

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1173 Work Opportunity Tax Credit
SPONSOR(S): Harper
TIED BILLS: **IDEN./SIM. BILLS:** SB 2382

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Workforce and Economic Development (Sub)</u>	_____	<u>Ken Winker</u>	<u>Paul Whitfield</u>
2) <u>Commerce</u>	_____	_____	_____
3) <u>Finance and Tax</u>	_____	_____	_____
4) <u>Appropriations</u>	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

HB 1173 creates Section 220.1893, F.S., which, pursuant to the federal Job Creation and Worker Assistance Act of 2002 [P.L. 107-147] and the Work Opportunity Tax Credit (WOTC), authorizes a credit against state corporate income tax for any business which hires persons from qualified targeted groups having high unemployment rates or special employment needs. Qualified targeted groups include ex-felons released from prison within the last 3 years, persons under community control, veterans, recipients of food stamps, recipients of assistance under the Temporary Assistance for Needy Families block grant, high-risk or summer youth who reside in an empowerment zone, recipients of supplemental security income, and persons referred to a state vocational rehabilitation program.

The bill provides that the maximum tax credit is \$2,400 for each new hire, except that the tax credit will be \$1,200 for youth age 16 and 17 living in an empowerment zone and hired for the summer. The bill provides that should the federal WOTC not be re-authorized, the tax credit will continue for employers, but only for persons hired who are ex-felons released from prison within the last 3 years or who are on community control.

The bill takes effect upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|--|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |

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

The bill will likely add staff and expenses to the Department of Revenue to administer the corporate tax credit program.

B. EFFECT OF PROPOSED CHANGES:

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Currently, there is nothing in Florida statutes (Chapter 220) that provides for a credit against corporate income tax for corporations that hire persons from qualified targeted groups having high unemployment rates or special employment needs.

Federal Work Opportunity Tax Credit

The federal Work Opportunity Tax Credit (WOTC), authorized by the federal Small Business Job Protection Act of 1996 (P.L. 104-188), is a federal tax credit intended to encourage employers to hire targeted groups of job seekers by reducing an employer's federal income tax liability by as much as \$2,400 per qualified new worker. The WOTC is designed to help people move from welfare to work and gain on-the-job experience. In 2002, Congress passed the Job Creation and Worker Assistance Act which re-authorized the WOTC program through December 31, 2003.

The WOTC applies to nine targeted groups of individuals. These groups are:

- o A member of a family who is receiving or recently received Temporary Assistance to Needy Families (TANF) for any nine months during the 18-month period ending on the hiring date;
- o An 18-24 year old member of a family who is receiving or recently received food stamps under the Food Stamp Act of 1977 for the 6-month period ending on the hiring date,

- receiving food stamps for at least 3 months of the 5-month period ending on the hiring date and no longer receiving food stamps;
- An 18-24 year old resident of one of the federally designated Empowerment Zones (EZ), Enterprise Communities (EC), or Renewal Communities (RC);
- A 16-17 year old EZ, EC, or RC resident hired between May 1 and September 15 as a Summer Youth Employee;
- A veteran who is a member of a family who is receiving or recently received food stamps for at least a 3-month period during the 15-month period ending on the hiring date, and has served on active duty in the armed services of the United States for a period of more than 180 days, or was discharged or released from active duty for a service-connected disability and did not have any day during the 60-day period ending on the hiring date, which was a day of "extended active duty" (90 days of service) in the armed services;
- A disabled person who completed or is completing rehabilitation services from a State or U.S. Department of Veterans Affairs or is receiving vocational rehabilitation services from a state agency;
- An ex-felon who is a member of a low-income family and has a hiring date which is more than one year after the person was convicted of a felony offense or released from prison; or
- A recipient of Supplementary Security Income (SSI) benefits for any month ending within the 60-day period ending on the hiring date.

In Florida, the WOTC program is coordinated by the Agency for Workforce Innovation (AWI) which provides information on and assists employers take advantage of the WOTC federal income tax credit for private sector employers.

Employers must apply for and receive certification from the WOTC Unit in AWI that their new hire is a long-term welfare recipient or a member of the other targeted groups before an employer can claim the WOTC on their federal tax return. Six of the nine targeted groups require eligibility documentation from the employer.

To apply for certification, an employer must complete IRS Form 8850 by the date of the job offer and complete one of two forms from the U.S. Department of Labor depending if the employee was referred from an AWI employment services' program or not. The employer must then mail these forms to the WOTC Unit in AWI no later than 21 days after the new employee starts the job in order for the business to qualify for the WOTC.

C. SECTION DIRECTORY:

SECTION 1: Creates s. 220.1893, F.S., providing for a corporate tax credit to businesses (called the work opportunity tax credit) which hires persons from qualified targeted groups having high unemployment rates or special employment needs; specifies which groups of persons are eligible if hired by a business in order for the business to take credit against the state corporate income tax; establishes the maximum credit amounts; and provides that the credit shall continue for one of the targeted groups even if the federal work opportunity tax credit is not re-authorized.

SECTION 2: The bill takes effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Indeterminate as of the date of this report.

2. Expenditures:

Indeterminate as of the date of this report.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Businesses taking advantage of the corporate tax credit under the work opportunity tax credit proposed in the bill will benefit from a reduction in their state corporate income tax payments.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to take an action requiring the expenditure of funds, does not reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide authorization for the Department of Revenue to promulgate rules to administer the work opportunity tax credit program.

C. DRAFTING ISSUES OR OTHER COMMENTS:

According to the Department of Revenue (DOR), there are a number questions and issues related to the bill. For example, although the bill authorizes the owner of the business to claim the tax credit, under corporate law, the "owner" of a business could consist of one or more stockholders who may be persons and are thus not required to file income tax returns in Florida. The tax credit proposed in the bill should only be claimed by the business. DOR also raises the concern that many terms in the bill are undefined. For example, none of the terms for eligible targeted groups are defined. Neither is the phrase "each year of paying taxes" defined. DOR also raises the concern that, although the maximum amount of tax credits are specified in the bill, the bill does not provide for situations where the tax credit amount may be less than the maximum provided for in the bill.

DOR points out that the bill does not specify who is responsible for verifying that persons hired are actually members of the targeted eligible group and meet the eligibility criteria. The bill does not amend

s. 220.02(8), F.S., which directs DOR as to the order in which credits can be claimed against a corporate income tax. Also, the bill does not specify that a business cannot take both a deduction and a credit pursuant to s. 220.13, F.S. Finally, DOR states that the bill's implementation date does not allow for sufficient time for the department to create and print the necessary forms, to promulgate any rules required to implement the program, and to put in place the mechanisms necessary for businesses to claim the credit.

DOR staff have discussed their concerns with the sponsor of the bill and have proposed an amendment which, as of the date of this report, is being reviewed by committee staff.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES