

**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.)

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Prepared By: The Professional Staff of the Committee on Commerce and Tourism

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BILL: SB 922

INTRODUCER: Senator Gruters

SUBJECT: Economic Development

DATE: January 17, 2020

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Reeve	McKay	CM	<b>Pre-meeting</b>
2.			ATD	
3.			AP	

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**I. Summary:**

SB 922 makes changes to the Qualified Target Industry Tax Refund Program. Specifically, the bill provides that certain businesses that relocate to, or expand into, a county affected by Hurricane Michael are eligible to receive an increased tax refund and authorizes certain businesses located in a county affected by Hurricane Michael to apply for an economic recovery extension. The bill also removes the scheduled repeal date for the tax refund program.

The bill takes effect July 1, 2020.

**II. Present Situation:**

**Qualified Target Industry Tax Refund Program**

The Qualified Target Industry (QTI) Tax Refund Program was created by the Legislature in 1994 to encourage the creation and retention of high-quality, high-wage jobs by providing state tax refunds to eligible businesses creating jobs in certain target industries. Tax refunds awarded through the program are determined by the number of jobs created, the average annual wages paid, and the location of the eligible business. Under current law, the tax refund program will expire on June 30, 2020.<sup>1</sup>

In order to be eligible to receive a tax refund, a business must apply to be certified as a qualified target industry business by the Department of Economic Opportunity (DEO). Businesses must be engaged in one of Florida's target industries as identified by DEO and Enterprise Florida, Inc. (EFI).<sup>2</sup> The current qualified targeted industries are aviation and aerospace; life sciences;

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<sup>1</sup> Section 288.106(9), F.S.

<sup>2</sup> Section 288.106(2)(q), F.S. Every three years, beginning January 1, 2011, DEO must consult with EFI, economic development organizations, the State University System, local governments, employee and employer organizations, market

manufacturing; defense and homeland security; information technology; financial and professional services; logistics and distribution; research and development; cleantech; and corporate headquarters.<sup>3</sup>

Additionally, a business applying for certification as a qualified target industry business must meet the following requirements:

- A business's project must create at least 10 new jobs, or create a net employment increase of at least 10 percent in the case of an expansion of an existing business. The DEO is authorized to waive this requirement for a business in a rural community or an enterprise zone;<sup>4</sup>
- New jobs must pay an annual average wage of at least 115 percent of the average private sector wage in a business's area or the statewide private sector average wage. The DEO is authorized to waive this requirement for a business in a brownfield area, a rural city, a rural community, or an enterprise zone.<sup>5</sup> Jobs created by a manufacturing project in any location within the state may pay an annual average wage of at least 100 percent of the average private sector wage in a business's area;<sup>6</sup> and
- A business must receive a local funding match, paid by public or private sources, equal to 20 percent of the annual tax refund. The existence of local financial support must be confirmed by a resolution adopted by the governing body of the county or municipality where the business is located.<sup>7</sup> A business located in a brownfield area, a rural city, or a rural community is authorized to exercise an exemption from the local financial support requirement, but the business would not be eligible for more than 80 percent of the total tax refunds originally allowed.<sup>8</sup>

Under s. 288.106(3)(d), tax refunds may be claimed for one or more of the following taxes paid:

- Sales and use tax;
- Corporate income taxes;
- Insurance premium taxes;
- Intangible personal property taxes;
- Ad valorem taxes;
- Certain state communication services taxes; and
- Excise taxes on documents.

Qualified target industry businesses are eligible to receive a tax refund equal to \$3,000 per newly created job. If a business is located in a rural community or an enterprise zone, the refund amount is increased to \$6,000 per created job.<sup>9</sup> Qualified target industry businesses may also be eligible for the following additional tax refund payments under s. 288.106(3)(b):

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analysts, and economists to review and revise the list of target industries. Target industries are determined according to criteria found in statute.

<sup>3</sup> Enterprise Florida, Inc., *Qualified Targeted Industries for Incentives*, available at [https://www.enterpriseflorida.com/wp-content/uploads/SI\\_Targeted\\_Industries.pdf](https://www.enterpriseflorida.com/wp-content/uploads/SI_Targeted_Industries.pdf) (last visited Jan. 17, 2020).

<sup>4</sup> Section 288.106(4)(b)2., F.S.

<sup>5</sup> Section 288.106(4)(b)1.a., F.S.

<sup>6</sup> Section 288.106(4)(b)1.b., F.S.

<sup>7</sup> Section 288.106(4)(a)10., F.S.

<sup>8</sup> Section 288.106(2)(k), F.S.

<sup>9</sup> Section 288.106(3)(b)1., F.S.

- \$1,000 per created job if such jobs pay an average annual wage of at least 150 percent of the average private sector wage in a business's area;
- \$2,000 per created job if such jobs pay an average annual wage of at least 200 percent of the average private sector wage in a business's area;
- \$1,000 per created job if a business's local financial support is equal to the state's incentive award; and
- \$2,000 per created jobs if a business falls within one of the designated high-impact sectors<sup>10</sup> or increases exports of its goods through a seaport<sup>11</sup> or airport in the state by at least 10 percent by value or tonnage in each of the years the business receives a tax refund.

A qualified target industry business cannot receive more than \$1.5 million in tax refunds in any fiscal year, or more than \$2.5 million in any fiscal year if the business is located in an enterprise zone.<sup>12</sup> The total state share of tax refund payments may not exceed \$35 million.<sup>13</sup>

In the event of negative economic conditions in a business's industry, a named hurricane or tropical storm, or specific acts of terrorism, a qualified target industry business may request an economic recovery extension. The request must provide evidence detailing how the aforementioned conditions have prevented a business from carrying out the terms of its tax refund agreement. Upon approval, the DEO will renegotiate a business's tax refund agreement. Agreements may not be extended for more than 2 years, and a business that receives an extension may not receive a tax refund for the period covered by the extension. Requests for an economic recovery extension were permitted in lieu of any tax refund claim scheduled between January 1, 2009, and July 1, 2012.<sup>14</sup>

In response to the Deepwater Horizon oil spill, the Legislature enacted a special incentive within the QTI program to encourage business investment in the counties disproportionately affected by the disaster.<sup>15</sup> DEO was authorized to waive any or all wage or local financial support requirements between July 1, 2011, and June 30, 2014, for a business located in Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, Walton, or Wakulla County. During this period, a qualified target industry business that relocated all or part of its business to one of such counties from another state was also eligible for a tax refund of \$6,000 per job created.<sup>16</sup>

<sup>10</sup> Pursuant to s. 288.108(6), F.S., EFI must consult with the DEO, economic development organizations, the State University System, local governments, employee and employer organizations, market analysts, and economists every three years, beginning January 1, 2011, to review the designated high-impact sectors. The sectors currently designated as high impact are transportation equipment (including aviation and aerospace), information technology, life sciences, financial services, corporate headquarters, and clean energy. See Office of Program Policy Analysis and Government Accountability, *Florida Economic Development Program Evaluations – Year 7*, 17 (2019), available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1916rpt.pdf> (last visited Jan. 17, 2020).

<sup>11</sup> Section 288.106(3)(b)4.b., F.S., limits seaports to the ports of Jacksonville, Tampa, Port Everglades, Miami, Port Canaveral, Ft. Pierce, Palm Beach, Port Manatee, Port St. Joe, Panama City, St. Petersburg, Pensacola, Fernandina, and Key West.

<sup>12</sup> Section 288.106(3)(c), F.S.

<sup>13</sup> Section 288.095(3)(a), F.S.

<sup>14</sup> Section 288.106(5)(b)1., F.S.

<sup>15</sup> Chapter 2011-142, s. 150, Laws of Fla.

<sup>16</sup> Section 288.106(8), F.S.

To date, 1,360 businesses have been approved to participate in the QTI program and over \$260 million has been awarded in tax refunds. According to the DEO, the 321 businesses actively participating in the program in the 2018-2019 fiscal year created 7,462 jobs in total and exceeded the number of total new jobs expected to be created by 3,184.<sup>17</sup>

After June 30, 2020, a business may not become certified as a qualified target industry business. Tax refund agreements already in existence before then will remain in effect.

### **Hurricane Michael**

Hurricane Michael made landfall in the Florida Panhandle as a Category 5 Hurricane on October 10, 2018. The storm, the fourth most powerful hurricane to hit the country, remained at category 3 strength as it traveled into southwest Georgia. Storm surge and 160 mph winds caused destruction and losses of almost \$7 billion along the hurricane's path.<sup>18</sup> In the year following the storm, FEMA has provided \$1.9 billion in federal funds for housing assistance, disaster loans, public assistance grants, and hazard mitigation grants.<sup>19</sup> Businesses have been slow to reopen, largely due to a shortage of workers worsened by the lack of affordable housing in the area.

### **III. Effect of Proposed Changes:**

SB 922 amends certain provisions in s. 288.106, F.S., regarding economic recovery extensions and additional tax refunds for qualified businesses in Disproportionally Affected Counties.

Under current law, a qualified target industry business was authorized to submit a request for an economic recovery extension in lieu of any tax refund claim scheduled to be submitted between January 1, 2009, and July 1, 2012. The bill amends s. 288.106(5)(b)4, F.S., which would allow a qualified target industry business located in a county affected by Hurricane Michael to apply for an economic recovery extension in lieu of any tax refund claim scheduled to be submitted after January 1, 2021, but before July 1, 2023. A business that receives an economic recovery extension may not receive a tax refund for the period covered by the extension, which is not to exceed 2 years.

Section 288.106(8), F.S., authorized the DEO to waive any or all wage or local financial support requirements between July 1, 2011, and June 30, 2014, for a business located in a "Disproportionally Affected County." During this period, a qualified target industry business relocating all or part of its business to a "Disproportionally Affected County" from another state was also eligible for a tax refund of \$6,000 per job created. SB 922 would replace all references to a "Disproportionally Affected County" with a "county affected by Hurricane Michael" and update the period during which requirements can be waived and businesses can receive an additional tax refund to between July 1, 2020, and June 30, 2023. DEO's decision to waive wage

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<sup>17</sup> Florida Department of Economic Opportunity, *2019 Incentives Report*, 7-8, available at [http://www.floridajobs.org/docs/default-source/reports-and-legislation/2018-2019-annual-incentives-report---final.pdf?sfvrsn=c2a340b0\\_2](http://www.floridajobs.org/docs/default-source/reports-and-legislation/2018-2019-annual-incentives-report---final.pdf?sfvrsn=c2a340b0_2) (last visited Jan. 17, 2020).

<sup>18</sup> "A year after Michael, Florida community still in crisis" *Associated Press*, October 9, 2019, available at <https://apnews.com/0d260a9ec44545458ab1f25b6f969a5a> (last visited Jan. 13, 2020).

<sup>19</sup> Federal Emergency Management Agency, *Florida Hurricane Michael*, available at <https://www.fema.gov/disaster/4399> (last visited Jan. 17, 2020).

or financial support eligibility requirements would also have to be stated in writing. The bill would increase the additional tax refund to \$10,000 per created job and entitle a business that “relocates from another state to, or establishes its business or expands its existing business in, a county affected by Hurricane Michael” to such a refund. The bill defines a “county affected by Hurricane Michael” as Bay, Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Okaloosa, Wakulla, Walton, or Washington County.

The bill removes the tax refund program’s expiration date of June 30, 2020, and would permanently reauthorize the program.

The bill takes effect July 1, 2020.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

The Revenue Estimating Conference has not yet met regarding the bill.

The bill increases the amount of tax refunds that certain qualified target industry businesses in specified counties are eligible to receive. However, the annual funding cap of \$35 million, pursuant to s. 288.095(3)(a), F.S., would still apply. This could decrease the total number of tax refunds the DEO is able to award through the program.

B. Private Sector Impact:

The amount of tax refunds available to a qualified target industry business that relocates to or expands into to a county affected by Hurricane Michael is increased from \$6,000 to

\$10,000 per created job, which could incentivize certain businesses to relocate to or expand into those areas.

C. **Government Sector Impact:**

The Department of Economic Opportunity has not yet analyzed the bill's potential impact.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 288.106 of the Florida Statutes.

**IX. Additional Information:**

A. **Committee Substitute – Statement of Changes:**

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

None.

B. **Amendments:**

None.