

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1912

SPONSOR: Commerce and Economic Opportunities Committee and Senator Peadar

SUBJECT: Defense Contractors

DATE: February 20, 2002 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bimholz</u>	<u>Maclure</u>	<u>CM</u>	<u>Favorable/CS</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This committee substitute increases the number of businesses potentially eligible for the Qualified Defense Contractor (QDC) Tax Refund Program by:

- Expanding the meaning of the term “Department of Defense contract” to include competitively bid Department of Defense (DOD) subcontracts, competitively bid federal agency subcontracts issued on behalf of the DOD, and contracts or subcontracts for products or services for military use which contracts or subcontracts are approved by the DOD, the United States Department of State, or the United States Coast Guard; and
- Reducing various gross-receipt thresholds that program applicants must meet or exceed prior to application review.

This committee substitute substantially amends section 288.1045, Florida Statutes.

II. Present Situation:

Qualified Defense Contractor Tax Refund Program

Finding that high technology jobs in the state were threatened by downsizing in the national defense budget, the Legislature during a special session in 1993 created a tax refund program designed to facilitate the employment of Florida citizens by defense contractors. The Qualified Defense Contractor (QDC) Tax Refund Program authorized tax refunds to a certified contractor that: (1) secured a new Department of Defense (DOD) contract, (2) consolidated an existing DOD contract in Florida, (3) converted defense production jobs to non-defense production jobs, or (4) contracted for the reuse of a defense-related facility (s. 288.104, F.S., 1994 Supp.). The term “Department of Defense contract” was defined as “a competitively bid Department of

Defense contract or a competitively bid federal agency contract issued on behalf of the Department of Defense for manufacturing, assembling, fabricating, research, development, or design with a duration of 2 or more years, but excluding any contract to provide goods, improvements to real or tangible property, or services directly to or for any particular military base or installation in this state.” The program was repealed effective December 1, 1994.¹

In 1996, the QDC program was re-created and codified in s. 288.1045, F.S. (*See* s. 1, ch. 96-348, L.O.F.) In order to participate in the program and be eligible to receive tax refunds, a business must apply to the Governor’s Office of Tourism, Trade, and Economic Development (OTTED) for certification. The statute prescribes information that must be submitted by a defense contractor and criteria that the contractor must meet in order to be certified (s. 288.1045(3), F.S.). One such criterion is that a business unit of the contractor must have derived not less than 70 percent of its gross receipts in this state from DOD contracts over the contractor’s last fiscal year and must have derived not less than 80 percent of its gross receipts in this state from DOD contracts over the five years preceding the date an application is submitted.²

The QDC program features a local financial support component, under which an eligible business must secure a resolution adopted by county government which recommends the project and which indicates that the necessary commitments of local financial support for the business exist. Local financial support means funding from local sources, public or private, which is equal to 20 percent of the annual tax refund for a qualified business (s. 288.1045(1)(o) and (3), F.S.).

Approved applicants enter into an agreement with OTTED and may receive refunds based on the payment of sales and use taxes, corporate income taxes, intangible personal property taxes, emergency excise taxes, excise taxes on documents, and ad valorem taxes. Tax refunds generally are paid to a participating business over a period of several years. A qualified applicant may not be qualified for any project to receive more than \$5,000 times the number of jobs provided for in the tax refund agreement, up to a maximum of \$7.5 million for all fiscal years.

¹ The Legislature had specified that the program would be repealed effective December 1, 1994, if no qualified applicant had entered into a valid new DOD contract or begun consolidation of an existing DOD contract, which was expected to result in the employment of at least 1,000 full-time employees. Because this condition was not satisfied by a single qualified applicant, the statute stood repealed.

² This criterion does not apply to any application for certification based on a contract for reuse of a defense-related facility (s. 288.1045(3)(e)5., F.S.).

The following are the results of the QDC program for all active and completed projects through June 30, 2001:³

	Number of Projects	Direct Jobs Created / Retained	Average Wage Per Direct Job Created / Retained	Indirect Jobs Created	Capital Investment	Certified Incentive
Active	2	350	\$53,472	331	\$8.1 million	\$1.6 million
Complete	2	390	\$28,518	387	\$6.1 million	\$1.9 million

Although the definition of the term “Department of Defense contract” has not changed since the creation of the QDC program, the nature of defense contracting appears to have evolved. In addition to contracting directly with the DOD, some defense contractors are now generating military products for United States allies under contracts that have been approved by the DOD or the United States Department of State.⁴ Furthermore, some defense contractors are diversifying their operations by selling non-defense-related goods and services.⁵

Economic Development Trust Fund

Section 288.095, F.S., creates the Economic Development Trust Fund within OTTED and establishes the Economic Development Incentives Account within the trust fund. The Economic Development Incentives Account consists of moneys appropriated to the account for purposes of the QDC program, the Qualified Target Industry (QTI) Tax Refund Program (s. 288.106, F.S.), brownfield redevelopment bonus refunds (s. 288.107, F.S.), and the local financial support provided under the QDC and QTI programs.

Section 288.095(3), F.S., imposes a cap on the total state share of QDC-program and QTI-program tax refund payments scheduled in all active certifications for a fiscal year. For fiscal year 2001-2002, the cap is \$30 million. During the 2001 Regular Session, the Legislature raised the cap for subsequent fiscal years to \$35 million. This subsection also provides that the total amount of tax refund claims approved for payment by OTTED based on actual project performance may not exceed the amount appropriated to the Economic Development Incentives Account for such purposes for the fiscal year. In the event the Legislature does not appropriate an amount sufficient to satisfy projections by OTTED for tax refunds under the QDC and QTI programs in a fiscal year, OTTED must prorate the refunds.

³ See Office of Tourism, Trade, and Economic Development, *2001 Programs Funded From the Economic Development Trust Incentives Account*, p. 29.

⁴ Office of Tourism, Trade, and Economic Development, *2002 Bill Analysis – SB 1912*, February 8, 2002, and interview of OTTED staff by staff of the Senate Committee on Commerce and Economic Opportunities, October 2001.

⁵ *Id.*

III. Effect of Proposed Changes:

This committee substitute increases the number of businesses potentially eligible for the Qualified Defense Contractor (QDC) Tax Refund Program by:

- Amending s. 288.1045(1)(e), F.S., to expand the meaning of the term “Department of Defense contract” to include competitively bid Department of Defense (DOD) subcontracts, competitively bid federal agency subcontracts issued on behalf of the DOD, and contracts or subcontracts for products or services for military use which contracts or subcontracts are approved by the DOD, the United States Department of State, or the United States Coast Guard.
- Amending s. 288.1045(3)(e)5., F.S., to reduce (1) from 70 percent to 60 percent, the amount of gross receipts in this state which a business unit of a QDC-program applicant must have derived from DOD contracts during the applicant’s last fiscal year, and (2) from 80 percent to an average of 60 percent, the amount of gross receipts in this state which a business unit of a QDC-program applicant must have derived from DOD contracts during the five years preceding the date of application.

The committee substitute shall take effect July 1, 2002.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

Although this committee substitute increases the number of businesses potentially eligible for the Qualified Defense Contractor (QDC) Tax Refund Program, s. 288.095(3), F.S., imposes a cap on the total state share of QDC-program and Qualified Target Industry Tax Refund Program tax refund payments scheduled in all active certifications for a fiscal year. For fiscal year 2001-2002, the cap is \$30 million. During the 2001 Regular Session, the Legislature raised the cap in subsequent fiscal years to \$35 million. By broadening QDC-program eligibility requirements, room under the cap could more quickly disappear. Regardless of the cap established in law, the total amount of tax refund claims approved for payment by the Governor’s Office of Tourism, Trade, and Economic

Development may not exceed the amount appropriated to the Economic Development Incentives Account for such purposes for the fiscal year.

B. Private Sector Impact:

This committee substitute increases the number of businesses potentially eligible for the Qualified Defense Contractor (QDC) Tax Refund Program. To the extent that the broadening of QDC-program eligibility requirements induces more defense contractors to establish projects in Florida, the state's defense industry could benefit.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
