

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1539 Tax Credits

SPONSOR(S): Adams and others

TIED BILLS: IDEN./SIM. BILLS: SB 2572

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Economic Development Policy Committee		Tait	Kruse
2) Finance & Tax Council			
3) Economic Development & Community Affairs Policy Council			
4)			
5)			

SUMMARY ANALYSIS

Numerous changes have occurred in the space industry as NASA has moved towards the end of the space shuttle program, and President Obama has recently outlined a new vision for the agency which has drastically altered the future of human space flight. These changes have serious economic consequences for the space industry in the state and associated jobs in those businesses. Members of Congress, the Governor, Space Florida, Brevard County, economic development organizations, as well as many others have been looking for solutions to alleviate those consequences, including the expected loss in jobs, and the changes made to NASA's human space flight plans.

The bill creates s. 220.1811, F.S., which authorizes an aerospace-sector jobs tax credit and tuition reimbursement tax credit against state corporate income taxes. These credits are to be used for qualified employees employed or reemployed by aerospace businesses on or after January 1, 2011. The aerospace-sector jobs tax credit is equal to 10 percent of the compensation paid for the 1st through 5th years of employment for an eligible employee, with an annual limit of \$12,500 per employee.

The tuition reimbursement tax credit is equal to 50 percent of tuition reimbursed to a qualified employee in a tax year, and may be claimed only if the qualified employee was awarded an undergraduate or graduate degree, a technical certification, or a certification from a training program offered by Workforce Florida, Inc. within 1 year of starting employment with the aerospace business.

Any single aerospace business may not claim more than \$200,000 in aerospace-sector jobs tax credits and tuition reimbursement tax credits in a calendar year. Businesses are prohibited from claiming both the aerospace-sector jobs tax credit and the tuition reimbursement tax credit for the same qualified employee. Unused credits may be carried forward for up to 5 years.

The bill provides procedures for applying for the tax credits. It also provides penalties for fraudulent claims and underpayment of tax as a result of grossly overstating the claim for the tax credit.

The statutes authorizing the aerospace-sector jobs tax credit and tuition reimbursement tax credit expire on December 31, 2020, with the exception of the carryover provisions.

The Revenue Estimating Conference has not yet analyzed the fiscal impact of this bill; however, the total amount of credits that may be granted for the aerospace-sector jobs tax credit and tuition reimbursement tax credit is \$2 million in any calendar year.

The bill has an effective date of January 1, 2011, for tax years beginning on or after that date.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Numerous changes have occurred in the space industry as NASA has moved towards the end of the space shuttle program, and President Obama has recently outlined a new vision for the agency which has drastically altered the future of human space flight. These changes have serious economic consequences for the space industry in the state and associated jobs in those businesses. Members of Congress, the Governor, Space Florida, Brevard County, economic development organizations, as well as many others have been looking for solutions to alleviate those consequences, including the expected loss in jobs, and the changes made to NASA's human space flight plans.

Effect of Proposed Changes

The bill creates s. 220.1811, F.S., which authorizes an aerospace-sector jobs tax credit and tuition reimbursement tax credit against state corporate income taxes. These credits are to be used for qualified employees employed or reemployed by aerospace businesses on or after January 1, 2011.

The bill provides several definitions:

- "Aerospace business" means a business located in Florida that is engaged in the aerospace industry, as defined in s. 331.303, F.S.
 - "Aerospace" means 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 resident of Florida who:
 - Is first employed or reemployed by an aerospace business on or after January 1, 2011;
 - Received an undergraduate or graduate degree from a nationally accredited college or university, a technical degree or certification related to aerospace from a technical training institution, or completed an aerospace development workforce training program coordinated by Workforce Florida, Inc.;
 - Is not an owner, partner, or majority stockholder of an aerospace business; and
 - Is employed for at least 6 months.

- “Tuition reimbursed to a qualified employee” means a lump-sum payment by an aerospace business 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 who is a full-time undergraduate student enrolled in a public college or university. The term does not include the cost of books, fees, or room and board.

The aerospace-sector jobs tax credit is equal to 10 percent of the compensation paid for the 1st through 5th years of employment for an eligible employee, with an annual limit of \$12,500 per employee. This credit applies only to wages subject to unemployment tax. If the credit is not fully used in any one year, the unused credit may be carried forward for up to 5 years.

The tuition reimbursement tax credit is equal to 50 percent of tuition reimbursed to a qualified employee in a tax year. The tuition reimbursed to a qualified employee is limited to a lump-sum payment by the aerospace business to a qualified employee, which cannot exceed the average annual tuition for a Florida resident enrolled at a public college or university as a full-time undergraduate student, and excludes the cost of books, fees, or room and board. For the 2009-2010 academic year, tuition per credit hour at Florida’s public universities was \$88.59, but the average cost per credit hour of tuition and required fees (including the tuition differential fee) was \$145.03, a difference of \$56.44 per credit hour.¹

The tuition reimbursement tax credit may be claimed only if the qualified employee was awarded an undergraduate or graduate degree, a technical certification, or a certification from a training program offered by Workforce Florida, Inc. within 1 year of starting employment with the aerospace business. The credit may be claimed within 4 years after employment of the qualified employment. If the credit is not fully used in any one year, the unused credit may be carried forward for up to 5 years.

Any single aerospace company may not claim more than \$200,000 in aerospace-sector jobs tax credits and tuition reimbursement tax credits in a calendar year. A business may not claim both an aerospace-sector jobs tax credit and a tuition reimbursement tax credit for the same qualified employee. The total amount of credits that may be granted for the aerospace-sector jobs tax credit and tuition reimbursement tax credit is \$2 million in any calendar year.

The bill places limits on the carryover of tax credits. An aerospace business may not carryover more tax credits in an amended return than were claimed on the original return for the taxable year, but does not limit increases in the amount of credit claimed on an amended return due to the use of any credit amount previously carried over.

Aerospace businesses must apply to the Department of Revenue for authorization to claim an aerospace-sector jobs tax credit or a tuition reimbursement tax credit. The application must be filed under oath, and must include a statement as to which type of tax credit the applicant is seeking for each qualified employee. If seeking the tuition reimbursement tax credit, the applicant must include the location of the school or training program from which the qualified employee received his or her degree or certification.

The bill also provides penalties for misusing the tax credits. Any person who fraudulently claims the credits is liable for repayment of the credit, plus a mandatory penalty of 200 percent of the credit and interest at the rate provided in s. 220.807, F.S. In addition, the person commits a felony of the third degree, punishable as provided in s. 775.082, F.S.; s. 775.083, F.S; or s. 775.084, F.S. Any person who makes an underpayment of tax as a result of a grossly overstated claim of the credits also commits a felony of the third degree. The term “grossly overstated claim” means a claim in excess of 100 percent of the amount of tax credits allowed.

¹Tuition and required fees for new students in main campus: <http://www.flbog.org/about/doc/budget/tuition/2009-10Fees.xls> . Cost per credit hour of tuition, out-of-state fee and local fees for 2009-2010 main campus and new students: http://www.flbog.org/resources/factbooks/2009-2010/xls/t35_00_0910_F.xls. Last visited March 14, 2010.

The Department of Revenue is permitted to adopt rules to prescribe any necessary forms required to claim the aerospace-sector jobs tax credit and tuition reimbursement tax credit. The department is also given authorization to provide guidelines and procedures required to administer the program.

The statutes authorizing the aerospace-sector jobs tax credit and tuition reimbursement tax credit expire on December 31, 2020, with the exception of the carryover provisions. After December 31, 2020, an aerospace business may not claim a new aerospace-space jobs tax credit or tuition reimbursement tax credit; however, an aerospace business may claim a credit from a previous year for up to five years after the credit was initially granted.

The bill amends s. 220.02, F.S., which establishes the order in which a corporate taxpayer may claim the research and development tax credit, compared to all other potential corporate income tax credits. The aerospace-sector jobs tax credit and tuition reimbursement tax credit are to be applied last.

The bill also amends s. 220.13, F.S., which defines the term "adjusted federal income." The bill adds the amount taken as an aerospace-sector jobs tax credit or tuition reimbursement tax credit to the adjusted federal income. As a result, a taxpayer will not receive both a credit and a deduction for the amount of the credit received under s. 220.1811, F.S.

The bill has an effective date of January 1, 2011, for tax years beginning on or after that date.

B. SECTION DIRECTORY:

- Section 1:** Amends s. 220.02, F.S., relating to the order in which credits against the corporate income tax or the franchise tax are applied.
- Section 2:** Amends s. 220.13, F.S., redefining the term "adjusted federal income" to include credits issued under s. 220.1811, F.S.
- Section 3:** Creates s. 220.1811, F.S., relating to the aerospace-sector jobs tax credit and the tuition reimbursement tax credit.
- Section 4:** Provides an effective date of January 1, 2011, for tax years beginning on or after that date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference has not yet analyzed the fiscal impact of this bill.

2. Expenditures:

The Revenue Estimating Conference has not yet analyzed the fiscal impact of this bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has not yet analyzed the fiscal impact of this bill.

2. Expenditures:

The Revenue Estimating Conference has not yet analyzed the fiscal impact of this bill.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The tax credits provided by this bill may induce the expansion of eligible Florida companies and may attract out-of-state corporations to relocate to Florida.

D. FISCAL COMMENTS:

The total amount of credits that may be granted for the aerospace-sector jobs tax credit and tuition reimbursement tax credit is \$2 million in any calendar year. As credits may be carried forward to a subsequent year, this may result in more than \$2 million in credits being used in any calendar year.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to effect county or municipal government.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The Department of Revenue is permitted to adopt rules to prescribe any necessary forms required to claim the aerospace-sector jobs tax credit and tuition reimbursement tax credit. The department is also given authorization to provide guidelines and procedures required to administer the program.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES