department of Revenue may adopt
92 rules to administer this section.

93 Section 2. Paragraph (b) of subsection (1) of 220.13,
94 Florida Statutes, is amended to read:

95 220.13 "Adjusted federal income" defined.—

96 (1) The term "adjusted federal income" means an amount
97 equal to the taxpayer's taxable income as defined in subsection
98 (2), or such taxable income of more than one taxpayer as
99 provided in s. 220.131, for the taxable year, adjusted as
100 follows:

101 (b) *Subtractions.*—

102 1. There shall be subtracted from such taxable income:

103 a. The net operating loss deduction allowable for federal
104 income tax purposes under s. 172 of the Internal Revenue Code
105 for the taxable year, except that any net operating loss that is
106 transferred pursuant to s. 220.194(6) may not be deducted by the
107 seller;

108 b. The net capital loss allowable for federal income tax
109 purposes under s. 1212 of the Internal Revenue Code for the
110 taxable year;

111 c. The excess charitable contribution deduction allowable
112 for federal income tax purposes under s. 170(d)(2) of the
113 Internal Revenue Code for the taxable year; and

114 d. The excess contributions deductions allowable for
115 federal income tax purposes under s. 404 of the Internal Revenue
116 Code for the taxable year.

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However, a net operating loss and a capital loss shall never be carried back as a deduction to a prior taxable year, but all deductions attributable to such losses shall be deemed net operating loss carryovers and capital loss carryovers, respectively, and treated in the same manner, to the same extent, and for the same time periods as are prescribed for such carryovers in ss. 172 and 1212, respectively, of the Internal Revenue Code.

2. There shall be subtracted from such taxable income any amount to the extent included therein the following:

a. Dividends treated as received from sources without the United States, as determined under s. 862 of the Internal Revenue Code.

b. All amounts included in taxable income under s. 78 or s. 951 of the Internal Revenue Code.

However, as to any amount subtracted under this subparagraph, there shall be added to such taxable income all expenses deducted on the taxpayer's return for the taxable year which are attributable, directly or indirectly, to such subtracted amount. Further, no amount shall be subtracted with respect to dividends paid or deemed paid by a Domestic International Sales Corporation.

3. In computing "adjusted federal income" for taxable years beginning after December 31, 1976, there shall be allowed as a deduction the amount of wages and salaries paid or incurred within this state for the taxable year for which no deduction is allowed pursuant to s. 280C(a) of the Internal Revenue Code

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146 (relating to credit for employment of certain new employees).

147 4. There shall be subtracted from such taxable income any
148 amount of nonbusiness income included therein.

149 5. There shall be subtracted any amount of taxes of foreign
150 countries allowable as credits for taxable years beginning on or
151 after September 1, 1985, under s. 901 of the Internal Revenue
152 Code to any corporation which derived less than 20 percent of
153 its gross income or loss for its taxable year ended in 1984 from
154 sources within the United States, as described in s.

155 861(a)(2)(A) of the Internal Revenue Code, not including credits
156 allowed under ss. 902 and 960 of the Internal Revenue Code,
157 withholding taxes on dividends within the meaning of sub-
158 subparagraph 2.a., and withholding taxes on royalties, interest,
159 technical service fees, and capital gains.

160 6. There shall be subtracted from such taxable income 4
161 percent of the amount of the subcontract award certified by the
162 Department of Economic Opportunity pursuant to s. 288.1046.

163 7. Notwithstanding any other provision of this code, except
164 with respect to amounts subtracted pursuant to subparagraphs 1.
165 and 3., any increment of any apportionment factor which is
166 directly related to an increment of gross receipts or income
167 which is deducted, subtracted, or otherwise excluded in
168 determining adjusted federal income shall be excluded from both
169 the numerator and denominator of such apportionment factor.
170 Further, all valuations made for apportionment factor purposes
171 shall be made on a basis consistent with the taxpayer's method
172 of accounting for federal income tax purposes.

173 Section 3. This act shall take effect July 1, 2014.