STORAGE NAME: h1735.frc
DATE: March 22, 2001

HOUSE OF REPRESENTATIVES

FISCAL RESPONSIBILITY COUNCIL
ANALYSIS

BILL #: HB 1735

RELATING TO: Economic Development

SPONSOR(S): Fiscal Responsibility Council and Representative Johnson

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:
(1) FISCAL RESPONSIBILITY COUNCIL YEAS 21 NAYS 0
(2)
(3)
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(5)

I. SUMMARY:

The bill alters the timeline for approval of Qualified Targeted Industries (QTI) tax refunds administered by the Governor's Office of Tourism, Trade, and Economic Development (OTTED). The new timeline will improve the budgetary process for this appropriation. For all new QTI projects, or existing projects that request any modification to their QTI agreement, QTI tax refund claims will be due by January 31st of each fiscal year for the jobs created by December of that year. The refunds associated with those claims will be paid out of the appropriation for the following fiscal year.

The full advantages of the timeline changes will not be realized immediately because they can only be applied to new QTI agreements, or to amended agreements, as the time frames and prerogatives specified in existing agreements must be honored. However, over a period of several years these changes will significantly reduce the amount of QTI appropriations over actual refund payments and eliminate the problem of excessive forward certification of QTI funds for payment after the end of the fiscal year.

The bill also amends section 288.980, Florida Statutes, to clarify that OTTED may only utilize funds specifically appropriated for military base retention activities for such programs. In recent fiscal years, OTTED has referenced section 288.980, Florida Statutes, when utilizing excess QTI appropriations for military base retention activities via interim budget changes.

Adoption of the new timeline for approval of QTI Tax Refunds allows a reduced nonrecurring appropriation for the QTI program in fiscal year 2001-2002. OTTED estimates that the budget required for QTI in fiscal year 2001-2002 will be reduced by $4 million due to the adoption of this bill.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1.	Less Government	Yes []	No []	N/A [x]
2.	Lower Taxes	Yes []	No []	N/A [x]
3.	Individual Freedom	Yes []	No []	N/A [x]
4.	Personal Responsibility	Yes []	No []	N/A [x]
5.	Family Empowerment	Yes []	No []	N/A [x]

For any principle that received a “no” above, please explain:

B. PRESENT SITUATION:

Several provisions of the current statute for the Qualified Targeted Industries (QTI) tax refund program (section 288.106, Florida Statutes) combine to create a situation in which it is necessary to appropriate a larger amount for the QTI program than will actually be paid to QTI businesses, and the majority of those payments will be made from funds certified forward at the end of the fiscal year. These factors negatively affect the appropriations process for the QTI program.

The following characteristics affect the QTI budget estimations:

- QTI is an incentive program. Businesses must be approved before they have made a decision to expand or locate in Florida;
- There is a time lag between that decision and the creation of the jobs and payment of taxes;
- QTI is a performance-based program and therefore actual tax refund payments are not made until a business has created the jobs and is paying the wages upon which the QTI approval was based;
- Not all of the businesses approved for QTI fully achieve the agreed upon job creation and wage pay, but this is not known until the business has submitted its tax refund claim and the information has been verified;
- The statutes allow QTI businesses to submit their claims until the end of the fiscal year for which the refund is scheduled; and
- Most QTI businesses wait until the end of the fiscal year to submit claims and the claims must be reviewed and verified before payment is made, thus pushing refund payments past the end of the fiscal year.

When combined with the fact that the appropriations process begins nine months before the fiscal year begins and appropriation decisions are finalized in April of the previous fiscal year, the problems in estimating the required appropriation for QTI are magnified. Each August, when the Legislative Budget Request is prepared, OTTED requests sufficient appropriations to cover all tax refunds scheduled in active tax refund agreements (contracts) and allows a small amount for new projects that may be approved and have tax refunds due in the following year. However, most of the funds will not actually be disbursed until after the end of the year for which the funds are budgeted – a spread of more than two years.

Knowing that not all the funds appropriated will actually be paid out in refunds as some businesses will drop out of the program during that two year window and some claims will be disapproved, it might appear reasonable to appropriate a smaller amount based on an estimate of actual payments. However, the current statutes require that if the legislature does not appropriate an amount sufficient to pay all of the refunds scheduled in active agreements, OTTED must calculate what portion of each business' refund could be paid from the appropriation, and the businesses must be informed of the situation and told that they may only receive a prorata share of the tax refund the State has agreed to pay if they meet the performance requirements. The probability of having to inform businesses that the State may not meet its QTI obligations would have negative consequences for the State's reputation in the national and international business community. A more detrimental situation could occur if the estimate of actual payments to be made under this scenario was not accurate and eligible businesses did not receive the contracted amount of QTI tax refunds.

C. EFFECT OF PROPOSED CHANGES:

The bill alters the timeline for approval of QTI Tax Refunds in order to substantially improve the budgetary process for this appropriation. For all new QTI projects, or existing projects that request any modification to their QTI agreement, QTI tax refund claims will be due by January 31st of each fiscal year for the jobs created by December of that year. The refunds associated with those claims will be paid out of the appropriation for the following fiscal year.

Under the new timeline, OTTED will know which businesses have submitted claims by the time the legislative session begins. By the time the legislative budget is complete, some of the claims that had been scheduled for the coming fiscal year can be eliminated, thus reducing the amount of the appropriations request. OTTED will also have had an opportunity to evaluate the claims before the fiscal year has begun and, with the exception of possible appeals, will be able to pay claims at the beginning of the fiscal year rather than after the end of the year.

The full advantages of these changes will not be realized immediately because they can only be applied to new QTI agreements, or to amended agreements, as the time frames and prerogatives specified in existing agreements must be honored. However, over a period of several years these changes will significantly reduce the amount of QTI appropriations over actual refund payments and eliminate the problem of excessive forward certification of QTI funds for payment after the end of the fiscal year.

The bill also amends section 288.980, Florida Statutes, to clarify that OTTED may only utilize funds specifically appropriated for military base retention activities for such programs. In recent fiscal years, OTTED has referenced section 288.980, Florida Statutes, when utilizing excess QTI appropriations for military base retention activities via interim budget changes.

D. SECTION-BY-SECTION ANALYSIS:

See affect of proposed changes.

III. <u>FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT</u>:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. <u>Revenues</u>:

None

2. Expenditures:

   Adoption of the new timeline for approval of QTI Tax Refunds allows a reduced appropriation for the QTI program in fiscal year 2001-2002. OTTED estimates that the budget required for QTI in fiscal year 2001-2002 will be reduced by $4 million due to the adoption of this new timeline.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None

2. Expenditures:

   None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

None

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority of counties or municipalities to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None

B. RULE-MAKING AUTHORITY:

None

C. OTHER COMMENTS:

None

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None

VII. SIGNATURES:

FISCAL RESPONSIBILITY COUNCIL:

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