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HOUSE OF REPRESENTATIVES

FISCAL RESPONSIBILITY COUNCIL 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 YEAS 25 NAYS 0
(4)
(5)

I. SUMMARY:

The bill is designed to encourage small businesses in the state to create new jobs. As an incentive, the bill provides 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 this bill will reduce state revenues by $11 million and local revenues by $2.2 million.

The act takes 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 cannot be used if there is a pending sales tax or corporate tax liability. The amendment allows civil penalties to be assessed against fraudulent claims.

On February 27, 2002, the Fiscal Responsibility Council adopted one amendment which is traveling with the bill. This amendment limits the tax credit to small businesses with 49 or fewer employees.

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:

Florida provides incentives for the creation of new jobs through tax credits against the sales and corporate tax liabilities. In each instance, these credits have been limited to jobs created in specified areas – enterprise zones, high-crime areas, or rural areas.

Section 212.096, F.S., provides a credit against sales tax liabilities for certain businesses located in enterprise zones. To be eligible for the credit, the business must create a new full-time job and the employee must be either a resident of an enterprise zone or a participant in the welfare transition program. The credit is at least 20% (and can be as great as 45%) of the actual monthly wages paid to the new employee. The credit can be claimed for up to 24 months. Section 220.181, F.S., provides similar tax credits against the corporate income tax.

Section 212.097, F.S., provides a credit against sales tax liabilities for certain businesses located in a qualified high-crime area. To be eligible for the credit, the business must create a job within the high-crime area. If the business is new, the credit for each job within the high-crime area may be between $500 -$1500 per employee depending upon the total number of employees. If the business is existing, the tax credit depends upon the number of new employees within the high-crime area and the credit may be between $500 -$1500 per employee, depending upon the total number of employees. Section 220.1895, F.S., provides similar tax credits against corporate income tax.

Section 212.098, F.S., creates the Rural Job Tax credit to provide a credit against sales tax liabilities for jobs created in rural areas. Eligible businesses may receive tax credits between $1000 -$1500 per new employee. Section 220.1895, F.S., provides similar tax credits against corporate income tax. The total amount of credits that may be approved in a single year is $5 million.

C. EFFECT OF PROPOSED CHANGES:

The bill is designed to encourage small businesses in the state to create new jobs, regardless of location. As an incentive, the bill provides 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 requires that: 1) the position be continuously filled by the same employee for twelve consecutive months; 2) all existing positions be maintained; 3) the salary for the new position be at least $8 per hour; and 4) 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.

An eligible business 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:

See "C. EFFECT OF PROPOSED CHANGES" above.

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

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. <u>Revenues</u>:

Businesses are not permitted to apply the credit until the employee has filled the job for at least 12 continuous months. As a result, this bill will not affect state revenues during fiscal year 2002-03. It has been estimated that the revenues deposited into the General Revenue Fund will be reduced by $11 million in FY 2003-04.

2. <u>Expenditures</u>:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

There is no fiscal impact on state revenues expected for FY 2002-03. However, local tax revenues are expected to be reduced by $2.2 million in FY 2003-04.

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:

None.

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:

Section 18, Article VII, of the Florida Constitution, provides that a general law is a mandate when the law would reduce the authority of municipalities or counties to raise revenues in the aggregate, as such authority exists on February 1, 1989. The term “authority” includes a reduction in the base against which the tax is levied. A bill providing a credit against local option sales tax liabilities is a reduction in authority because counties have authority to levy and collect local option sales taxes against the state sales tax base.

The bill reduces the authority of cities and counties to raise revenues in the aggregate and is a mandate to local governments. The Florida Constitution requires a 2/3 vote of the membership of both houses of the Legislature for this bill to be enacted.

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

While the bill will reduce the amount of the Local Government Half Cent Sales Tax shared with municipalities and counties, it does not reduce the percentage of a state tax shared with municipalities and counties. Therefore, Article VII, Section 18(b), Florida Constitution does not apply.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None

B. RULE-MAKING AUTHORITY:

The bill requires the Department of Revenue to provide forms and a procedure for applying for, processing, and issuing the tax credits.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 8, 2002, the Committee on Fiscal Policy and Resources adopted one amendment. The amendment sets criteria to be 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 cannot be used if there is a pending sales tax or corporate tax liability. The amendment allows civil penalties to be assessed against fraudulent claims.

On February 27, 2002, the Fiscal Responsibility Council adopted one amendment which is traveling with the bill. This amendment limits the tax credit to small businesses with 49 or fewer employees.

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:

Prepared by:	Staff Director:
Adam Shamy	Lynne Overton

AS FURTHER REVISED BY THE FISCAL RESPONSIBILITY COUNCIL:

Prepared by:	Staff Director:
Joe McVaney	David Coburn