

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 Communications, Energy, and Public Utilities Committee

BILL: SB 2578

INTRODUCER: Senator Altman

SUBJECT: The Advanced Clean Energy Development Tax Credit

DATE: March 18, 2010 REVISED: 03/23/10

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	White	Caldwell	CU	Fav/1 amendment
2.			EP	
3.			GA	
4.			WPSC	
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

This bill establishes an advanced clean energy (ACE) tax credit that a certified business can apply against state corporate income taxes. Space Florida may certify no more than one approved business for the ACE tax credit by December 1, 2010, and only after a process of accepting applications for an advanced clean energy research and development (ACERD) project, approving a project, and entering into a binding commitment with the business to complete an ACERD project. The certified business would be awarded the ACE tax credit in the amount of \$3 million annually for 9 corporate tax years, plus \$3 million in the year the application is approved and the agreement entered into, and \$3 million in the year in which construction of the facility begins.

The bill creates s. 220.194, of the Florida Statutes.

II. Present Situation:

Florida uses corporate income tax credits as incentives for a variety of goals.¹ However, no incentive program currently exists in Florida specifically targeting the investigation into the latest processes and technologies to improve efficiency, reduce costs, and limit emissions from gas turbines during the production of energy. Space Florida is a subdivision of the state that promotes research and development in the aerospace industry, and it is tasked with fostering the “growth and development of a sustainable and world-leading aerospace industry in this state.”²

III. Effect of Proposed Changes:

Section 1 creates s. 202.194, F.S., to establish the ACE tax credit. The credit is reserved for a business that creates an ACERD project, has entered into a written agreement with Space Florida, and is certified to be eligible for tax credits by Space Florida. The term advanced clean energy research and development (ACERD) refers to the investigation of the latest processes and technologies designed to improve efficiency, reduce cost, and limit emissions from gas turbines during the production of energy. An ACERD project conducts research into gas turbine technology and constructs a facility within the territory of the John F. Kennedy Space Center.

Businesses³ need to apply to Space Florida to receive the credit. Space Florida shall make application forms and guidelines available by August 1, 2010. Space Florida shall establish the application due date, which must not be later than September 1, 2010. A business may submit only one application. Applications shall be reviewed in the order they are received, and one qualifying application shall be approved within 15 days after receipt. By December 1, 2010, the qualified applicant must execute and deliver a written agreement to Space Florida which includes a binding commitment to complete an ACERD.

Space Florida may certify only one business to receive the credit by December 1, 2010. To be eligible for certification, a business must meet five requirements. It must incur a liability of at least \$50 million to plan, design, and construct the facility. It must invest at least \$20 million on the facility by 2014. Expenditures for the project must be allotted to Florida vendors whenever feasible. New full-time equivalent employees hired to work on the project must receive a median hourly wage that is at least double the federal minimum wage. The business should attempt to enter into a sponsored research and development agreement for the term of the project in conjunction with and through a Florida university.⁴

Space Florida shall notify the Department of Revenue (DOR) of the taxpayer certified to receive the credit. Space Florida shall provide annual recertification of the taxpayer to DOR. Space Florida may revoke or modify its order certifying a business, and it may order the forfeiture of

¹ Renewable energy technologies investment s. 220.192, F.S.; Renewable energy production s. 220.193, F.S.; Enterprise zones s. 220.181, F.S.; Community contribution s. 220.183, F.S.; Hazardous waste s. 220.184, F.S.; Contaminated site rehabilitation s. 220.1845, F.S.; Rural Jobs and Urban Jobs s. 220.1895, F.S.; Capital investment s. 220.191, F.S.

² s. 331.302, F.S.

³ As defined in s. 220.03, F.S., but also to include Florida taxpayers that are affiliated groups of corporations filing consolidated returns.

⁴ Sponsored research contracts that qualify for exclusion from the property factor must be certified to the DOR. s. 220.15(2)(c), F.S.

previously claimed tax credits or credits available to be taken, and must notify DOR if this occurs. DOR may issue a notice of deficiency at any time within 3 years after the business claims a credit or receives a final order revoking or modifying credits.

The bill contemplates three timeframes in which a business may claim an ACE corporate income tax credit. During the year in which the application for the project is approved and the written agreement with Space Florida is executed, the business may claim a tax credit of \$3 million. During the year in which construction of the project begins, the business may claim a tax credit of \$3 million. Upon approval of an application and the execution of a written agreement with Space Florida, including a binding commitment to complete an ACERD project, the certified business is awarded \$27 million in credits that can be claimed \$3 million per year beginning with the year in which the agreement is executed. No more than \$6 million in credit may be claimed in any tax year; however, unused credit amounts may be carried forward for up to 10 years. After 10 years from the time the credit became available for use, any unused credit expires.

Space Florida and DOR may adopt rules to administer s. 220.194, F.S.

Section 2 provides for an effective date of July 1, 2010.

Other Potential Implications:

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:

DOR notes three difficulties in implementing and administering the ACE tax credit. First, the order in which credits are to be claimed relative to other credits needs to be amended in s. 220.02(8), F.S. Second, to prevent the eligible taxpayer from receiving both a deduction and a credit for the same item, s. 220.13, F.S., needs a corresponding addition. Third, DOR may need authority to share information concerning the credit with Space Florida.

B. Private Sector Impact:

The private sector impact of a tax credit for one business to promote research and development of gas turbine technology is not certain. It may free up \$33 million for the approved business over the next ten years. In the long term, it may contribute to more efficient energy production.

C. Government Sector Impact:

The total government sector impact of a tax credit for one business to promote research and development of gas turbine technology is unclear. The state may receive up to \$33 million less in corporate income tax revenue.

VI. Technical Deficiencies:

None.

VII. Related Issues:**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:**Barcode 410098 by Communications, Energy, and Public Utilities on March 23, 2010:**

This amendment replaces a discretionary provision with one that requires a business to enter into a sponsored research and development agreement with and through a Florida university as a condition of certification eligibility.