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HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
FISCAL POLICY & RESOURCES
ANALYSIS

BILL #: HB 381

RELATING TO: Small Business Employment Incentives

SPONSOR(S): Representative(s) Wallace

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

(1) ECONOMIC DEVELOPMENT & INTERNATIONAL TRADE YEAS 7 NAYS 0
(2) FISCAL POLICY & RESOURCES YEAS 13 NAYS 0
(3) FISCAL RESPONSIBILITY COUNCIL
(4)
(5)

I. SUMMARY:

The bill is designed to encourage small businesses in the state to create new jobs. As an incentive, it would provide a small business a tax credit voucher of $1,000 for a new full-time position created after July 1, 2002.

The small business applying for the tax credit voucher may elect to apply the voucher against sales and use taxes under chapter 212, F.S., or the corporate income tax under chapter 220, F.S. The voucher may be used against existing tax liabilities under either chapter and may be carried over against future liabilities if not fully used for up to five years. An eligible business may not use more than $500 of credit in any single 12-month period.

The incentive provided by this bill shall be available to small businesses until July 1, 2006, or until 25,000 tax credit vouchers have been issued by the Department of Revenue, whichever occurs first.

This bill will not affect revenues during fiscal year 2002-03. It has been estimated that for fiscal year 2003-04 there will be a total state impact of negative $13.2 m

The act would take effect July 1, 2002

On February 8, 2002, the committee on Fiscal Policy and Resources adopted one amendment. The amendment sets criteria used in the application process, and grants the DOR the ability to accept or deny an incomplete or insufficient application. The amendment states that a voucher can not be used if there is a pending sales tax or corporate tax liability. The amendment allows civil penalties to be assessed against fraudulent claims.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1.	Less Government	Yes []	No [X]	N/A []
2.	Lower Taxes	Yes [X]	No []	N/A []
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:

The bill would require the Department of Revenue to provide application forms and a procedure for applying for, processing, and issuing such credit.

B. PRESENT SITUATION:

The National Economy

Following a decade of expansion, the United States economy began a slowdown in mid-2000. Economic forecasts from August 2001 found the economy was close to recession, but estimated a slightly greater than even chance the United States would have avoided a recession. If consumer spending persisted, the forecasts predicted the economy would have averted a recession. The terrorist attacks of September 11, 2001, on the World Trade Center and the Pentagon have focused attention on the weakened condition of the economy, a condition exacerbated by the impacts of the attacks. Economic forecasts from October 2001 reflect these impacts and anticipate a recession is now inevitable.

Economic uncertainty led to declines in consumer confidence and discretionary spending. Plant closings and mass layoffs have resulted from these declines in economic conditions. The national unemployment rate, reported at 4.9 percent in September 2001, is now expected to peak around 6.0 percent in mid-2002. Recent forecasts predict a short recession with a recovery by mid-2002.

Federal Government’s Response to Economic Downturn

In response to the weakened economy and post-attack recession, the federal government has begun stimulative monetary and fiscal policies. The Federal Reserve lowered short-term interest rates nine times in 2001, lowering the federal funds rate from 6.5 percent in early January to 2.5 percent in October. Economic analysts expect the Fed will cut interest rates another 0.5 percent to 2.0 percent before the end of 2001.

Less than one week after the terrorist attacks, the United States Congress provided $40 billion in emergency funds to mitigate and respond to the attacks, combat domestic and international terrorism, increase transportation security, repair the public facilities and transportation systems damaged by the attacks, and support national security. Several days later, Congress enacted the Air Transportation Safety and System Stabilization Act (act). The act provides $5 billion in emergency assistance to compensate air carriers for losses resulting from the temporary shutdown of the nation’s airspace and the severe drop in passenger traffic since the attacks. The act allocates $4.5 billion to passenger carriers and $0.5 billion to cargo carriers. Additionally, the federal act creates the Air Carrier Guarantee Loan Program, which provides $10 billion in loan guarantees for air carriers who suffered losses due to the attacks, but for whom credit is not otherwise readily available.

In the aftermath of the terrorist attacks, the United States Small Business Administration (SBA) began to provide Economic Injury Disaster Loans to businesses located in communities declared disaster areas by the President of the United States. Effective October 22, 2001, the SBA expanded eligibility for the loans to small businesses located throughout the country. The loans are available to a small business that is unable to meet, but could have met, ordinary and necessary operating expenses as a result of the terrorist attacks or federal action taken as a consequence of the attacks. Each loan is limited to a maximum of $1.5 million per business and must be repaid within a maximum of 30 years at a maximum interest rate of 4 percent.

By early October 2001, the President of the United States proposed a $75 billion in tax incentives plan for economic recovery and several bills have been introduced in Congress intended to assist the travel and tourism industry. As of the date of this analysis, Congress has not enacted the legislation.

Florida's Economy

Before September 11, 2001, the state's economy had begun to show signs of weakness. For example, declines in anticipated tax collections led the Revenue Estimating Conference to predict a $673.2 million shortfall in the state budget. The state's unemployment rate averaged about 3.6 percent throughout 2000. From January to July 2001, unemployment rose from 3.8 to 4.2 percent. In August, the state's unemployment rate grew to 4.3 percent.

Parallel to the national economy, the terrorist attacks have exacerbated Florida's economic conditions. In October, the Revenue Estimating Conference downwardly revised estimated tax collections by $644.3 million, bringing the state's cumulative budget shortfall to $1.32 billion. Employers throughout the state have begun layoffs. As reported by the Agency for Workforce Innovation, initial unemployment claims started to climb in September, but spiked in October. Preliminary data from the United States Department of Labor show the state's unemployment rate in September remained at August's level of 4.3 percent. Estimated from October's first two weeks of claims, initial claims for the month are expected to reach 82,500. By comparison, initial claims averaged 46,306 per month for the first nine months of 2001 (including July's seasonal high of 60,097 claims).

The federal Worker Adjustment and Retraining Notification (WARN) notices are another indicator of the state's layoffs. Under federal law, larger employers must provide WARN notices to employees at least 60 days before plant closings and mass layoffs. In general, WARN notices are required for employers who have 100 or more employees. From January 1 to October 25, 2001, 200 WARN notices have been filed in Florida. More than 40 percent of these were filed after September 11. Of the 81 notices filed after September 11, almost 60 percent are attributed to declines in aviation and tourism.

The weakened economy and post-attack recession have been especially harsh to aviation, tourism, and hospitality industries important to Florida's economy.

Tourism

Tourism and recreation are a significant part of Florida's economy. Last year, the state attracted 71.5 million visitors, making it the second-most visited state in the nation behind California.

The Tourism/Recreation sector of the state's economy generated $50.7 billion of taxable sales, or approximately 10 percent of Florida's gross state product for 2000. These sales led to more than $3 billion in state sales tax collections, more than $335 million in local option tourist development tax collections, and more than $146 million in rental car surcharge tax collections. More than 840,000 of the state's 7.2 million jobs are directly related to tourism, including workers in the cruise, airline, restaurants, hotels, theme parks, and attractions industries. It is estimated that another 400,000 jobs are indirectly related to tourism.

The national economic slowdown was already significantly affecting the state tourism industry prior to the events of September 11. Because more than half of the state's visitors arrive by air, the terrorist attacks further disrupted tourism by shaking public confidence in flying. As airlines announced layoffs, state hotels, travel bureaus, rental car companies, cruise lines, and attractions reported significant declines in business.

Hard data regarding the impact of the recession and terrorist attacks on the tourism industry will not be available for some time. According to Visit Florida, the state's official tourism marketing agency (s. 288.1226, F.S.), "the impact of recent events on tourism is impossible to confidently quantify at this time. The consensus of industry experts is that American consumers were, in effect, paralyzed immediately and gradually began to resume activities. Compounded by the downturn trending in the American economy before September 11, the working hypothesis is that tourism will be set back by 10 percent to 20 percent and may take up to one year to regain current levels." However, AAA Auto Club South is attempting to gauge the condition of the tourism industry in the southeastern U.S. with its weekly "AAA Travel Barometer." In its latest barometer, AAA reports:

- For the week ending October 19, 2001, ticket sales for theme parks and other attractions increased 15 percentage points to 80 percent of year 2000 sales;
- Airline ticket sales were stable at 66 percent of year 2000 levels, a decline of 4 percentage points from the previous week;
- Overall travel agency sales, composed of cruises, tours and airline tickets, declined 7 percentage points to 56 percent of year 2000 sales after a gain of 4 percentage points the previous week. However, when this measurement is price-adjusted to remove the impact of current deep discounts on tours and cruises, these sales represent 68 percent of last year's volume; and
- Hotel reservations dropped 18 percentage points last week to 79 percent of year 2000 levels but are still 17 percentage points higher than they were the week ending September 14, 2001.

In order to stimulate state tourism, Visit Florida is proposing a $30 million marketing campaign. The campaign would emphasize product and value-oriented messages, address general and multi-cultural markets, maintain flexibility to respond to changing market conditions and campaign performance, and leverage investment with co-op partners.

Aviation

Enterprise Florida, Inc., the state's principal economic organization (s. 288.901, F.S.), estimates that Florida has 1,485 aviation companies, employing approximately 91,000 direct employees. These companies generate an estimated $16.7 billion in sales annually.

The drastic drop in passenger flying following the events of September 11 greatly affected the state's aviation industry. Commercial and general aviation companies alike reportedly suffered large losses from the decrease in air traffic. Additionally, many small aviation companies were not able to resume flight activity because of Federal Aviation Administration (FAA) regulations on flight path designations, thus impacting businesses that rely on small aviation flights. From September 19 to 24, 2001, Enterprise Florida, Inc., and the Governor's Office of Tourism, Trade, and Economic Development (OTTED) conducted an industry-wide survey to estimate the economic impact of the terrorist attacks on the state's airports, airlines, and tourism-related businesses. The survey indicates that much of Florida's aviation and aviation support companies have suffered significant economic impact due to the terrorist attacks. Specifically, the survey's findings include:

- Eighty-nine percent of Florida aviation companies are estimated to have suffered a "significant" to "devastating" impact;
- Eighty percent of Florida aviation companies will layoff a portion of their workforce;
- Approximately 49 percent of Florida's aviation industry may reduce employee pay as much as 26 percent; and
- Lost revenue is anticipated to be, on the average, as high as 53 percent in the first 30 days since September 11 and as high as 33.9 percent over the next year.

Between October 22 and 24, 2001, the FAA opened the skies over 12 more cities, including Miami and Orlando, to all private planes, leaving only Washington, New York, and Boston with limits on small aircraft. The action allows pilots in the 12 cities to resume flying under what are known as visual flight rules, in which the pilot is low enough in the sky in good weather to navigate by landmarks on the ground and is not required to file a flight plan.

Florida's Initial Response to Economic Downturn

In response to the state's weakened economy, the State of Florida has implemented several immediate measures to mitigate the effects of the economic downturn. For example, on September 25, 2001, the Governor and Cabinet directed state agencies with employees called to active military duty to receive full civilian pay, in addition to their military pay, for the first 30 days of active duty. Thereafter, state employees will receive compensation necessary to raise their military pay to their civilian pay level and continue their existing benefits.

On October 4, 2001, the Governor established "Operation Paycheck." The program emphasizes short-term job training for dislocated workers and job placement services in high-demand employment sectors currently experiencing worker shortages, such as information technology, health care, and construction. Community colleges, technical centers, and universities will provide accelerated training options for Operation Paycheck participants. Federal Workforce Investment Act (WIA) funds pay for tuition, fees, books, childcare, and transportation for program participants. Workforce Development Education Funding is used for vocational certificate training. Additionally, on October 17, 2001, Workforce Florida, Inc. (WFI), redirected $10 million in workforce funds to Operation Paycheck for fiscal year 2001-2002.

Finally, the Agency for Workforce Innovation, in conjunction with WFI, has begun implementation of a plan to assist those areas hit hardest by the economic downturn. The plan includes:

- Redirecting as much as $30 million to workforce projects in communities most impacted by unemployment.
- Deploying additional staff to handle the increased need for job placement, training, and unemployment claims processing in the affected areas.
- Enhancing marketing activities in the affected areas to increase awareness of available workforce services and promoting the ability to file for unemployment over the Internet.

- Promoting the Short-Time Compensation Program, which permits employers to avert layoffs by reducing work hours for groups of employees, allowing them to become eligible for partial unemployment benefits.
- Identifying claimants for unemployment who are former welfare recipients and who may be eligible for welfare transition services, including job placement and job training.

On December 21, 2001, the Governor's Council of Economic Advisors met to discuss the condition of Florida's economy. The group generally agreed that conditions are improving and predicted that the economy would recover by mid-2002. One economist noted that business capital spending has contracted and fiscal stimulus policies with incentives for investment in equipment and job creation would help the business sector to recover more quickly.

C. EFFECT OF PROPOSED CHANGES:

The bill is designed to encourage small businesses in the state to create new jobs. As an incentive, it would provide a small business a tax credit voucher of $1,000 for a new full-time position created after July 1, 2002.

A small business is defined as " an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than $5 million or any firm based in this state which has a Small Business Administration 8(a) certification." [Section 288.703(1), Florida Statutes.] The SBA 8(a) certification is a business development initiative targeted towards socially and economically disadvantaged businesses. Generally, this certification applies to small, minority-owned businesses.

The bill would require that 1) the position be continuously filled with the same employee for twelve consecutive months, 2) that all existing positions are maintained, 3) that the salary for the new position is at least $8 per hour, and 4) that the employee work an average of at least 36 hours per week. The business is required to document these conditions in order to receive the voucher.

Unless the business is a franchise, it may qualify for only one such credit. A business may apply for the credit by submitting an application to the Department of Revenue accompanied by an affidavit verifying the creation and filling of the position and that the salary requirements of this act have been met. The department shall provide forms and determine a procedure for applying for, processing, and issuing such credit.

The small business applying for the tax credit voucher may elect to apply the voucher against sales and use taxes under chapter 212, F.S., or the corporate income tax under chapter 220, F.S. The voucher may be used against existing tax liabilities under either chapter and may be carried over against future liabilities if not fully used for up to five years. An eligible business may not use more than $500 of credit in any single 12-month period.

The incentive provided by this bill shall be available to small businesses until July 1, 2006, or until 25,000 tax credit vouchers have been issued by the Department of Revenue, whichever occurs first.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Creates the Small Business Employment Incentive. Provides for a tax credit voucher of $1,000 for use against tax liability created under chapters 212 or 220, F.S., for new full-time positions created after the effective date of the act. Requires the small business to document that the new position is continuously filled for at least 12 consecutive months by the same employee, that all existing positions are maintained, that the salary for the new position is at least $8 per hour, and that the employee averages at least 36 hours per week per month throughout the year.

Authorizes each small business to qualify for only one such credit to be applied against taxes after the employee has continually filled the new position for at least 12 consecutive months. Specifies that the business may not use more than $500 of the credit in any single 12-month period.

Requires a business to apply for the credit with the Department of Revenue and provide an affidavit verifying the creation and filling of the position and that the business met the salary requirements of this act. Requires the department to provide forms and a procedure for applying for, processing, and issuing such credit.

Provides that a business applying for the credit may elect to use the voucher against either the sales and use tax under chapter 212, F.S., or the corporate income tax under chapter 220, F.S. Provides that, once the election is made, the business shall not apply the credit voucher against any other tax imposed by law. Allows the credit to be carried over to subsequent years, not to exceed five years, until credit is fully used.

Provides that the incentive shall be available to small businesses until July 1, 2006, or until 25,000 tax credit vouchers have been issued by the Department of Revenue, whichever occurs first.

Section 2. Provides that the act will take effect July 1, 2002.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill will not affect revenues during fiscal year 2002-03. It has been estimated that for fiscal year 2003-04 the General Revenue Fund will decrease by $11 million.

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

It has been estimated that for fiscal year 2003-04 the total local tax impact would be negative $2.2 million.

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill would encourage small business to create jobs in exchange for a tax credit.

D. FISCAL COMMENTS:

The committee on Fiscal Policy and Resources recognizes that the narrative inscribed in the section of this analysis labeled "Present Situation" has expired and that much of the referenced material has been modified or changed. The justification for preserving this text is to present the reader with a perspective as to why this bill was filed.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill is exempt from the requirements of Article VII, Section 18 of the Florida Constitution.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have 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:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 8, 2002, the committee on Fiscal Policy and Resources adopted one amendment. The amendment sets criteria used in the application process, and grants the DOR the ability to accept or deny an incomplete or insufficient application. The amendment states that a voucher can not be used if there is a pending sales tax or corporate tax liability. The amendment allows civil penalties to be assessed against fraudulent claims.

VII. SIGNATURES:

COMMITTEE ON ECONOMIC DEVELOPMENT & INTERNATIONAL TRADE:

Prepared by:	Staff Director:
J Paul Whitfield Jr	J Paul Whitfield Jr

AS REVISED BY THE COMMITTEE ON FISCAL POLICY & RESOURCES:

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