

1 A bill to be entitled
2 An act relating to economic development; creating s.
3 220.1945, F.S.; providing definitions; providing tax
4 credits for use by a corporation against the state
5 corporate income tax in an amount equal to a specified
6 percentage of the corporation's payments to a small
7 business providing goods or services to the
8 corporation pursuant to a contract; providing
9 qualification criteria; requiring a business to submit
10 an application to the Department of Economic
11 Opportunity for approval to earn credits; providing
12 application requirements; providing procedures and
13 requirements for department approval; specifying the
14 amount of the tax credit; prohibiting tax credits from
15 being carried forward or backward or being transferred
16 or sold; providing criminal and administrative
17 penalties for fraudulently claiming tax credits;
18 authorizing the Department of Economic Opportunity and
19 the Department of Revenue to adopt rules; amending s.
20 220.02, F.S.; revising the order in which credits
21 against the corporate income tax or franchise tax may
22 be taken to include certain credits relating to a
23 corporation's execution of a business contract with a
24 small business; amending s. 220.13, F.S.; redefining
25 the term "adjusted federal income" to include the
26 amount of such tax credits; providing an effective
27 date.
28

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29 Be It Enacted by the Legislature of the State of Florida:
30

31 Section 1. Section 220.1945, Florida Statutes, is created
32 to read:

33 220.1945 Corporate tax credit for corporations contracting
34 with small businesses.-

35 (1) For the purposes of the credit provided in this
36 section, the term:

37 (a) "Business contract" means a written agreement between
38 a corporation and a small business.

39 (b) "Corporation" means a business that employs 300 or
40 more full-time employees in this state, not including a
41 financial organization as defined in s. 220.15(6) or a bank,
42 savings association, international banking facility, or banking
43 organization as defined in s. 220.62.

44 (c) "Department" means the Department of Economic
45 Opportunity.

46 (d) "Job" means a full-time position as consistent with
47 terms used by the Department of Economic Opportunity and the
48 United States Department of Labor for purposes of unemployment
49 compensation tax administration and employment estimation
50 resulting directly from a business operation in this state.

51 (e) "New employee" means a person who begins a full-time
52 job within a small business but does not include any person who
53 has been employed during the preceding 12 months in a full-time
54 job within the small business.

55 (f)1. "Small business" means a business that employs 25 or
56 fewer full-time employees in the state and 25 or fewer full-time

57 employees outside of the state.

58 2. A business that initially qualifies as a small business
59 under subparagraph 1. remains qualified as a small business if,
60 as a result of the business's fulfillment of the requirements of
61 subparagraph (3)(c)4., the business employs more than 25 full-
62 time employees.

63 (2) Upon an affirmative showing by a corporation and a
64 small business to the satisfaction of the department that the
65 requirements of this section have been met, the corporation is
66 eligible for a credit against its corporate income tax liability
67 under s. 220.11.

68 (3) In order to qualify for the credits provided in this
69 section:

70 (a) A corporation must execute a business contract for the
71 purchase of goods or services with a small business. The terms
72 of the business contract must include, but are not limited to,
73 the following:

74 1. The corporation must pay at least \$100,000 to the small
75 business for goods or services within 1 year after the business
76 contract is signed by both the corporation and the small
77 business.

78 2. The small business must hire, within 60 days after the
79 business contract is signed by both the corporation and the
80 small business, at least two new employees for 1 year.

81 (b) The corporation and the small business must be
82 unrelated parties that were not engaged in a contractual
83 business relationship with each other before July 1, 2013.

84 (c) The corporation and the small business must file with

85 the department, within 90 days after the business contract is
 86 signed by both the corporation and the small business, an
 87 application including, but not limited to, the following:

88 1. A business contract signed by both the corporation and
 89 the small business.

90 2. The names, addresses, and salary or hourly wages paid
 91 to all employees of the small business within the past year.

92 3. The names, addresses, and salary or hourly wages paid
 93 to any new employees of the small business after the signing of
 94 the business contract by both the corporation and the small
 95 business.

96 4. Evidence demonstrating to the department that the total
 97 number of jobs at the small business grew by at least two after
 98 the date the business contract was signed by both the
 99 corporation and the small business.

100 (4) The department shall review the initial application
 101 and, if necessary, notify the corporation and small business of
 102 any omissions and request additional information. An application
 103 is complete upon receipt of all requested information. The
 104 department shall provisionally certify, within 10 working days,
 105 all complete applications containing the information required
 106 under this section. A copy of the provisional certification
 107 shall be transmitted to the executive director of the Department
 108 of Revenue. The department shall also inform the corporation and
 109 the small business in writing within 10 working days after the
 110 date that the department provisionally certifies an application.

111 (5) (a) Within 60 days after satisfying the terms of the
 112 business contract, the corporation and the small business must

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113 notify the department, in writing, that:

114 1. All of the conditions required under this section have
115 been met.

116 2. The corporation intends to claim the credit authorized
117 under this section against its corporate income tax liability
118 under s. 220.11 on the first return due after receipt of final
119 approval from the department.

120 (b) It is the responsibility of the corporation and the
121 small business to affirmatively demonstrate to the satisfaction
122 of the department that the conditions of this section have been
123 met.

124 (6) (a) After final certification by the department, the
125 corporation may take a credit against its corporate income tax
126 liability under s. 220.11 equal to 10 percent of the payments
127 made to the small business during the taxable year under the
128 terms of the business contract.

129 (b) A corporation may not claim a tax credit in excess of
130 its corporate income tax liability under s. 220.11. If the
131 credit granted under this section is not fully taken in any
132 single year because of insufficient tax liability on the part of
133 the corporation, the unused amount may not be carried forward or
134 backward.

135 (c) The credits earned under this section may not be sold
136 or transferred.

137 (7) Any corporation that fraudulently claims to be
138 qualified for tax credits under this section commits a
139 misdemeanor of the second degree, punishable as provided in s.
140 775.082 or s. 775.083. In addition, the corporation is

141 administratively liable for repayment of any tax credits
 142 fraudulently taken plus a mandatory penalty of 100 percent of
 143 the credit plus interest at the rate provided in this chapter.

144 (8) The department and the Department of Revenue may adopt
 145 rules to administer this section.

146 Section 2. Subsection (8) of section 220.02, Florida
 147 Statutes, is amended to read:

148 220.02 Legislative intent.—

149 (8) It is the intent of the Legislature that credits
 150 against either the corporate income tax or the franchise tax be
 151 applied in the following order: those enumerated in s. 631.828,
 152 those enumerated in s. 220.191, those enumerated in s. 220.181,
 153 those enumerated in s. 220.183, those enumerated in s. 220.182,
 154 those enumerated in s. 220.1895, those enumerated in s. 220.195,
 155 those enumerated in s. 220.184, those enumerated in s. 220.186,
 156 those enumerated in s. 220.1845, those enumerated in s. 220.19,
 157 those enumerated in s. 220.185, those enumerated in s. 220.1875,
 158 those enumerated in s. 220.192, those enumerated in s. 220.193,
 159 those enumerated in s. 288.9916, those enumerated in s.
 160 220.1899, those enumerated in s. 220.1896, those enumerated in
 161 s. 220.194, ~~and~~ those enumerated in s. 220.196, and those
 162 enumerated in s. 220.1945.

163 Section 3. Paragraph (a) of subsection (1) of section
 164 220.13, Florida Statutes, is amended to read:

165 220.13 "Adjusted federal income" defined.—

166 (1) The term "adjusted federal income" means an amount
 167 equal to the taxpayer's taxable income as defined in subsection
 168 (2), or such taxable income of more than one taxpayer as

169 provided in s. 220.131, for the taxable year, adjusted as
170 follows:

171 (a) Additions.—There shall be added to such taxable
172 income:

173 1. The amount of any tax upon or measured by income,
174 excluding taxes based on gross receipts or revenues, paid or
175 accrued as a liability to the District of Columbia or any state
176 of the United States which is deductible from gross income in
177 the computation of taxable income for the taxable year.

178 2. The amount of interest which is excluded from taxable
179 income under s. 103(a) of the Internal Revenue Code or any other
180 federal law, less the associated expenses disallowed in the
181 computation of taxable income under s. 265 of the Internal
182 Revenue Code or any other law, excluding 60 percent of any
183 amounts included in alternative minimum taxable income, as
184 defined in s. 55(b)(2) of the Internal Revenue Code, if the
185 taxpayer pays tax under s. 220.11(3).

186 3. In the case of a regulated investment company or real
187 estate investment trust, an amount equal to the excess of the
188 net long-term capital gain for the taxable year over the amount
189 of the capital gain dividends attributable to the taxable year.

190 4. That portion of the wages or salaries paid or incurred
191 for the taxable year which is equal to the amount of the credit
192 allowable for the taxable year under s. 220.181. This
193 subparagraph shall expire on the date specified in s. 290.016
194 for the expiration of the Florida Enterprise Zone Act.

195 5. That portion of the ad valorem school taxes paid or
196 incurred for the taxable year which is equal to the amount of

197 the credit allowable for the taxable year under s. 220.182. This
198 subparagraph shall expire on the date specified in s. 290.016
199 for the expiration of the Florida Enterprise Zone Act.

200 6. The amount taken as a credit under s. 220.195 which is
201 deductible from gross income in the computation of taxable
202 income for the taxable year.

203 7. That portion of assessments to fund a guaranty
204 association incurred for the taxable year which is equal to the
205 amount of the credit allowable for the taxable year.

206 8. In the case of a nonprofit corporation which holds a
207 pari-mutuel permit and which is exempt from federal income tax
208 as a farmers' cooperative, an amount equal to the excess of the
209 gross income attributable to the pari-mutuel operations over the
210 attributable expenses for the taxable year.

211 9. The amount taken as a credit for the taxable year under
212 s. 220.1895.

213 10. Up to nine percent of the eligible basis of any
214 designated project which is equal to the credit allowable for
215 the taxable year under s. 220.185.

216 11. The amount taken as a credit for the taxable year
217 under s. 220.1875. The addition in this subparagraph is intended
218 to ensure that the same amount is not allowed for the tax
219 purposes of this state as both a deduction from income and a
220 credit against the tax. This addition is not intended to result
221 in adding the same expense back to income more than once.

222 12. The amount taken as a credit for the taxable year
223 under s. 220.192.

224 13. The amount taken as a credit for the taxable year

225 | under s. 220.193.

226 | 14. Any portion of a qualified investment, as defined in
227 | s. 288.9913, which is claimed as a deduction by the taxpayer and
228 | taken as a credit against income tax pursuant to s. 288.9916.

229 | 15. The costs to acquire a tax credit pursuant to s.
230 | 288.1254(5) that are deducted from or otherwise reduce federal
231 | taxable income for the taxable year.

232 | 16. The amount taken as a credit for the taxable year
233 | pursuant to s. 220.194.

234 | 17. The amount taken as a credit for the taxable year
235 | under s. 220.196. The addition in this subparagraph is intended
236 | to ensure that the same amount is not allowed for the tax
237 | purposes of this state as both a deduction from income and a
238 | credit against the tax. The addition is not intended to result
239 | in adding the same expense back to income more than once.

240 | 18. The amount taken as a credit for the taxable year
241 | pursuant to s. 220.1945.

242 | Section 4. This act shall take effect January 1, 2014.