

**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 General Government Appropriations Committee

BILL: CS/SB 2578

INTRODUCER: General Government Appropriations Committee and Senator Altman

SUBJECT: Advanced Clean Energy Development Tax Credit

DATE: April 13, 2010 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	White	Caldwell	CU	<b>Fav/1 amendment</b>
2.	Blizzard	DeLoach	GA	<b>Fav/CS</b>
3.			WPSC	
4.				
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:**

This bill establishes an advanced clean energy development tax credit. The bill provides that a business must be certified by Space Florida to receive the tax credit and may apply the credit against state corporate income taxes. Space Florida may certify one business to receive the credit. By December 1, 2010, the qualified business must execute and deliver a written agreement to Space Florida which includes a binding commitment to complete an advanced clean energy research and development project.

The certified business will be awarded the advanced clean energy development tax credit in the amount of \$3 million annually for nine 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, for a total of \$33 million.

The bill creates section 220.194, Florida Statutes.

## II. Present Situation:

Florida uses corporate income tax credits as incentives for a variety of goals.<sup>1</sup> 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.”<sup>2</sup>

## III. Effect of Proposed Changes:

**Section 1** creates s. 202.194, F.S., to establish the advanced clean energy development tax credit. The credit is reserved for a business that creates an advanced clean energy research and development 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” 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 advanced clean energy research and development project conducts research into gas turbine technology. Additionally, the project consists of construction of a facility within the territory of the John F. Kennedy Space Center.

Businesses<sup>3</sup> must apply to Space Florida to receive the corporate income tax credit. Space Florida is directed to make application forms and guidelines available by August 1, 2010, and establish the application due date no later than September 1, 2010. A business may submit only one application. Applications will be reviewed in the order they are received, with one qualifying application 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 advanced clean energy research and development project.

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 shall agree to enter into a sponsored research and development agreement for the term of the project in conjunction with and through a Florida university.<sup>4</sup>

Space Florida will notify the Department of Revenue (department) of the taxpayer certified to receive the credit and provide annual recertification of the taxpayer to the department. Space

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<sup>1</sup> 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.

<sup>2</sup> s. 331.302, F.S.

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

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

Florida may revoke or modify its order certifying a business, and it may order the forfeiture of previously claimed tax credits or credits available to be taken, and must notify the department if this occurs. The department 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 advanced clean energy development tax credit. The business may claim a tax credit of \$3 million during the year in which the application for the project is approved and the written agreement with Space Florida is executed, and \$3 million during the year in which construction of the project begins. Upon approval of an application and the execution of a written agreement with Space Florida, including a binding commitment to complete an advanced clean energy research and development 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 the department may adopt rules to administer s. 220.194, F.S.

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

#### **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:

The advanced energy development tax credit created by this bill will reduce the corporate income tax revenue in the General Revenue Fund by an estimated \$33 million over a period of nine corporate tax years.

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 estimated to be \$33 million for the approved

business. If the business does not claim all of the credits for which it is eligible, the unused amount may be carried forward for a period not to exceed 10 years. In the long term, it may contribute to more efficient energy production.

C. **Government Sector Impact:**

This bill has an insignificant operational impact on the Department of Revenue.

**VI. Technical Deficiencies:**

The Department of Revenue notes three difficulties in implementing and administering the advanced clean energy development 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, the department may need authority to share information concerning the credit with Space Florida.

**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.)

**CS by General Government Appropriations on April 13, 2010:**

The committee substitute replaces a discretionary provision with one that requires a business to enter into a sponsored research and development agreement in conjunction with and through a Florida university as a condition of certification eligibility.

- B. **Amendments:**

None.