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 Budget Committee

BILL:	CS/CS/SB 1318
INTRODUCER:	Senate Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations; Committee on Commerce and Tourism; and Senator Benacquisto
SUBJECT:	Tax Refund for Qualified Target Industry Businesses
DATE:	April 20, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pugh	Cooper	CM	**Fav/CS**
2.	Martin	Meyer, R.	BTA	**Fav/CS**
3.	Martin	Meyer, C.	BC	**Favorable**
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	x	Statement of Substantial Changes
B. AMENDMENTS........................		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

One of the Florida's most popular economic development incentives is the Qualified Target Industry (QTI) Tax Refund Program. By law, QTI provides several criteria for the Governor's Office of Tourism, Trade, and Economic Development (OTTED) and Enterprise Florida, Inc., (EFI) to review when establishing the list of target industries for the incentive.

CS/SB 1318 modifies the criteria by renaming one of the criteria and giving special preference to businesses that enhance trade opportunities and global logistics, one of the new additions to the 2011 Target Industry Sector List.

The bill also adds input from the local governing body recommending the target industry project about which private-sector wage calculation OTTED and the QTI business should use as the baseline for calculating the required 115-percent annual average wage for the business' new employees. Currently only county governing boards are required to notify OTTED and EFI of which calculation must be used.

CS/SB 1318 amends s. 288.106, F.S.

II. Present Situation:

The Qualified Target Industry (QTI) Tax Refund Program[1]

Overview

The QTI program was created by the Florida Legislature in 1994 to attract businesses in "targeted" industry sectors that offer high-wage jobs, high-skilled jobs to relocate in Florida. This incentive provides annual refunds of seven state taxes and local-government ad valorem taxes to businesses that meet job-creation and wage requirements for the new employees, per an agreement with OTTED.

Businesses that locate or expand in Florida are eligible for tax refunds of $3,000 per new job created. The tax refund increases to $6,000 per job for businesses that locate in an enterprise zone or rural county. In addition, a business is eligible for per-job bonuses if certain criteria are met.

A business' application must be reviewed and certified pursuant to the standard 52-day timeline outlined in s. 288.061, F.S., which includes initial review by Enterprise Florida, Inc., and recommendations to OTTED. The executive director of OTTED makes the final decision to award the QTI incentive to a business.

The QTI program is considered by EFI to be the most popular of the state's incentives. According to EFI's 2010 incentives report, of the 110 businesses that applied for the incentive last fiscal year, 78 were approved by OTTED and 63 have entered into agreements with OTTED.[2]

There are 69 active QTI projects. According to the incentives report, the owners of these projects have invested $778 million in Florida, and created 7,427 jobs paying an annual average wage of $46,345.[3] The average statewide private-sector annual wage in 2010 was $39,621, according to data compiled by the Florida Agency for Workforce Innovation.[4]

Key definition

A "target industry business" is defined as either a corporate headquarters or any business that is engaged in one of the target industries identified by OTTED and EFI as meeting all of the statutory criteria in s. 288.106(2)(t), F.S. Those criteria are:

- Future Growth.— Industry forecasts should indicate strong expectation for future growth in both employment and output, according to the most recent available data. Special consideration should be given to businesses that export goods to, or provide services in, international markets and businesses that replace domestic and international imports of goods or services;

[1] Much of the background information on QTI in this section was taken from "Interim Report 2010-211: Sunset Review of the Qualified Target Industry Tax Refund Incentive Program, Section 288.106, F.S." The report is available at: http://archive.flsenate.gov/data/Publications/2010/Senate/reports/interim_reports/pdf/2010-211cm.pdf

[2] Available at http://eflorida.com/IntelligenceCenter/download/ER/BRR_Incentives_Report.pdf Page 13. Site last visited March 24, 2011.

[3] Ibid.

[4] On file with the Senate Commerce and Tourism Committee.

- Stability.—The industry should be stable, not be subject to periodic layoffs, whether due to seasonality or sensitivity to volatile economic variables such as weather, and relatively resistant to recession, so that the demand for its products or services is not necessarily subject to decline during an economic downturn;
- High Wage.—The industry should pay relatively high wages compared to statewide or area salary averages;
- Market and Resource Independent.—The industry should be both market and resource independent. In other words, the business should not be reliant on Florida consumers to purchase its products or services in order to be profitable, nor should it rely on Florida resources;
- Industrial Base Diversification and Strengthening.—The industry should contribute toward diversifying, strengthening, or expanding the state's or area's economic base, as indicated by analysis of employment and output shares compared to national and regional trends. Special consideration should be given to industries that strengthen regional economies by adding value to basic products, building regional industrial clusters, or developing strong industrial clusters that include defense and homeland security businesses; and
- Economic Benefits.— The industry should have strong positive impacts on or benefits to the state and regional economies.

The "target industry list" actually is a list of six industry sectors, with several business types listed under each. It is published in EFI's annual Incentives Report and is attached to OTTED's annual legislative budget request.[5] Originally, the list of target industries was approved by the Legislature, but since 1996 the list has been developed by OTTED, in consultation with EFI and other stakeholders. The Legislature in 2010 required that the list be reviewed, and if appropriate, revised every third year.

Based on that legislatively required review, the list was modified. The 2011 targeted industry list was approved by OTTED in January and includes the seven newly renamed categories of:

- Clean Tech;
- Life Sciences;
- Information Technology;
- Aviation/Aerospace;
- Homeland Security/Defense;
- Financial/Professional Services; and
- Emerging Technologies.

Corporate headquarters, manufacturing, and research and development activities are underneath each category.[6] Included in the "Emerging Technologies" column are: global logistics, marine sciences, materials science, and nanotechnology.

Specifically excluded by statute as "target" industries are: any business engaged in retail activities; any electrical utility company; any phosphate or other solid-minerals severance,

[5] 2010 Incentives Report, prepared by EFI. Information on page 57. Available at http://www.eflorida.com/IntelligenceCenter/download/ER/BRR_Incentives_Report.pdf. Site last visited March 18, 2011.
[6] On file with the Senate Commerce and Tourism Committee.

mining, or processing operation; any oil or gas exploration or production operation; or any business subject to regulation by the state Division of Hotels and Restaurants. Implicitly excluded is agriculture.

Also, call centers and other customer-support businesses[7] may be considered a target industry business only after EFI and the local governing board in the community where the business plans to locate determines that the community is suffering from high unemployment, low per-capita income, or other detrimental job-related problems.

Other Eligibility Criteria
Meeting the definition of "target industry business" is just the first step for a business interested in applying for a QTI incentive. The business also must:

- Agree to create at least 10 new jobs or, if a Florida business planning to expand its operations, agree to create a net increase in employment of at least 10 percent. OTTED may grant a waiver to the minimum 10-percent increase in new jobs by an existing business within an enterprise zone or a rural county;
- Agree to pay each new employee an annual salary that is at least 115 percent of either the average annual private-sector wage in the area where the business plans to locate or expand, or the statewide average annual private-sector wage. Currently, the governing board of the county where the business plans to locate or expand informs OTTED which of the private-sector annual average wage thresholds will serve as the basis on which the 115 percent calculation is based[8]; and
- Receive a commitment of a 20-percent match (cash or in-kind) from the local government where the business proposes to locate or expand. The form of the commitment must be a resolution passed by the county commission. The local match can include the amount of ad valorem tax abatement or the appraised market value of publicly owned land or structures deeded to or leased by the QTI business. If a local government provides less than its 20-percent match, OTTED reduces the state award by the same amount.

Refunds
As mentioned previously, the basic refund is $3,000 per new job created, to be paid out over the term of the business' agreement with OTTED. Eligible businesses can receive double the amount of refunds for new jobs created if they are located in rural counties or in enterprise zones.

Also, bonuses of $1,000 to $2,000 per new job created are available, based on the following criteria:

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[7] Identified by NAICS codes 5611 and 5614. The North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy. The U.S. Office of Management and Budget devised the system.

[8] OTTED also is allowed in statute to waive the wage requirement for businesses that locate in a rural county or city, in an enterprise zone, or in a brownfield area, if requested and justified in writing by the local governmental entity and EFI. A manufacturing project at any location in the state may qualify for the waiver if the jobs proposed to be created pay an estimated annual average wage equaling at least 100 percent of the average private sector wage in the area where the business is to be located.

- A $1,000 per-job bonus if the annual average wage is 150 percent of the statewide or area average annual private-sector wage;
- A $1,000 per-job bonus if the local match is equal to the state's incentive award;
- A $2,000 per-job bonus if the annual average wage is 200 percent of the statewide or area average annual private-sector wage;
- A $2,000 per new job bonus for businesses that increase by 10 percent the tonnage or value of their exports through a Florida airport or publicly owned seaport; and
- A $2,000 per new job bonus if the business is in one of the "high-impact industry sectors" of clean energy, corporate headquarters, financial services, biomedical technology, information technology, and transportation equipment manufacturing.

No business may receive more than $1.5 million in QTI refunds in a single fiscal year, or more than $5 million total over the term of its agreement with OTTED. The exception is for QTI businesses located in an enterprise zone, where the annual cap is $2 million and the overall cap is $7.5 million. Also, no business may receive more than 25 percent of the total award in a single fiscal year; consequently, QTI contracts between OTTED and a business typically are for a term of 4 years.

No business may receive more in tax refunds than taxes paid.

Taxes eligible for refund under the QTI program are the:
- Corporate income taxes under ch. 220, F.S.;
- Insurance premium tax under s. 624.509, F.S.;
- Taxes on the sales, use, and other transactions under ch. 212, F.S.;
- Intangible personal property taxes under ch. 199, F.S.;
- Emergency excise taxes under ch. 221, F.S.;
- Excise taxes on documents under ch. 201, F.S.;
- Ad valorem taxes paid, as defined in s. 220.03(1), F.S.; and
- Certain state communications services taxes administered under ch. 202, F.S.

In s. 288.095(3)(a), F.S., the amount of annual state funding for the QTI and Qualified Defense Contract and Space Business (commonly referred to as QDSC) tax refunds is capped at $35 million. Historically, the majority of the funds are paid out as QTI tax refunds because QTI is the more popular of the two incentive programs. In FY 2010-2011, the Legislature appropriated a lump sum of $16.57 million for the QTI and QDSC tax refund incentive programs.

<u>Global Logistics</u>
Businesses that specialize in global logistics manage the flow of goods and services in the international market. Global logistics begins from the point a product leaves its manufacturer business to its transport within or out of the country, which means the domestic logistics infrastructure also must be efficient. A managed supply chain includes the following: inventory management, coordination of resources, and the transportation, warehousing, and packaging of manufactured goods.

In December 2010, the Florida Chamber Foundation published the Florida Trade and Logistics Report.[9] Among the report's findings:

- In Florida, trucking is the primary method of moving goods, providing transport for more than 73 percent of all tonnage. Movement over water accounts for approximately 15 percent of all freight flows, followed by rail at 12 percent. Air accounts for less than 1 percent by volume, but holds a significant share of high-value goods;
- Domestic and international trade flows to, from, and within Florida were estimated at 623 million tons, or 33 tons per Floridian;
- Of that total, more than half originated and terminated in Florida. About 188 million tons were imports from other nations or states, and the remaining 107 million tons were exports produced in Florida and transported to other nations or states: and
- Trade, logistics, and distribution industries employed 570,000 Floridians in 2008, with an average wage nearly 30 percent higher than the average for all industries in the state. Including spinoff jobs in related industries, trade and logistics industries support about 1.7 million jobs in Florida, nearly 22 percent of employment in the state.

The report made a number of recommendations on how Florida should take advantage of the continuing globalization of the economy, with particular emphasis on attracting a share of the increased waterborne trade when the widened Panama Canal opens in 2014:

- Capture a larger share of the containerized imports originating in Asia and serving Florida businesses and consumers, about half of which enter the nation through seaports in other states today;
- Expand export markets for Florida businesses by filling these import containers with Florida goods and using more efficient logistics patterns to attract advanced manufacturing and other export related industries to Florida;
- Emerge as a global hub for trade and investment, leveraging its location on north-south and east-west trade lanes to become a critical point for processing, assembly, and shipping of goods to markets throughout the eastern United States, Canada, the Caribbean, and Latin America;
- Provide sufficient and reliable funding for transportation infrastructure projects; and
- Designate global trade and logistics as a statewide targeted industry.

Also, one of EFI's strategic priorities from its 2010-2015 Road Map[10] to Florida's Future/Strategic Plan for Economic Development is for the state to improve its transportation systems for global and domestic commerce. The report makes two recommendations related to this effort:

- Maintain and expand Florida's leadership in international trade; and
- Enhance the competitiveness of Florida's infrastructure for international commerce.

[9] Florida Trade and Logistics Study, page 17. Available at: https://www.communicationsmgr.com/projects/1378/docs/FloridaTradeandLogisticsStudy_December2010.pdf. Last visited March 6, 2011.

[10] Available at http://eflorida.com/IntelligenceCenter/Reports/flip/roadmap/index.html.

III. Effect of Proposed Changes:

Section 1: Amends s. 288.106, F.S., to rename the sixth criterion, "Economic Benefits," the more descriptive "Positive Economic Impact," and to revise the explanation of that criterion to include special consideration for industries that facilitate:

> "…the development of Florida as a hub for domestic and global trade and logistics, because such activities generate economic opportunities for multiple target industry sectors."

Also, the local governing body recommending the qualified target industry project is given the opportunity to tell OTTED whether the area or statewide private-sector average wage must be used as the basis for calculating the 115-percent wage figure to be paid by QTI businesses to its new employees.

Section 2: Provides an effective date of July 1, 2011.

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:

None.

B. Private Sector Impact:

Indeterminate. Certain businesses may be given preference over others for economic incentive awards based on the new statutory provision.

C. Government Sector Impact:

Indeterminate, but not likely to have any impact on state or local expenditures for economic development incentives.

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/CS by Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations on April 13, 2011:
The committee adopted one amendment which clarified that the "local governing body recommending the qualified target industry", rather than the "governing board of the county or municipality", is given the opportunity to tell OTTED whether the area or statewide private-sector average wage must be used as the basis for calculating the 115-percent wage figure to be paid by QTI businesses to its new employees.

CS by Commerce and Tourism on March 29, 2011:
The committee adopted two amendments to the bill, which:

- Renamed the "Economic Benefits" criterion "Positive Economic Impacts" and added language giving special consideration to industries that promote enhanced trade and logistics; and
- Added the input from municipal governing boards about which private-sector wage calculation OTTED and the QTI business should use as the baseline for calculating the required 115-percent annual average wage for the business' new employees.

B. Amendments:

None.