

Council Substitute for House Bill No. 1373

An act relating to the qualified defense contractor tax refund program; amending s. 288.1045, F.S.; revising definitions to include space flight businesses and space flight contracts; specifying a methodology and amounts for tax refund payments to qualified defense contractor businesses; revising provisions authorizing qualified applicants to receive refunds of certain taxes; revising application process requirements to include space flight businesses and contracts; revising information requirements for applications for certain qualified applicant certifications; providing employment requirements for space flight business contracts; specifying required information for applications for certification under space flight business contracts; including space flight businesses under provisions authorizing annual claims for refund; revising limitations on payments of tax refunds; revising certain required reductions of amounts of tax refunds; deleting a reporting requirement of tax refunds paid and use of appropriations expended; extending an expiration date; amending ss. 14.2015 and 213.053, F.S.; conforming program references; providing an effective date.

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

Section 1. Subsection (1), paragraphs (b) and (f) of subsection (2), subsections (3), (4), and (5), paragraphs (d) and (e) of subsection (6), and subsection (8) of section 288.1045, Florida Statutes, are amended to read:

288.1045 Qualified defense contractor and space flight business tax refund program.—

(1) DEFINITIONS.—As used in this section:

~~(a)~~(e) “Applicant” means any business entity that holds a valid Department of Defense contract or space flight business contract, ~~or~~ any business entity that is a subcontractor under a valid Department of Defense contract or space flight business contract, or any business entity that holds a valid contract for the reuse of a defense-related facility, including all members of an affiliated group of corporations as defined in s. 220.03(1)(b).

(b) “Average wage in the area” means the average of all wages and salaries in the state, the county, or in the standard metropolitan area in which the business unit is located.

~~(c)~~(n) “Business unit” means an employing unit, as defined in s. 443.036, that is registered with the Agency for Workforce Innovation for unemployment compensation purposes or means a subcategory or division of an employing unit that is accepted by the Agency for Workforce Innovation as a reporting unit.

~~(d)~~(a) “Consolidation of a Department of Defense contract” means the consolidation of one or more of an applicant’s facilities under one or more

Department of Defense contracts, ~~either~~ from outside this state or from inside and outside this state, into one or more of the applicant's facilities inside this state.

(e) “Consolidation of a space flight business contract” means the consolidation of one or more of an applicant's facilities under one or more space flight business contracts, from outside this state or from inside and outside this state, into one or more of the applicant's facilities inside this state.

~~(f)~~(p) “Contract for reuse of a defense-related facility” means a contract with a duration of 2 or more years for the use of a facility for manufacturing, assembling, fabricating, research, development, or design of tangible personal property, but excluding any contract to provide goods, improvements to real or tangible property, or services directly to or for any particular military base or installation in this state. Such facility must be located within a port, as defined in s. 313.21, and have been occupied by a business entity that held a valid Department of Defense contract or occupied by any branch of the Armed Forces of the United States, within 1 year of any contract being executed for the reuse of such facility. A contract for reuse of a defense-related facility may not include any contract for reuse of such facility for any Department of Defense contract for manufacturing, assembling, fabricating, research, development, or design.

~~(g)~~(e) “Department of Defense contract” means a competitively bid Department of Defense contract or subcontract or a competitively bid federal agency contract or subcontract issued on behalf of the Department of Defense for manufacturing, assembling, fabricating, research, development, or design with a duration of 2 or more years, but excluding any contract or subcontract to provide goods, improvements to real or tangible property, or services directly to or for any particular military base or installation in this state. The term includes contracts or subcontracts for products or services for military use or homeland security which contracts or subcontracts are approved by the United States Department of Defense, the United States Department of State, or the United States Department of Homeland Security.

~~(h)~~(k) “Director” means the director of the Office of Tourism, Trade, and Economic Development.

~~(i)~~(m) “Fiscal year” means the fiscal year of the state.

~~(j)~~(g) “Jobs” means full-time equivalent positions, consistent with the use of such terms by the Agency for Workforce Innovation for the purpose of unemployment compensation tax, created or retained as a direct result of a project in this state. This number does not include temporary construction jobs involved with the construction of facilities for the project.

~~(k)~~(o) “Local financial support” means funding from local sources, public or private, which is paid to the Economic Development Trust Fund and which is equal to 20 percent of the annual tax refund for a qualified applicant. Local financial support may include excess payments made to a utility company under a designated program to allow decreases in service by the utility company under conditions, regardless of when application is made.

A qualified applicant may not provide, directly or indirectly, more than 5 percent of such funding in any fiscal year. The sources of such funding may not include, directly or indirectly, state funds appropriated from the General Revenue Fund or any state trust fund, excluding tax revenues shared with local governments pursuant to law.

(l)(g) “Local financial support exemption option” means the option to exercise an exemption from the local financial support requirement available to any applicant whose project is located in a county designated by the Rural Economic Development Initiative, if the county commissioners of the county in which the project will be located adopt a resolution requesting that the applicant’s project be exempt from the local financial support requirement. Any applicant that exercises this option is not eligible for more than 80 percent of the total tax refunds allowed such applicant under this section.

(m)(f) “New Department of Defense contract” means a Department of Defense contract entered into after the date application for certification as a qualified applicant is made and after January 1, 1994.

(n) “New space flight business contract” means a space flight business contract entered into after an application for certification as a qualified applicant is made after July 1, 2008.

(o)(h) “Nondefense production jobs” means employment exclusively for activities that, directly or indirectly, are unrelated to the Department of Defense.

(p)(d) “Office” means the Office of Tourism, Trade, and Economic Development.

(q)(i) “Project” means any business undertaking in this state under a new Department of Defense contract, consolidation of a Department of Defense contract, new space flight business contract, consolidation of a space flight business contract, or conversion of defense production jobs over to nondefense production jobs or reuse of defense-related facilities.

(r)(j) “Qualified applicant” means an applicant that has been approved by the director to be eligible for tax refunds pursuant to this section.

(s) “Space flight business” means the manufacturing, processing, or assembly of space flight technology products, space flight facilities, space flight propulsion systems, or space vehicles, satellites, or stations of any kind possessing the capability for space flight, as defined by s. 212.02(23), or components thereof, and includes, in supporting space flight, vehicle launch activities, flight operations, ground control or ground support, and all administrative activities directly related to such activities. The term does not include products that are designed or manufactured for general commercial aviation or other uses even if those products may also serve an incidental use in space flight applications.

(t) “Space flight business contract” means a competitively bid federal agency contract, federal agency subcontract, an awarded commercial contract, or an awarded commercial subcontract for space flight business with a duration of 2 or more years.

(u)(4) “Taxable year” means the same as in s. 220.03(1)(y).

(2) GRANTING OF A TAX REFUND; ELIGIBLE AMOUNTS.—

(b) Upon approval by the director, a qualified applicant shall be allowed tax refund payments equal to \$3,000 times the number of jobs specified in the tax refund agreement under subparagraph (4)(a)1. or equal to \$6,000 times the number of jobs if the project is located in a rural county or an enterprise zone. Further, a qualified applicant shall be allowed additional tax refund payments equal to \$1,000 times the number of jobs specified in the tax refund agreement under subparagraph (4)(a)1. if such jobs pay an annual average wage of at least 150 percent of the average private sector wage in the area or equal to \$2,000 times the number of jobs if such jobs pay an annual average wage of at least 200 percent of the average private sector wage in the area. A qualified applicant may not be qualified for any project to receive more than \$5,000 times the number of jobs provided in the tax refund agreement pursuant to subparagraph (4)(a)1. A qualified applicant may not receive refunds of more than 25 percent of the total tax refunds provided in the tax refund agreement pursuant to subparagraph (4)(a)1. in any fiscal year, provided that no qualified applicant may receive more than \$2.5 million in tax refunds pursuant to this section in any fiscal year.

(f) After entering into a tax refund agreement pursuant to subsection (4), a qualified applicant may:

1. Receive refunds from the account for corporate income taxes due and paid pursuant to chapter 220 by that business beginning with the first taxable year of the business which begins after entering into the agreement.

~~2. Receive refunds from the account Economic Development Trust Fund for the following taxes due and paid by that business the qualified applicant beginning with the applicant’s first taxable year that begins after entering into the agreement:~~

~~a.1. Taxes on sales, use, and other transactions paid pursuant to chapter 212.~~

~~2.—Corporate income taxes paid pursuant to chapter 220.~~

~~b.3. Intangible personal property taxes paid pursuant to chapter 199.~~

~~c.4. Emergency excise taxes paid pursuant to chapter 221.~~

~~d.5. Excise taxes paid on documents pursuant to chapter 201.~~

~~e.6. Ad valorem taxes paid, as defined in s. 220.03(1)(a) on June 1, 1996.~~

~~f.7. State communications services taxes administered under chapter 202. This provision does not apply to the gross receipts tax imposed under chapter 203 and administered under chapter 202 or the local communications services tax authorized under s. 202.19.~~

However, a qualified applicant may not receive a tax refund pursuant to this section for any amount of credit, refund, or exemption granted such contrac-

tor for any of such taxes. If a refund for such taxes is provided by the office, which taxes are subsequently adjusted by the application of any credit, refund, or exemption granted to the qualified applicant other than that provided in this section, the qualified applicant shall reimburse the Economic Development Trust Fund for the amount of such credit, refund, or exemption. A qualified applicant must notify and tender payment to the office within 20 days after receiving a credit, refund, or exemption, other than that provided in this section. The addition of communications services taxes administered under chapter 202 is remedial in nature and retroactive to October 1, 2001. The office may make supplemental tax refund payments to allow for tax refunds for communications services taxes paid by an eligible qualified defense contractor after October 1, 2001.

(3) APPLICATION PROCESS; REQUIREMENTS; AGENCY DETERMINATION.—

(a) To apply for certification as a qualified applicant pursuant to this section, an applicant must file an application with the office which satisfies the requirements of paragraphs (b) and (e), paragraphs (c) and (e), ~~or paragraphs (d) and (e), or paragraphs (e) and (k)~~. An applicant may not apply for certification pursuant to this section after a proposal has been submitted for a new Department of Defense contract, after the applicant has made the decision to consolidate an existing Department of Defense contract in this state for which such applicant is seeking certification, after a proposal has been submitted for a new space flight business contract in this state, after the applicant has made the decision to consolidate an existing space flight business contract in this state for which such applicant is seeking certification, or after the applicant has made the decision to convert defense production jobs to nondefense production jobs for which such applicant is seeking certification.

(b) Applications for certification based on the consolidation of a Department of Defense contract or a new Department of Defense contract must be submitted to the office as prescribed by the office and must include, but are not limited to, the following information:

1. The applicant's federal employer identification number, the applicant's Florida sales tax registration number, and a ~~notarized~~ signature of an officer of the applicant.

2. The permanent location of the manufacturing, assembling, fabricating, research, development, or design facility in this state at which the project is or is to be located.

3. The Department of Defense contract numbers of the contract to be consolidated, the new Department of Defense contract number, or the "RFP" number of a proposed Department of Defense contract.

4. The date the contract was executed or is expected to be executed, and the date the contract is due to expire or is expected to expire.

5. The commencement date for project operations under the contract in this state.

6. The number of net new full-time equivalent Florida jobs included in the project as of December 31 of each year and the average wage of such jobs.

7. The total number of full-time equivalent employees employed by the applicant in this state.

8. The percentage of the applicant's gross receipts derived from Department of Defense contracts during the 5 taxable years immediately preceding the date the application is submitted.

9. The number of full-time equivalent jobs in this state to be retained by the project.

~~10. The estimated amount of tax refunds to be claimed for each fiscal year.~~

~~10.11.~~ A brief statement concerning the applicant's need for tax refunds, and the proposed uses of such refunds by the applicant.

~~11.12.~~ A resolution adopted by the governing board ~~county commissioners~~ of the county or municipality in which the project will be located, which recommends the applicant be approved as a qualified applicant, and which indicates that the necessary commitments of local financial support for the applicant exist. Prior to the adoption of the resolution, the county commission may review the proposed public or private sources of such support and determine whether the proposed sources of local financial support can be provided or, for any applicant whose project is located in a county designated by the Rural Economic Development Initiative, a resolution adopted by the county commissioners of such county requesting that the applicant's project be exempt from the local financial support requirement.

~~12.13.~~ Any additional information requested by the office.

(c) Applications for certification based on the conversion of defense production jobs to nondefense production jobs must be submitted to the office as prescribed by the office and must include, but are not limited to, the following information:

1. The applicant's federal employer identification number, the applicant's Florida sales tax registration number, and a ~~notarized~~ signature of an officer of the applicant.

2. The permanent location of the manufacturing, assembling, fabricating, research, development, or design facility in this state at which the project is or is to be located.

3. The Department of Defense contract numbers of the contract under which the defense production jobs will be converted to nondefense production jobs.

4. The date the contract was executed, and the date the contract is due to expire or is expected to expire, or was canceled.

5. The commencement date for the nondefense production operations in this state.

6. The number of net new full-time equivalent Florida jobs included in the nondefense production project as of December 31 of each year and the average wage of such jobs.

7. The total number of full-time equivalent employees employed by the applicant in this state.

8. The percentage of the applicant's gross receipts derived from Department of Defense contracts during the 5 taxable years immediately preceding the date the application is submitted.

9. The number of full-time equivalent jobs in this state to be retained by the project.

~~10. The estimated amount of tax refunds to be claimed for each fiscal year.~~

~~10.11.~~ A brief statement concerning the applicant's need for tax refunds, and the proposed uses of such refunds by the applicant.

~~11.12.~~ A resolution adopted by the governing board ~~county commissioners~~ of the county or municipality in which the project will be located, which recommends the applicant be approved as a qualified applicant, and which indicates that the necessary commitments of local financial support for the applicant exist. Prior to the adoption of the resolution, the county commission may review the proposed public or private sources of such support and determine whether the proposed sources of local financial support can be provided or, for any applicant whose project is located in a county designated by the Rural Economic Development Initiative, a resolution adopted by the county commissioners of such county requesting that the applicant's project be exempt from the local financial support requirement.

~~12.13.~~ Any additional information requested by the office.

(d) Applications for certification based on a contract for reuse of a defense-related facility must be submitted to the office as prescribed by the office and must include, but are not limited to, the following information:

1. The applicant's Florida sales tax registration number and a ~~notarized~~ signature of an officer of the applicant.

2. The permanent location of the manufacturing, assembling, fabricating, research, development, or design facility in this state at which the project is or is to be located.

3. The business entity holding a valid Department of Defense contract or branch of the Armed Forces of the United States that previously occupied the facility, and the date such entity last occupied the facility.

4. A copy of the contract to reuse the facility, or such alternative proof as may be prescribed by the office that the applicant is seeking to contract for the reuse of such facility.

5. The date the contract to reuse the facility was executed or is expected to be executed, and the date the contract is due to expire or is expected to expire.

6. The commencement date for project operations under the contract in this state.

7. The number of net new full-time equivalent Florida jobs included in the project as of December 31 of each year and the average wage of such jobs.

8. The total number of full-time equivalent employees employed by the applicant in this state.

9. The number of full-time equivalent jobs in this state to be retained by the project.

~~10. The estimated amount of tax refunds to be claimed for each fiscal year.~~

10.11. A brief statement concerning the applicant's need for tax refunds, and the proposed uses of such refunds by the applicant.

11.12. A resolution adopted by the governing board ~~county commissioners~~ of the county or municipality in which the project will be located, which recommends the applicant be approved as a qualified applicant, and which indicates that the necessary commitments of local financial support for the applicant exist. Prior to the adoption of the resolution, the county commission may review the proposed public or private sources of such support and determine whether the proposed sources of local financial support can be provided or, for any applicant whose project is located in a county designated by the Rural Economic Development Initiative, a resolution adopted by the county commissioners of such county requesting that the applicant's project be exempt from the local financial support requirement.

12.13. Any additional information requested by the office.

(e) To qualify for review by the office, the application of an applicant must, at a minimum, establish the following to the satisfaction of the office:

1. The jobs proposed to be provided under the application, pursuant to subparagraph (b)6., ~~or subparagraph (c)6., or subparagraph (k)6.,~~ must pay an estimated annual average wage equaling at least 115 percent of the average wage in the area where the project is to be located.

2. The consolidation of a Department of Defense contract must result in a net increase of at least 25 percent in the number of jobs at the applicant's facilities in this state or the addition of at least 80 jobs at the applicant's facilities in this state.

3. The conversion of defense production jobs to nondefense production jobs must result in net increases in nondefense employment at the applicant's facilities in this state.

4. The Department of Defense contract or the space flight business contract cannot allow the business to include the costs of relocation or retooling in its base as allowable costs under a cost-plus, or similar, contract.

5. A business unit of the applicant must have derived not less than 60 percent of its gross receipts in this state from Department of Defense contracts or space flight business contracts over the applicant's last fiscal year, and must have derived not less than an average of 60 percent of its gross receipts in this state from Department of Defense contracts or space flight business contracts over the 5 years preceding the date an application is submitted pursuant to this section. This subparagraph does not apply to any application for certification based on a contract for reuse of a defense-related facility.

6. The reuse of a defense-related facility must result in the creation of at least 100 jobs at such facility.

7. A new space flight business contract or the consolidation of a space flight business contract must result in net increases in space flight business employment at the applicant's facilities in this state.

(f) Each application meeting the requirements of paragraphs (b) and (e), paragraphs (c) and (e), ~~or paragraphs (d) and (e), or paragraphs (e) and (k)~~ must be submitted to the office for a determination of eligibility. The office shall review and, ~~evaluate, and score~~ each application based on, but not limited to, the following criteria:

1. Expected contributions to the state strategic economic development plan adopted by Enterprise Florida, Inc., taking into account the extent to which the project contributes to the state's high-technology base, and the long-term impact of the project and the applicant on the state's economy.

2. The economic benefit of the jobs created or retained by the project in this state, taking into account the cost and average wage of each job created or retained, and the potential risk to existing jobs.

3. The amount of capital investment to be made by the applicant in this state.

4. The local commitment and support for the project and applicant.

5. The impact of the project on the local community, taking into account the unemployment rate for the county where the project will be located.

6. The dependence of the local community on the defense industry or space flight business.

7. The impact of any tax refunds granted pursuant to this section on the viability of the project and the probability that the project will occur in this state if such tax refunds are granted to the applicant, taking into account the expected long-term commitment of the applicant to economic growth and employment in this state.

8. The length of the project, or the expected long-term commitment to this state resulting from the project.

(g) The office shall forward its written findings and evaluation on each application meeting the requirements of paragraphs (b) and (e), paragraphs (c) and (e), ~~or paragraphs (d) and (e), or paragraphs (e) and (k)~~ to the director within 60 calendar days after receipt of a complete application. The office shall notify each applicant when its application is complete, and when the 60-day period begins. In its written report to the director, the office shall specifically address each of the factors specified in paragraph (f), and shall make a specific assessment with respect to the minimum requirements established in paragraph (e). The office shall include in its report projections of the tax refunds the applicant would be eligible to receive in each fiscal year based on the creation and maintenance of the net new Florida jobs specified in subparagraph (b)6., subparagraph (c)6., ~~or subparagraph (d)7., or subparagraph (k)6.~~ as of December 31 of the preceding state fiscal year.

(h) Within 30 days after receipt of the office's findings and evaluation, the director shall issue a letter of certification which either approves or disapproves an application. The decision must be in writing and provide the justifications for either approval or disapproval. If appropriate, the director shall enter into a written agreement with the qualified applicant pursuant to subsection (4).

(i) The director may not certify any applicant as a qualified applicant when the value of tax refunds to be included in that letter of certification exceeds the available amount of authority to certify new businesses as determined in s. 288.095(3). A letter of certification that approves an application must specify the maximum amount of a tax refund that is to be available to the contractor for each fiscal year and the total amount of tax refunds for all fiscal years.

(j) This section does not create a presumption that an applicant should receive any tax refunds under this section.

(k) Applications for certification based upon a new space flight business contract or the consolidation of a space flight business contract must be submitted to the office as prescribed by the office and must include, but are not limited to, the following information:

1. The applicant's federal employer identification number, the applicant's Florida sales tax registration number, and a signature of an officer of the applicant.

2. The permanent location of the space flight business facility in this state where the project is or will be located.

3. The new space flight business contract number, the space flight business contract numbers of the contract to be consolidated, or the request-for-proposal number of a proposed space flight business contract.

4. The date the contract was executed and the date the contract is due to expire, is expected to expire, or was canceled.

5. The commencement date for project operations under the contract in this state.

6. The number of net new full-time equivalent Florida jobs included in the project as of December 31 of each year and the average wage of such jobs.

7. The total number of full-time equivalent employees employed by the applicant in this state.

8. The percentage of the applicant's gross receipts derived from space flight business contracts during the 5 taxable years immediately preceding the date the application is submitted.

9. The number of full-time equivalent jobs in this state to be retained by the project.

10. A brief statement concerning the applicant's need for tax refunds and the proposed uses of such refunds by the applicant.

11. A resolution adopted by the governing board of the county or municipality in which the project will be located which recommends the applicant be approved as a qualified applicant and indicates that the necessary commitments of local financial support for the applicant exist. Prior to the adoption of the resolution, the county commission may review the proposed public or private sources of such support and determine whether the proposed sources of local financial support can be provided or, for any applicant whose project is located in a county designated by the Rural Economic Development Initiative, a resolution adopted by the county commissioners of such county requesting that the applicant's project be exempt from the local financial support requirement.

12. Any additional information requested by the office.

(4) ~~QUALIFIED APPLICANT DEFENSE CONTRACTOR TAX REFUND AGREEMENT.~~—

(a) A qualified applicant shall enter into a written agreement with the office containing, but not limited to, the following:

1. The total number of full-time equivalent jobs in this state that are or will be dedicated to the qualified applicant's project, the average wage of such jobs, the definitions that will apply for measuring the achievement of these terms during the pendency of the agreement, and a time schedule or plan for when such jobs will be in place and active in this state.

2. The maximum amount of a refund that the qualified applicant is eligible to receive for each fiscal year, based on the job creation or retention and maintenance schedule specified in subparagraph 1.

3. An agreement with the office allowing the office to review and verify the financial and personnel records of the qualified applicant to ascertain whether the qualified applicant is complying with the requirements of this section.

4. The date by which, in each fiscal year, the qualified applicant may file a claim pursuant to subsection (5) to be considered to receive a tax refund in the following fiscal year.

5. That local financial support shall be annually available and will be paid to the Economic Development Trust Fund.

(b) Compliance with the terms and conditions of the agreement is a condition precedent for receipt of tax refunds each year. The failure to comply with the terms and conditions of the agreement shall result in the loss of eligibility for receipt of all tax refunds previously authorized pursuant to this section, and the revocation of the certification as a qualified applicant by the director, unless the qualified applicant is eligible to receive and elects to accept a prorated refund under paragraph (5)(g) or the office grants the qualified applicant an economic-stimulus exemption.

1. A qualified applicant may submit, in writing, a request to the office for an economic-stimulus exemption. The request must provide quantitative evidence demonstrating how negative economic conditions in the qualified applicant's industry, the effects of the impact of a named hurricane or tropical storm, or specific acts of terrorism affecting the qualified applicant have prevented the qualified applicant from complying with the terms and conditions of its tax refund agreement.

2. Upon receipt of a request under subparagraph 1., the director shall have 45 days to notify the requesting qualified applicant, in writing, if its exemption has been granted or denied. In determining if an exemption should be granted, the director shall consider the extent to which negative economic conditions in the requesting qualified applicant's industry, the effects of the impact of a named hurricane or tropical storm, or specific acts of terrorism affecting the qualified applicant have prevented the qualified applicant from complying with the terms and conditions of its tax refund agreement.

3. As a condition for receiving a prorated refund under paragraph (5)(g) or an economic-stimulus exemption under this paragraph, a qualified applicant must agree to renegotiate its tax refund agreement with the office to, at a minimum, ensure that the terms of the agreement comply with current law and office procedures governing application for and award of tax refunds. Upon approving the award of a prorated refund or granting an economic-stimulus exemption, the office shall renegotiate the tax refund agreement with the qualified applicant as required by this subparagraph. When amending the agreement of a qualified applicant receiving an economic-stimulus exemption, the office may extend the duration of the agreement for a period not to exceed 2 years.

4. A qualified applicant may submit a request for an economic-stimulus exemption to the office in lieu of any tax refund claim scheduled to be submitted after January 1, 2005, but before July 1, 2006.

5. A qualified applicant that receives an economic-stimulus exemption may not receive a tax refund for the period covered by the exemption.

(c) The agreement shall be signed by the director and the authorized officer of the qualified applicant.

(d) The agreement must contain the following legend, clearly printed on its face in bold type of not less than 10 points:

“This agreement is neither a general obligation of the State of Florida, nor is it backed by the full faith and credit of the State of Florida. Payment of tax refunds are conditioned on and subject to specific annual appropriations by the Florida Legislature of funds sufficient to pay amounts authorized in s. 288.1045, Florida Statutes.”

(5) ANNUAL CLAIM FOR REFUND FROM A QUALIFIED DEFENSE CONTRACTOR.—

(a) To be eligible to claim any scheduled tax refund, qualified applicants who have entered into a written agreement with the office pursuant to subsection (4) and who have entered into a valid new Department of Defense contract, entered into a valid new space flight business contract, commenced the consolidation of a space flight business contract, commenced the consolidation of a Department of Defense contract, commenced the conversion of defense production jobs to nondefense production jobs, or entered into a valid contract for reuse of a defense-related facility must apply by January 31 of each fiscal year to the office for tax refunds scheduled to be paid from the appropriation for the fiscal year that begins on July 1 following the January 31 claims-submission date. The office may, upon written request, grant a 30-day extension of the filing date. The application must include a notarized signature of an officer of the applicant.

(b) The claim for refund by the qualified applicant must include a copy of all receipts pertaining to the payment of taxes for which a refund is sought, and data related to achieving each performance item contained in the tax refund agreement pursuant to subsection (4). The amount requested as a tax refund may not exceed the amount for the relevant fiscal year in the written agreement entered pursuant to subsection (4).

(c) A tax refund may not be approved for any qualified applicant unless local financial support has been paid to the Economic Development Trust Fund for that refund. If the local financial support is less than 20 percent of the approved tax refund, the tax refund shall be reduced. The tax refund paid may not exceed 5 times the local financial support received. Funding from local sources includes tax abatement under s. 196.1995 or the appraised market value of municipal or county land, including any improvements or structures, conveyed or provided at a discount through a sale or lease to that applicant ~~provided to a qualified applicant~~. The amount of any tax refund for an applicant approved under this section shall be reduced by the amount of any such tax abatement granted or the value of the land granted, including the value of any improvements or structures; and the limitations in subsection (2) and paragraph (3)(h) shall be reduced by the amount of any such tax abatement or the value of the land granted, including any improvements or structures. A report listing all sources of the local financial support shall be provided to the office when such support is paid to the Economic Development Trust Fund.

(d) The director, with assistance from the office, the Department of Revenue, and the Agency for Workforce Innovation, shall, by June 30 following the scheduled date for submitting the tax refund claim, specify by written order the approval or disapproval of the tax refund claim and, if approved, the amount of the tax refund that is authorized to be paid to the qualified applicant for the annual tax refund. The office may grant an extension of this date upon the request of the qualified applicant for the purpose of filing additional information in support of the claim.

(e) The total amount of tax refunds approved by the director under this section in any fiscal year may not exceed the amount authorized under s. 288.095(3).

(f) Upon approval of the tax refund pursuant to paragraphs (c) and (d), the Chief Financial Officer shall issue a warrant for the amount included in the written order. In the event of any appeal of the written order, the Chief Financial Officer may not issue a warrant for a refund to the qualified applicant until the conclusion of all appeals of the written order.

(g) A prorated tax refund, less a 5 percent penalty, shall be approved for a qualified applicant provided all other applicable requirements have been satisfied and the applicant proves to the satisfaction of the director that it has achieved at least 80 percent of its projected employment and that the average wage paid by the qualified applicant is at least 90 percent of the average wage specified in the tax refund agreement, but in no case less than 115 percent of the average private sector wage in the area available at the time of certification. The prorated tax refund shall be calculated by multiplying the tax refund amount for which the qualified applicant would have been eligible, if all applicable requirements had been satisfied, by the percentage of the average employment specified in the tax refund agreement which was achieved, and by the percentage of the average wages specified in the tax refund agreement which was achieved.

(h) This section does not create a presumption that a tax refund claim will be approved and paid.

(6) ADMINISTRATION.—

~~(d) By December 1 of each year, the office shall submit a complete and detailed report to the Governor, the President of the Senate, and the Speaker of the House of Representatives of all tax refunds paid under this section, including analyses of benefits and costs, types of projects supported, employment and investment created, geographic distribution of tax refunds granted, and minority business participation. The report must indicate whether the moneys appropriated by the Legislature to the qualified applicant tax refund program were expended in a prudent, fiducially sound manner.~~

~~(d)~~(e) Funds specifically appropriated for the tax refund program under this section may not be used for any purpose other than the payment of tax refunds authorized by this section.

(8) EXPIRATION.—An applicant may not be certified as qualified under this section after June 30, ~~2014~~ 2010. A tax refund agreement existing on that date shall continue in effect in accordance with its terms.

Section 2. Paragraph (f) of subsection (2) of section 14.2015, Florida Statutes, is amended to read:

14.2015 Office of Tourism, Trade, and Economic Development; creation; powers and duties.—

(2) The purpose of the Office of Tourism, Trade, and Economic Development is to assist the Governor in working with the Legislature, state agencies, business leaders, and economic development professionals to formulate and implement coherent and consistent policies and strategies designed to provide economic opportunities for all Floridians. To accomplish such purposes, the Office of Tourism, Trade, and Economic Development shall:

(f)1. Administer the Florida Enterprise Zone Act under ss. 290.001-290.016, the community contribution tax credit program under ss. 220.183 and 624.5105, the tax refund program for qualified target industry businesses under s. 288.106, the tax-refund program for qualified defense contractors and space flight business contractors under s. 288.1045, contracts for transportation projects under s. 288.063, the sports franchise facility program under s. 288.1162, the professional golf hall of fame facility program under s. 288.1168, the expedited permitting process under s. 403.973, the Rural Community Development Revolving Loan Fund under s. 288.065, the Regional Rural Development Grants Program under s. 288.018, the Certified Capital Company Act under s. 288.99, the Florida State Rural Development Council, the Rural Economic Development Initiative, and other programs that are specifically assigned to the office by law, by the appropriations process, or by the Governor. Notwithstanding any other provisions of law, the office may expend interest earned from the investment of program funds deposited in the Grants and Donations Trust Fund to contract for the administration of the programs, or portions of the programs, enumerated in this paragraph or assigned to the office by law, by the appropriations process, or by the Governor. Such expenditures shall be subject to review under chapter 216.

2. The office may enter into contracts in connection with the fulfillment of its duties concerning the Florida First Business Bond Pool under chapter 159, tax incentives under chapters 212 and 220, tax incentives under the Certified Capital Company Act in chapter 288, foreign offices under chapter 288, the Enterprise Zone program under chapter 290, the Seaport Employment Training program under chapter 311, the Florida Professional Sports Team License Plates under chapter 320, Spaceport Florida under chapter 331, Expedited Permitting under chapter 403, and in carrying out other functions that are specifically assigned to the office by law, by the appropriations process, or by the Governor.

Section 3. Paragraph (k) of subsection (8) of section 213.053, Florida Statutes, is amended to read:

213.053 Confidentiality and information sharing.—

(8) Notwithstanding any other provision of this section, the department may provide:

(k)1. Payment information relative to chapters 199, 201, 202, 212, 220, 221, and 624 to the Office of Tourism, Trade, and Economic Development, or its employees or agents that are identified in writing by the office to the department, in the administration of the tax refund program for qualified defense contractors and space flight business contractors authorized by s. 288.1045 and the tax refund program for qualified target industry businesses authorized by s. 288.106.

2. Information relative to tax credits taken by a business under s. 220.191 and exemptions or tax refunds received by a business under s. 212.08(5)(j) to the Office of Tourism, Trade, and Economic Development, or its employees or agents that are identified in writing by the office to the department, in the administration and evaluation of the capital investment tax credit program authorized in s. 220.191 and the semiconductor, defense, and space tax exemption program authorized in s. 212.08(5)(j).

Disclosure of information under this subsection shall be pursuant to a written agreement between the executive director and the agency. Such agencies, governmental or nongovernmental, shall be bound by the same requirements of confidentiality as the Department of Revenue. Breach of confidentiality is a misdemeanor of the first degree, punishable as provided by s. 775.082 or s. 775.083.

Section 4. This act shall take effect July 1, 2008.

Approved by the Governor May 28, 2008.

Filed in Office Secretary of State May 28, 2008.