

CHAPTER 97-50

Committee Substitute for Senate Bill Nos. 780, 520, and 692

An act relating to economic development; creating ss. 212.097, 212.098, F.S.; creating the Rural Job Tax Credit Program and the Urban High-Crime Area Job Tax Credit Program; amending ss. 220.02, 220.13, F.S.; conforming provisions; creating s. 220.189, F.S.; allowing credit for the Rural Job Tax Credit Program and the Urban High-Crime Area Job Tax Credit Program; providing for a review of the programs; providing an effective date.

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

Section 1. Section 212.097, Florida Statutes, is created to read:

212.097 Urban High-Crime Area Job Tax Credit Program.—

(1) It is the intent of the Legislature to encourage the provision of meaningful employment opportunities that will improve the quality of life of those employed, and to encourage economic expansion of new and existing businesses in urban high-crime areas of this state. Upon an affirmative showing by a business to the satisfaction of the Department of Revenue that the requirements of this section have been met, the business shall be allowed a credit against the tax remitted under this chapter.

(2) As used in this section, the term:

(a) “Eligible business” means any sole proprietorship, firm, partnership, or corporation that is located in a qualified county and is predominantly engaged in, or is headquarters for a business predominantly engaged in, activities usually provided for consideration by firms classified within the following standard industrial classifications: SIC 01 through SIC 09 (agriculture, forestry, and fishing); SIC 20 through SIC 39 (manufacturing); SIC 422 (public warehousing and storage); SIC 70 (hotels and other lodging places); SIC 7391 (research and development); SIC 7992 (public golf courses); and SIC 7996 (amusement parks). Excluded from eligible receipts are receipts from retail sales, except such receipts for hotels and other lodging places classified in SIC 70, public golf courses in SIC 7992, and amusement parks in SIC 7996. For purposes of this paragraph, the term “predominantly” means that more than 50 percent of the business’s gross receipts from all sources is generated by those activities usually provided for consideration by firms in the specified standard industrial classification. The determination of whether the business is located in a qualified high-crime area and the tier ranking of that area must be based on the date of application for the credit under this section. Commonly owned and controlled entities are to be considered a single business entity.

(b) “Qualified employee” means any employee of an eligible business who performs duties in connection with the operations of the business on a regular, full-time basis for an average of at least 36 hours per week for at

least 3 months within the qualified high-crime area in which the eligible business is located. An owner or partner of the eligible business is not a qualified employee. The term also includes an employee leased from an employee leasing company licensed under chapter 468, if such employee has been continuously leased to the employer for an average of at least 36 hours per week for more than 6 months.

(c) “New business” means any eligible business first beginning operation on a site in a qualified high-crime area and clearly separate from any other commercial or business operation of the business entity within a qualified high-crime area. A business entity that operated an eligible business within a qualified high-crime area within the 48 months before the application date shall not be considered a new business.

(d) “Existing business” means any eligible business that does not meet the criteria for a new business.

(e) “Qualified high-crime area” means an area selected by the Office of Tourism, Trade, and Economic Development in the following manner: every third year, the office shall rank and tier those areas nominated under subsection (8), according to the following prioritized criteria:

1. Highest arrest rates within the geographic area for violent crime and for such other crimes as drug sale, drug possession, prostitution, vandalism, and civil disturbances;

2. Highest reported crime volume and rate of specific property crimes such as business and residential burglary, motor vehicle theft, and vandalism;

3. Highest percentage of reported index crimes that are violent in nature;

4. Highest overall index crime volume for the area; and

5. Highest overall index crime rate for the geographic area.

Tier-one areas are ranked 1 through 5 and represent the highest crime areas according to this ranking. Tier-two areas are ranked 6 through 10 according to this ranking. Tier-three areas are ranked 11 through 15.

(3) A new eligible business may apply for a tax credit under this subsection once at any time during its first year of operation. A new eligible business in a tier-one qualified high-crime area which has at least 10 qualified employees on the date of application shall receive a \$1,500 tax credit for each such employee. A new eligible business in a tier-two qualified high-crime area which has at least 20 qualified employees on the date of application shall receive a \$1,000 tax credit for each such employee. A new eligible business in a tier-three qualified high-crime area which has at least 30 qualified employees on the date of application shall receive a \$500 tax credit for each such employee.

(4) An existing eligible business may apply for a tax credit under this subsection at any time it is entitled to such credit, except as restricted by

this subsection. An existing eligible business in a tier-one qualified high-crime area which on the date of application has at least 5 more qualified employees than it had 1 year prior to its date of application shall receive a \$1,500 tax credit for each such additional employee. An existing eligible business in a tier-two qualified high-crime area which on the date of application has at least 10 more qualified employees than it had 1 year prior to its date of application shall receive a \$1,000 credit for each such additional employee. An existing eligible business in a tier-three qualified high-crime area which on the date of application has at least 15 more qualified employees than it had 1 year prior to its date of application shall receive a \$500 tax credit for each such additional employee. An existing eligible business may apply for the credit under this subsection no more than once in any 12-month period. Any existing eligible business that received a credit under subsection (3) may not apply for the credit under this subsection sooner than 12 months after the application date for the credit under subsection (3).

(5) For any new eligible business receiving a credit pursuant to subsection (3), an additional \$500 credit shall be provided for any qualified employee who is a WAGES Program participant pursuant to chapter 414. For any existing eligible business receiving a credit pursuant to subsection (4), an additional \$500 credit shall be provided for any qualified employee who is a WAGES Program participant pursuant to chapter 414. Such employee must be employed on the application date and have been employed less than 1 year. This credit shall be in addition to other credits pursuant to this section regardless of the tier-level of the high-crime area. Appropriate documentation concerning the eligibility of an employee for this credit must be submitted as determined by the department.

(6) To be eligible for a tax credit under subsection (4), the number of qualified employees employed 1 year prior to the application date must be no lower than the number of qualified employees on the application date on which a credit under this section was based for any previous application, including an application under subsection (3).

(7) Any county or municipality, or a county and one or more municipalities together, may apply to the Office of Tourism, Trade, and Economic Development for the designation of an area as a high-crime area after the adoption by the governing body or bodies of a resolution that:

(a) Finds that a high-crime area exists in such county or municipality, or in both the county and one or more municipalities, which chronically exhibits extreme and unacceptable levels of poverty, unemployment, physical deterioration, and economic disinvestment;

(b) Determines that the rehabilitation, conservation, or redevelopment, or a combination thereof, of such a high-crime area is necessary in the interest of the health, safety, and welfare of the residents of such county or municipality, or such county and one or more municipalities; and

(c) Determines that the revitalization of such a high-crime area can occur if the public sector or private sector can be induced to invest its own resources in productive enterprises that build or rebuild the economic viability of the area.

(8) The governing body of the entity nominating the area shall provide to the Office of Tourism, Trade, and Economic Development the following:

(a) The overall index crime rate for the geographic area;

(b) The overall index crime volume for the area;

(c) The percentage of reported index crimes that are violent in nature;

(d) The reported crime volume and rate of specific property crimes such as business and residential burglary, motor vehicle theft, and vandalism; and

(e) The arrest rates within the geographic area for violent crime and for such other crimes as drug sale, drug possession, prostitution, disorderly conduct, vandalism, and other public-order offenses.

(9) A municipality, or a county and one or more municipalities together, may not nominate more than one high-crime area. However, any county as defined by s. 125.011(1) may nominate no more than three high-crime areas.

(10) An area nominated by a county or municipality, or a county and one or more municipalities together, for designation as a high-crime area shall be eligible only if it meets the following criteria:

(a) The selected area does not exceed 20 square miles and either has a continuous boundary or consists of not more than three noncontiguous parcels;

(b) The selected area does not exceed the following mileage limitation:

1. For communities having a total population of 150,000 persons or more, the selected area does not exceed 20 square miles.

2. For communities having a total population of 50,000 persons or more, but fewer than 150,000 persons, the selected area does not exceed 10 square miles.

3. For communities having a total population of 20,000 persons or more, but fewer than 50,000 persons, the selected area does not exceed 5 square miles.

4. For communities having a total population of fewer than 20,000 persons, the selected area does not exceed 3 square miles.

(11)(a) In order to claim this credit, an eligible business must file under oath with the Office of Tourism, Trade, and Economic Development a statement that includes the name and address of the eligible business and any other information that is required to process the application.

(b) Within 30 working days after receipt of an application for credit, the Office of Tourism, Trade, and Economic Development shall review the application to determine whether it contains all the information required by this subsection and meets the criteria set out in this section. Subject to the

provisions of paragraph (c), the Office of Tourism, Trade, and Economic Development shall approve all applications that contain the information required by this subsection and meet the criteria set out in this section as eligible to receive a credit.

(c) The maximum credit amount that may be approved during any calendar year is \$5 million, of which \$1 million shall be exclusively reserved for Tier-one areas. The Department of Revenue, in conjunction with the Office of Tourism, Trade, and Economic Development, shall notify the governing bodies in areas designated as urban high-crime areas when the \$5 million maximum amount has been reached. Applications must be considered for approval in the order in which they are received without regard to whether the credit is for a new or existing business. This limitation applies to the value of the credit as contained in approved applications. Approved credits may be taken in the time and manner allowed pursuant to this section.

(12) If the application is insufficient to support the credit authorized in this section, the Office of Tourism, Trade, and Economic Development shall deny the credit and notify the business of that fact. The business may reapply for this credit within 3 months after such notification.

(13) If the credit under this section is greater than can be taken on a single tax return, excess amounts may be taken as credits on any tax return submitted within 12 months after the approval of the application by the department.

(14) It is the responsibility of each business to affirmatively demonstrate to the satisfaction of the Department of Revenue that it meets the requirements of this section.

(15) Any person who fraudulently claims this credit is liable for repayment of the credit plus a mandatory penalty of 100 percent of the credit and is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(16) A corporation may take the credit under this section against its corporate income tax liability, as provided in s. 220.189. However, a corporation that applies its job tax credit against the tax imposed by chapter 220 may not receive the credit provided for in this section. A credit may be taken against only one tax.

(17) The department shall adopt rules governing the manner and form of applications for credit and may establish guidelines concerning the requisites for an affirmative showing of qualification for the credit under this section.

(18) Applications for credit under this section may be submitted on or after January 1, 1999.

Section 2. Section 212.098, Florida Statutes, is created to read:

212.098 Rural Job Tax Credit Program.—

(1) It is the intent of the Legislature to encourage the provision of meaningful employment opportunities that will improve the quality of life of those employed and to encourage economic expansion of new and existing businesses in rural areas of this state. Upon an affirmative showing by a business to the satisfaction of the Department of Revenue that the requirements of this section have been met, the business shall be allowed a credit against the tax remitted under this chapter.

(2) As used in this section, the term:

(a) "Eligible business" means any sole proprietorship, firm, partnership, or corporation that is located in a qualified county and is predominantly engaged in, or is headquarters for a business predominantly engaged in, activities usually provided for consideration by firms classified within the following standard industrial classifications: SIC 01 through SIC 09 (agriculture, forestry, and fishing); SIC 20 through SIC 39 (manufacturing); SIC 422 (public warehousing and storage); SIC 70 (hotels and other lodging places); SIC 7391 (research and development); SIC 7992 (public golf courses); and SIC 7996 (amusement parks). Excluded from eligible receipts are receipts from retail sales, except such receipts for hotels and other lodging places classified in SIC 70, public golf courses in SIC 7992, and amusement parks in SIC 7996. For purposes of this paragraph, the term "predominantly" means that more than 50 percent of the business's gross receipts from all sources is generated by those activities usually provided for consideration by firms in the specified standard industrial classification. The determination of whether the business is located in a qualified county and the tier ranking of that county must be based on the date of application for the credit under this section. Commonly owned and controlled entities are to be considered a single business entity.

(b) "Qualified employee" means any employee of an eligible business who performs duties in connection with the operations of the business on a regular, full-time basis for an average of at least 36 hours per week for at least 3 months within the qualified county in which the eligible business is located. An owner or partner of the eligible business is not a qualified employee.

(c) "Qualified county" means a county that has a population of fewer than 75,000 persons, or any county that has a population of 100,000 or less and is contiguous to a county that has a population of less than 75,000, selected in the following manner: every third year, the Office of Tourism, Trade, and Economic Development shall rank and tier the state's counties according to the following four factors:

1. Highest unemployment rate for the most recent 36-month period.
2. Lowest per capita income for the most recent 36-month period.
3. Highest percentage of residents whose incomes are below the poverty level, based upon the most recent data available.
4. Average weekly manufacturing wage, based upon the most recent data available.

Tier-one qualified counties are those ranked 1 through 5 and represent the state's least-developed counties according to this ranking. Tier-two qualified counties are those ranked 6 through 10, and tier-three counties are those ranked 11 through 15.

(d) "New business" means any eligible business first beginning operation on a site in a qualified county and clearly separate from any other commercial or business operation of the business entity within a qualified county. A business entity that operated an eligible business within a qualified county within the 48 months before the application date shall not be considered a new business.

(e) "Existing business" means any eligible business that does not meet the criteria for a new business.

(3) A new eligible business may apply for a tax credit under this subsection once at any time during its first year of operation. A new eligible business in a tier-one qualified county which has at least 10 qualified employees on the date of application shall receive a \$1,500 tax credit for each such employee. A new eligible business in a tier-two qualified county which has at least 20 qualified employees on the date of application shall receive a \$1,000 tax credit for each such employee. A new eligible business in a tier-three qualified county which has at least 30 qualified employees on the date of application shall receive a \$500 tax credit for each such employee.

(4) An existing eligible business may apply for a tax credit under this subsection at any time it is entitled to such credit, except as restricted by this subsection. An existing eligible business in a tier-one qualified county which on the date of application has at least 5 more qualified employees than it had 1 year prior to its date of application shall receive a \$1,500 tax credit for each such additional employee. An existing eligible business in a tier-two qualified county which on the date of application has at least 10 more qualified employees than it had 1 year prior to its date of application shall receive a \$1,000 credit for each such additional employee. An existing business in a tier-three qualified county which on the date of application has at least 15 more qualified employees than it had 1 year prior to its date of application shall receive a \$500 tax credit for each such additional employee. An existing eligible business may apply for the credit under this subsection no more than once in any 12-month period. Any existing eligible business that received a credit under subsection (3) may not apply for the credit under this subsection sooner than 12 months after the application date for the credit under subsection (3).

(5) For any new eligible business receiving a credit pursuant to subsection (3), an additional \$500 credit shall be provided for any qualified employee who is a WAGES Program participant pursuant to chapter 414. For any existing eligible business receiving a credit pursuant to subsection (4), an additional \$500 credit shall be provided for any qualified employee who is a WAGES Program participant pursuant to chapter 414. Such employee must be employed on the application date and have been employed less than 1 year. This credit shall be in addition to other credits pursuant to this section regardless of the tier-level of the county. Appropriate documentation

concerning the eligibility of an employee for this credit must be submitted as determined by the department.

(6) To be eligible for a tax credit under subsection (4), the number of qualified employees employed 1 year prior to the application date must be no lower than the number of qualified employees on the application date on which a credit under this section was based for any previous application, including an application under subsection (3).

(7)(a) In order to claim this credit, an eligible business must file under oath with the Office of Tourism, Trade, and Economic Development a statement that includes the name and address of the eligible business, the starting salary or hourly wages paid to the new employee, and any other information that the Department of Revenue requires.

(b) Within 30 working days after receipt of an application for credit, the Office of Tourism, Trade, and Economic Development shall review the application to determine whether it contains all the information required by this subsection and meets the criteria set out in this section. Subject to the provisions of paragraph (c), the Office of Tourism, Trade, and Economic Development shall approve all applications that contain the information required by this subsection and meet the criteria set out in this section as eligible to receive a credit.

(c) The maximum credit amount that may be approved during any calendar year is \$5 million. The Department of Revenue, in conjunction with the Office of Tourism, Trade, and Economic Development, shall notify the governing bodies in areas designated as qualified counties when the \$5 million maximum amount has been reached. Applications must be considered for approval in the order in which they are received without regard to whether the credit is for a new or existing business. This limitation applies to the value of the credit as contained in approved applications. Approved credits may be taken in the time and manner allowed pursuant to this section.

(8) If the application is insufficient to support the credit authorized in this section, the Office of Tourism, Trade, and Economic Development shall deny the credit and notify the business of that fact. The business may reapply for this credit within 3 months after such notification.

(9) If the credit under this section is greater than can be taken on a single tax return, excess amounts may be taken as credits on any tax return submitted within 12 months after the approval of the application by the department.

(10) It is the responsibility of each business to affirmatively demonstrate to the satisfaction of the Department of Revenue that it meets the requirements of this section.

(11) Any person who fraudulently claims this credit is liable for repayment of the credit plus a mandatory penalty of 100 percent of the credit and is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(12) A corporation may take the credit under this section against its corporate income tax liability, as provided in s. 220.189. However, a corporation that uses its job tax credit against the tax imposed by chapter 220 may not receive the credit provided for in this section. A credit may be taken against only one tax.

(13) The department shall adopt rules governing the manner and form of applications for credit and may establish guidelines as to the requisites for an affirmative showing of qualification for the credit under this section.

(14) Applications for a credit under this section may be submitted on or after January 1, 1999.

Section 3. Subsection (10) of section 220.02, Florida Statutes, is amended to read:

220.02 Legislative intent.—

(10) It is the intent of the Legislature that credits against either the corporate income tax or the franchise tax be applied in the following order: those enumerated in s. 220.68, those enumerated in s. 631.719(1), those enumerated in s. 631.705, those enumerated in s. 220.18, those enumerated in s. 631.828, those enumerated in s. 220.181, those enumerated in s. 220.183, those enumerated in s. 220.182, those enumerated in s. 220.189, those enumerated in s. 221.02, those enumerated in s. 220.184, those enumerated in s. 220.186, and those enumerated in s. 220.188.

Section 4. Paragraph (a) of subsection (1) of section 220.13, Florida Statutes, is amended to read:

220.13 “Adjusted federal income” defined.—

(1) The term “adjusted federal income” means an amount equal to the taxpayer’s taxable income as defined in subsection (2), or such taxable income of more than one taxpayer as provided in s. 220.131, for the taxable year, adjusted as follows:

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

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

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

3. In the case of a regulated investment company or real estate investment trust, an amount equal to the excess of the net long-term capital gain

for the taxable year over the amount of the capital gain dividends attributable to the taxable year.

4. That portion of the wages or salaries paid or incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year under s. 220.181. The provisions of this subparagraph shall expire and be void on June 30, 2005.

5. That portion of the ad valorem school taxes paid or incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year under s. 220.182. The provisions of this subparagraph shall expire and be void on June 30, 2005.

6. The amount of emergency excise tax paid or accrued as a liability to this state under chapter 221 which tax is deductible from gross income in the computation of taxable income for the taxable year.

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

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

9. The amount taken as a credit for the taxable year under s. 220.189.

Section 5. Section 220.189, Florida Statutes, is created to read:

220.189 Rural Jobs Credit and Urban High-Crime Area Credit.—There shall be allowed a credit against the tax imposed by this chapter amounts approved by the Office of Tourism, Trade, and Economic Development pursuant to the Rural Jobs Tax Credit Program in s. 212.098 and the Urban High-Crime Area Job Tax Credit Program in s. 212.097. A corporation that uses its credit against the tax imposed by this chapter may not take the credit against the tax imposed by chapter 212. If any credit granted under this section is not fully used in the first year for which it becomes available, the unused amount may be carried forward for a period not to exceed 5 years. The carryover may be used in a subsequent year when the tax imposed by this chapter for such year exceeds the credit for such year under this section after applying the other credits and unused credit carryovers in the order provided in s. 220.02(10). The Office of Tourism, Trade, and Economic Development shall conduct a review of the Urban High-Crime Area Job Tax Credit and the Rural Job Tax Credit Program and submit its report to the Governor, President of the Senate, and the Speaker of the House of Representatives by February 1, 2000.

Section 6. This act shall take effect July 1, 1997.

Approved by the Governor May 7, 1997.

Filed in Office Secretary of State May 7, 1997.