

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

Prepared By: The Professional Staff of the Commerce Committee

BILL: CS/SB 2156

INTRODUCER: Commerce Committee and Senators Altman and Baker

SUBJECT: Tax Credits

DATE: April 6, 2009

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pugh	Cooper	CM	Fav/CS
2.			FT	
3.			GA	
4.			WPSC	
5.				
6.				

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

The retirement of the Space Shuttle in 2010 is projected to leave in its wake the loss of at least 3,500 Florida jobs directly associated with the program. State and regional economic development and workforce training agencies are developing strategies to address this potential loss of jobs, ranging from the recruitment of new companies to offering retraining in related fields.

Currently, aerospace companies can utilize, depending on their location and investment, 12 general business incentives and at least 4 business sales-tax exemptions. Additionally, the Legislature has created the Qualified Defense Contractor and Spaceflight Business (QDSC) Tax Refund program, which reimburses a number of taxes to eligible companies based on job creation.

CS/SB 2156 seeks to address, in part, the job-loss issue by creating two corporate income tax credits related to aerospace employment:

- The Aerospace Sector Jobs Tax Credit is a maximum \$12,500 per qualified employee annually, and is based on wages subject to the unemployment tax. The credit is equal to:

- 10 percent of the compensation paid each qualified employee for the first through fifth years of employment, if the employee graduated from a Florida university or college, and
- 5 percent of the compensation paid each qualified employee for the first through fifth years of employment, if the employee graduated from an out-of-state university or college.
- The Tuition Reimbursement Tax Credit is equal to 50 percent of the tuition for which an aerospace business reimbursed a qualified employee in a single tax year. The credit may only be claimed if the qualified employee was awarded an undergraduate or graduate degree within 1 year after being hired by the aerospace business.

A business cannot claim both credits for the same employee. The maximum amount of credits any aerospace business may claim in a single calendar year is \$200,000; the total amount of credits claimed under the program in a calendar year by all eligible businesses is capped at \$2 million. Aerospace businesses may carry forward any unused credits up to 5 years.

CS/SB 2156 creates s. 220.1811, F.S., and amends ss. 220.02 and 220.13, F.S.

## II. Present Situation:

### Aerospace work force issues

The last mission for the Space Shuttle program is scheduled for March 2010. The “moon to Mars” successor program (known as Constellation) is currently scheduled to begin in 2015.<sup>1</sup> The intervening period is referred to as the “shuttle gap,” in which a number of employees in the aerospace industry, in Florida and elsewhere, may lose their current jobs.<sup>2</sup>

In August 2007, the Brevard Workforce Development Board, Inc., (BWDB) estimated that shuttle-related activity in Florida supports a workforce level of approximately 9,235 employees (6,340 United Space Alliance employees and 2,895 sub-tier and related support contractor employees). The majority of this workforce is located at or near the Kennedy Space Center. However, the total economic impact of the Shuttle Program is statewide, and it has a specific shuttle-related supplier base of some 1,046 companies throughout the state.<sup>3</sup>

The BWDB further found that Shuttle workforce skills are highly translatable to any work that the state pursues as part of its next generation space activities. The BWDB estimates that one-third of the Florida Shuttle-related workforce will need transition assistance to a different industry or occupation, and one-third will need skills upgrades for the next generation space programs, public or private. The remaining one-third is expected to retire.<sup>4</sup> Disregarding the number of employees who will retire, the BWDB estimates that at least 3,500 aerospace

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<sup>1</sup> On January 14, 2004, then-President Bush announced a new mission for America’s civil space program that calls for human and robotic missions to the moon, Mars, and beyond. See Report of the President’s Commission on Implementation of United States Space Exploration Policy. Available at [http://www.nasa.gov/pdf/60736main\\_M2M\\_report\\_small.pdf](http://www.nasa.gov/pdf/60736main_M2M_report_small.pdf).

<sup>2</sup> Senate Issue Paper 2009-305, Efforts to Address Workforce Issues Related to the Space Program. Published October 2008. Available at [http://www.flsenate.gov/data/Publications/2009/Senate/reports/interim\\_reports/pdf/2009-305cm.pdf](http://www.flsenate.gov/data/Publications/2009/Senate/reports/interim_reports/pdf/2009-305cm.pdf).

<sup>3</sup> Brevard Workforce Development Board, Inc., “Aerospace Workforce Outlook Report,” Executive Summary, August 2007.

<sup>4</sup> Brevard Workforce Development Board, Inc., “Aerospace Workforce Outlook Report,” Executive Summary, August 2007.

workers will lose their current positions.<sup>5</sup> NASA is continuing to recalculate the number of jobs lost or added because of the transition from the Shuttle to the Constellation program.<sup>6</sup>

In response to this anticipated shuttle gap, the 2008 Florida Legislature appropriated \$1.25 million to:

“...be used to provide services focused on retention and retraining of skilled talent in the space industry and shall include workforce skills analysis, training, and placement services, and may include communications efforts. Workforce Florida, Inc., shall develop a plan to implement this program.<sup>7</sup>

Besides retraining efforts, BWDB, the local economic development council, Space Florida, Enterprise Florida, Inc., and other entities are working to recruit new aerospace-related companies or technology-based businesses that could employ the already-skilled Shuttle workforce.

The Qualified Defense Contractor and Spaceflight Business (QDSC) Tax Refund Program<sup>8</sup> Amended in 2008 to include aerospace companies,<sup>9</sup> the QDSC was designed to recruit, retain, and encourage expansion of the high-wage, high-skilled jobs in a competitive industry. This tax incentive targets the following types of projects: consolidation of certain Department of Defense (DOD) contracts; conversion of DOD production jobs to non-defense production jobs; projects involving the reuse of defense-related facilities for specific activities; the manufacturing, processing, and assembly of space flight vehicles; and a number of other activities related to space flight.

Upon entering into a contract with the Governor’s Office of Tourism, Trade, and Economic Development (OTTED), a qualified company is allowed tax refund payments equal to:

- \$3,000 times the number of jobs specified in the tax refund agreement, or
- \$6,000 times the number of jobs if the project is located in a rural county or an enterprise zone.
- Additionally, a qualified company is allowed additional tax refund payments equal to \$1,000 times the number of jobs specified in the tax refund agreement if such jobs pay an annual average wage of at least 150 percent of the average private sector wage in the area, and \$2,000 times the number of jobs created if such jobs pay an annual average wage of at least 200 percent of the average private sector wage in the area.

A qualified company may receive no more than \$2.5 million in tax refunds pursuant to the QDSC program in any fiscal year, and no more than \$7.5 million over the term of its agreement with OTTED.

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<sup>5</sup> Aerospace Workforce Transition Program Implementation Plan, Brevard Workforce Development Board, July 17, 2008. This estimate constitutes the direct job losses due to the retirement of the shuttle program. BWDB staff also estimate that the indirect job losses could be 2.5 times greater.

<sup>6</sup> Report available at [http://www.nasa.gov/pdf/220260main\\_Workforce\\_Transition\\_Strategy\\_briefing.pdf](http://www.nasa.gov/pdf/220260main_Workforce_Transition_Strategy_briefing.pdf).

<sup>7</sup> From the Special Employment Security Administration Trust Fund. Line Item 2202, Ch. 2008-152, L.O.F.

<sup>8</sup> Section 288.1045, F.S.

<sup>9</sup> Chapter 2008-89, L.O.F.

The qualified business may receive refunds from the following types of taxes paid:

- Corporate income taxes paid pursuant to ch. 220, F.S., beginning with the first taxable year of the business which begins after entering into the agreement.
- Sales and use taxes paid pursuant to ch.212, F.S.
- Intangible personal property taxes paid pursuant to ch.199, F.S.
- Emergency excise taxes paid pursuant to ch. 221, F.S.
- Excise taxes paid on documents pursuant to ch. 201, F.S.
- Ad valorem taxes paid, as defined in s. 220.03(1)(a), F.S., on June 1, 1996.
- State communications services taxes administered under ch. 202, F.S.<sup>10</sup>

Since its inception, 38 QDC applications have been received, and 28 have been approved. There are eight active or complete QDC projects, which have created or retained 1,697 jobs over the years with an average wage of nearly \$69,000, and which have received a total of \$7.4 million in tax refunds.<sup>11</sup>

### III. Effect of Proposed Changes:

CS/SB 2156 is one attempt to address the loss of high-skilled jobs in Florida due to the retirement of the Space Shuttle by encouraging new or existing aerospace businesses in Florida to expand their workforce, and to reimburse certain employees' higher-education expenses.

Section 1 amends s. 220.02, F.S., to add the new corporate tax credits last in a list of existing tax credits, in the order in which they may be claimed against a corporate income tax liability.

Section 2 amends s. 220.13, F.S., to require corporate income taxpayers to add the amount of the new credits taken for a particular tax year to their adjusted federal income.

Section 3 creates s. 220.1811, F.S., which authorizes the two aerospace-related tax credits.

The section defines three new terms:

- “Aerospace business” means a Florida company that is engaged in the aerospace industry, as defined in s. 331.03, F.S., to mean “the industry that designs and manufactures aircraft, rockets, missiles, spacecraft, satellites, space vehicles, space stations, space facilities or components thereof, and equipment, systems, facilities, simulators, programs, and related activities, including, but not limited to, the application of aerospace technologies in air-based, land-based, and sea-based platforms for commercial, civil, and defense purposes.”
- “Qualified employee” means a Florida resident who:
  - Is first employed or re-employed by an aerospace business on or after January 1, 2010;

<sup>10</sup>This provision does not apply to the gross receipts tax imposed under ch. 203, F.S., and administered under ch. 202, F.S., or to the local communications services tax authorized by s. 202.19, F.S.

<sup>11</sup>2008 Incentives Report. Prepared by Enterprise Florida Inc. Information on page 20 of report.

- Received an undergraduate or graduate degree in an accredited program<sup>12</sup> at an accredited college or university;
  - Was not employed by an aerospace business within 6 months preceding employment or contract by the aerospace company seeking a tax credit created by this bill;
  - Is not an owner, partner, or majority stockholder of an aerospace business; and
  - Is employed for least 3 months.
- “Tuition reimbursed to a qualified employee” means a lump-sum payment by an aerospace company to a qualified employee, which may not exceed the average annual tuition, as reported by the Board of Governors of the State University System, for a Florida resident enrolled as a full-time student in a public college or university. The term does not include the cost of books, fees, or room and board.

*Description of the tax credits*

Two separate corporate income tax credits are created in this section: the Aerospace Sector Jobs Tax Credit and the Tuition Reimbursement Tax Credit. The Aerospace Sector Jobs Tax Credit is a maximum \$12,500 per qualified employee annually, and is based on wages subject to the unemployment tax. The credit is equal to:

- 10 percent of the compensation paid each qualified employee for the first through fifth years of employment, if the employee graduated from a Florida university or college, and
- 5 percent of the compensation paid each qualified employee for the first through fifth years of employment, if the employee graduated from an out-of-state university or college.

The Tuition Reimbursement Tax Credit is equal to 50 percent of the tuition for which an aerospace business reimbursed a qualified employee in a single tax year. The credit may only be claimed if the qualified employee was awarded an undergraduate or graduate degree within 1 year after being hired by the aerospace business, which must claim the credit within 4 years of the hire.

For both types of credits, aerospace businesses may carry forward any unused credits up to 5 years. The business may use the carryover credits in a subsequent year if its tax liability exceeds the unused credit even after applying other tax credits, pursuant to s. 220.02(8), F.S.

A business cannot claim both credits for the same employee. The maximum amount of credits any aerospace business may claim in a single calendar year is \$200,000; the total amount of credits claimed under the program in a calendar year by all eligible businesses is capped at \$2 million. Additionally, an aerospace business may not carry over more tax credits in an amended return than were claimed on the original return for the taxable year. This subsection does not limit increases in the amount of credit claimed on an amended return due to the use of any carryforward credits.

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<sup>12</sup> Accreditation must be done by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology, a national accreditation organization.

*Application process*

An aerospace business may apply to DOR for authorization to claim the new credits. The applications must be filed under oath and include the business' name and address, documentation that it is an aerospace business, and for each employee for which a tax credit is sought, the:

- Employee's name and documentation that he or she is a qualified employee;
- Salary or hourly wages, including the hourly wages subject to unemployment tax paid to the qualified employee;
- Location of the university from which the qualified employee received his or her degree; and
- Statement of whether the applicant is seeking an aerospace sector jobs tax credit or a tuition reimbursement tax credit.

The business bears the burden of demonstrating to DOR's satisfaction that it meets the requirements of this section.

*Penalties*

Any aerospace business that fraudulently claims either of these credits is liable for repayment of the credit, plus a mandatory penalty in the amount of 200 percent of the credit, plus interest at the rate provided in s. 220.807, F.S. The business also is presumed to have committed a third-degree felony, which is punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.

Similarly, an aerospace business that makes an underpayment of tax as a result of a grossly overstated claim for either of these credits commits a third-degree felony. As used in the bill, the term "grossly overstated claim" means a claim in an amount in excess of 100 percent of the amount of credit allowable, pursuant to this section of the bill.

DOR is authorized to adopt rules to prescribe any necessary forms required to claim a tax credit under this section and to provide guidelines and procedures required to administer the program.

Section 220.1811, F.S., with the exception of the credit-carryover provisions and the penalties, expires December 31, 2020. An aerospace business may not claim a new tax credit under this section after that date. However, an aerospace business may claim tax credits carried over pursuant to paragraph (2)(e) or paragraph (3)(c), if they are still within the 5-year window.

Section 4 provides an effective date of January 1, 2010, and specifies that the bill is applicable to tax years that begin on or after that date.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

C. Trust Funds Restrictions:

None.

V. **Fiscal Impact Statement:**

A. Tax/Fee Issues:

At its March 16, 2009, meeting, the Revenue Estimating Conference adopted by consensus a negative fiscal impact of \$2 million to state revenues in each of the three future fiscal years, if CS/SB 2156 becomes law.

B. Private Sector Impact:

Indeterminate, but positive. Aerospace company workers may benefit if their employers are encouraged, by the availability of the tax credit, to reimburse their tuition expenses. Aerospace companies may benefit because they could use either the jobs tax credit or the tuition reimbursement tax credit to expand their workforce and keep it well-trained.

C. Government Sector Impact:

DOR has not indicated that it will need an appropriation to handle the increase in workload associated with administering this new tax credit program.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Commerce Committee on April 6, 2009:**

- The definition for “qualified employee” was slightly rewritten to clarify that eligible employees for the tuition tax credit must be first employed or re-employed by the aerospace company no earlier than January 1, 2010.
- Replaced the article “a” with the more grammatically correct “the” in referencing eligible employees.

B. Amendments:

None.