

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 Committee on Finance and Tax

BILL: SB 982

INTRODUCER: Senator Gruters

SUBJECT: Tax Refund Program for Qualified Target Industry Businesses

DATE: March 17, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Reeve</u>	<u>McKay</u>	<u>CM</u>	Favorable
2.	<u>Kim</u>	<u>Babin</u>	<u>FT</u>	Favorable
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 982 reauthorizes the Qualified Target Industry Tax Refund Program by repealing the June 30, 2020, deadline for applicants to be certified for the program.

The Revenue Estimating Conference determined that the bill does not affect state or local revenues because the Qualified Target Industry Tax Refund Program is funded by annual appropriations.

The bill takes effect July 1, 2021.

II. Present Situation:

Qualified Target Industry Tax Refund Program

The Qualified Target Industry (QTI) Tax Refund Program was created by the Legislature in 1994¹ to encourage the creation and retention of high-quality, high-wage jobs by providing a state grant equal to the amount paid for certain state and local taxes² to eligible businesses creating jobs in certain target industries.³ The amount of the tax refund awarded through the program is determined by, among other factors, the number of jobs created by, the average annual wages paid by, and the location of, the eligible business.⁴ As of June 30, 2020, no

¹ Chapter 94-136, s. 76, Laws of Fla.

² Tax refunds may be claimed for the following taxes paid: sales and use taxes, corporate income taxes, insurance premium taxes, intangible personal property taxes, excise taxes, ad valorem taxes, certain state communication services taxes, excise taxes on documents. *See* s. 288.106(3)(9), F.S.

³ Section 288.106(1), F.S.

⁴ Section 288.106(3)(b), F.S.

additional applicants may be certified under the program; existing agreements made prior to this date will continue in effect according to their terms.⁵

In order to be eligible to receive a grant, a business must apply to be certified as a qualified target industry business with the Department of Economic Opportunity (DEO).⁶ Businesses must be engaged in one of Florida's target industries as identified by the DEO and Enterprise Florida, Inc. (EFI).⁷ The current qualified target industries are aviation and aerospace; corporate headquarters; clean technology; defense and homeland security; financial and professional services; global logistics and trade; information technology; life sciences; manufacturing; and research and development.⁸

Additionally, a business applying for certification as a qualified target industry business must meet all of 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.⁹
- 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.¹⁰ The DEO may waive this requirement under certain circumstances.¹¹
- A business must receive a local funding match, paid by public or private sources, equal to 20 percent of the annual tax refund.¹² 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.¹³ 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.¹⁴

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 amount is increased to \$6,000 per created job.¹⁵ Qualified target industry businesses may also be eligible for the following additional tax refund payments:¹⁶

⁵ Section 288.106(9), F.S.

⁶ Section 288.106(4), F.S.

⁷ Section 288.106(2)(q), F.S. Every three years, beginning January 1, 2011, the DEO must consult with EFI, economic development organizations, the State University System, local governments, employee and employer organizations, market analysts, and economists to review and revise the list of target industries. Target industries are determined according to criteria found in statute.

⁸ Florida Department of Economic Opportunity, *2020 Incentives Report*, 12, available at http://floridajobs.org/docs/default-source/reports-and-legislation/2019-2020-annual-incentives-report-final.pdf?sfvrsn=af674ab0_2 (last visited Mar. 12, 2021).

⁹ Section 288.106(4)(b)2., F.S.

¹⁰ Section 288.106(4)(b)1.a., F.S.

¹¹ See s. 288.106(4)(b)1.b., F.S.

¹² Section 288.106(2)(j), (4)(a)10., F.S.

¹³ Section 288.106(4)(a)10., F.S.

¹⁴ Section 288.106(2)(k), F.S., defines the term "local financial support exemption option" for the section. However, the term does not appear elsewhere in that section and the section does not specify how the option is exercised.

¹⁵ Section 288.106(3)(b)1., F.S.

¹⁶ Section 288.106(3)(b), 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 job if a business falls within one of the designated high-impact sectors¹⁷ or increases exports of its goods through a seaport¹⁸ 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 payment.

A qualified target industry business cannot receive more than \$1.5 million in any fiscal year, or more than \$2.5 million in any fiscal year if the business is located in an enterprise zone.¹⁹ The total state share of payments under the QTI Tax Refund Program plus under the qualified defense contractor and space flight business tax refund program²⁰ may not exceed \$35 million.²¹

In Fiscal Year 2019-2020, the last fiscal year during which applicants could be certified under the program, 7,890 jobs were created by 159 businesses actively participating in the program. The total number of jobs created exceeded the number of total new jobs expected to be created by 3,068.²²

QTI Agreement

Each qualified target industry business must enter into a written agreement with the DEO that specifies certain criteria that must be met in order to be eligible for a payment, including receipts showing the amount of taxes paid and data showing that the business met its performance requirements.²³ Compliance with the terms and conditions of the agreement is a condition precedent for the receipt of a tax refund each year unless the department grants the business an economic recovery extension.²⁴

¹⁷ 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 clean energy, life sciences, financial services, information technology, silicon technology, transportation equipment manufacturing, and corporate headquarters. See Department of Economic Opportunity, *2020 Annual Incentives Report*, 52, available at https://floridajobs.org/docs/default-source/reports-and-legislation/2019-2020-annual-incentives-report-final.pdf?sfvrsn=af674ab0_2 (last visited Mar. 12, 2021).

¹⁸ 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.

¹⁹ Section 288.106(3)(c), F.S.

²⁰ Section 288.1045, F.S.

²¹ Section 288.095(3)(a), F.S.

²² *Supra* note 7, at 7-8.

²³ Section 288.106(5)(a), F.S. The DEO may waive the requirement for proof of taxes paid in future years for a business that provides the DEO with proof that, in a single year, the business has paid an amount of certain state taxes that is at least equal to the total amount of payments that the business would receive through successful completion of its agreement.

Section 288.106(6), F.S.

²⁴ Section 288.106(5)(b), F.S.

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 agreement.²⁵ Upon approval, the DEO will renegotiate a business's 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.²⁶ Requests for an economic recovery extension were permitted in lieu of any claim scheduled between January 1, 2009, and July 1, 2012.²⁷

Economic Evaluation of the QTI Tax Refund Program

The Legislature's Office of Economic and Demographic Research (EDR) and Office of Program Policy Analysis and Government Accountability are required to evaluate, among other economic development programs, the QTI Tax Refund Program every three years.²⁸ EDR is required to evaluate and determine the economic benefits of the program over the previous three years, and must also evaluate the number of jobs created, the increase or decrease in personal income, and the impact on state gross domestic product from the direct, indirect, and induced effects of the state's investment in the program over the previous three years.²⁹ The last evaluation was published in January 2020.³⁰

The January 2020 report analyzed QTI projects (94 in total) that received a payment from the QTI Tax Refund Program during Fiscal Years 2015-2016, 2016-2017, and 2017-2018.³¹ EDR found that the 94 projects received state payments totaling \$12.7 million from QTI during the period.³² There was an estimated 12,156 new project jobs created with an average annual wage of \$79,020, and the economic activity associated with the capital investment and jobs generated a net increase in state revenues of \$68.04 million.³³ The return on investment calculated for the projects was 4.34, which EDR interprets as \$4.34 in tax revenues received back from each dollar spent by the state.³⁴ EDR concluded that the return on investment for the QTI Tax Refund Program was robust and stable between 2017 and 2020.³⁵

III. Effect of Proposed Changes:

The bill repeals s. 288.106(9), F.S., which prohibits the certification of applicants after June 30, 2020. In effect, the bill permanently reauthorizes the QTI program.

²⁵ Section 288.106(5)(b)1., F.S.

²⁶ Section 288.106(5)(b)3., F.S.

²⁷ Section 288.106(5)(b)1., F.S.

²⁸ Section 288.0001(2)(a)2., F.S.

²⁹ Section 288.0001(3), F.S.

³⁰ Office of Economic and Demographic Research, The Florida Legislature, *Economic Evaluation for Select State Economic Development Incentive Programs*, January 2020, available at <http://edr.state.fl.us/Content/returnoninvestment/ROISELECTPROGRAMS2020final.pdf> (last visited Mar. 12, 2021).

³¹ *Id.* at 3, 19.

³² *Id.* at 19.

³³ *Id.*

³⁴ *Id.* at 19, 7.

³⁵ *Id.* at 19. Also see *id.* at 9-10 for EDR's key assumptions for their analysis.

The bill takes effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties and municipalities to spend funds, limit their ability to raise revenue, or reduce the percentage of a state tax shared with them. Therefore, the mandates provisions of Art. VII, s. 18 of the State Constitution do not apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

The bill does not create or raise state taxes or fees. Therefore, the requirements of Art. VII, s. 19 of the State Constitution do not apply.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference determined that the bill does not affect state or local revenues because the QTI Tax Refund Program is funded by annual appropriations.

B. Private Sector Impact:

Target industry businesses that are not under an existing tax refund agreement could apply under the QTI Tax Refund Program and, if qualified, receive refunds of corporate income, insurance premium, sales and use, intangible personal property, documentary stamp, ad valorem, and state communications services taxes paid, subject to legislative appropriation for the program.

C. Government Sector Impact:

None.

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.