

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 143 Tax Credits
SPONSOR(S): Workman and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 790

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Economic Development & Tourism Subcommittee	14 Y, 0 N, As CS	Tecler	Kruse
2) Finance & Tax Committee			
3) Appropriations Committee			
4) Economic Affairs Committee			

SUMMARY ANALYSIS

Numerous changes have occurred in the space industry as NASA has moved towards the end of the space shuttle program. 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 (estimated to be 9,000), 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, which may have the effect of encouraging private sector economic activity. The newly created statutes authorizing the aerospace-sector jobs tax credit and tuition reimbursement tax credit expire on December 31, 2021, with the exception of the carryover provisions.

The bill has a fiscal impact. The bill caps the total amount of credits that may be granted for the aerospace-sector jobs tax credit and tuition reimbursement tax credit at \$2 million in any calendar year. The Revenue Estimating Conference estimates the bill will have a negative recurring impact of \$2 million and a negative \$2 million cash impact in FY 2012-2013 and future years.

The bill has an effective date of January 1, 2012, for tax years beginning on or after that date.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Issue Background

Numerous changes have occurred in the space industry as NASA has moved towards the end of the space shuttle program. 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.

Changes Made By the Bill

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, 2012.

Definitions

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, 2012;
 - 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.

Tax Credits

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 2010-2011 academic year, tuition per credit hour at Florida's public universities was \$95.67, but the average cost per credit hour of tuition

and required fees (including the tuition differential fee) was \$165, a difference of \$69.33 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. An aerospace business may not claim both an aerospace-sector jobs tax credit and a tuition reimbursement tax credit for the same qualified employee. Further, an aerospace business may not count the same eligible employee that qualifies for tax credits under this bill toward any other state tax credit or tax incentive refund. 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.

Carryover Provisions

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.

Application

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.

Penalties

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.

Rulemaking

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.

Expiration

The statutes authorizing the aerospace-sector jobs tax credit and tuition reimbursement tax credit expire on December 31, 2021, with the exception of the carryover provisions. After December 31, 2021, 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.

¹Tuition and required fees for new students in main campus: http://www.flbog.org/about/_doc/budget/tuition/2010-11Fees.xls.
Cost per credit hour of tuition, out-of-state fee and local fees for 2010-2011 main campus and new students:
http://www.flbog.org/resources/factbooks/2009-2010/xls/t35_00_0910_F.xls. (last visited 03/16/2011).

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, 2012, 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, 2012, 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 estimates the bill will have a negative recurring impact of \$2 million and a negative \$2 million cash impact in FY 2012-2013 and future years.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

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. This bill does not appear to affect county or municipal governments.

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/ COMMITTEE SUBSTITUTE CHANGES

On March 22, 2011, the Economic Development and Tourism Subcommittee adopted an amendment that clarifies that an aerospace business may not count the same eligible employee that qualifies for tax credits under this bill toward any other state tax credit or tax incentive refund.

The bill was reported favorably as a committee substitute and the analysis has been updated to reflect the adopted amendment.