



Issue Brief

November 2011

State Tax and Budget Policies Provide Billions in Benefits to Select Businesses Each Year

Subsidies Occur With Little Examination or Accountability, Even as Policymakers and Business Organizations Ask for More

Introduction

Governor Rick Scott and Florida business organizations are proposing a variety of new tax breaks and other benefits to business that they say are necessary to establish a more favorable “business climate” for job creation.^{1,2} But Florida already provides huge benefits to selected companies each year, many of which receive little or no examination of their value to Florida’s economy.

One way Florida sends money to corporations and other businesses is finally under scrutiny – so-called “economic development incentives” involving direct handouts or other subsidies from tax money to a single business in exchange for the promise to retain or create jobs. Like other categories of taxpayer-funded benefits to business, these subsidies have been awarded with almost no public scrutiny and with little, if any, accountability for the results achieved.

In fact, as recent reports show, many direct payments to corporations from tax dollars fail to produce the number of jobs promised. Often corporations responsible for these “tax funded flops,” as they were called by one Florida newspaper,³ have escaped any consequences. Despite the acknowledged failures, the state has recovered little tax money paid to corporations that failed to produce promised jobs.⁴

Florida already provides more than \$4 billion in annual monetary benefits to businesses through numerous tax and budget policies that escape scrutiny. The effect of those benefits should be understood before more are granted.

This hands-off treatment of corporations differs greatly from that given to public schools and state agencies that must operate under a new collection of “accountability” mandates from the legislature each year.

Understanding existing benefits – how much they cost taxpayers, who benefits, and who is left out – is important to ongoing policy debates about new aid to corporations for several reasons:

- Tax dollars spent on corporate subsidies and other business tax breaks directly decrease the amount of funds available for critical services provided by the state, such as education (which provides a qualified work force), health care (which provides a healthy workforce), and services to Floridians suffering from the worst economic downturn since the Great Depression. High unemployment, rising poverty, and growing income inequality make the social safety net more important than ever to millions of struggling Floridians.

Tax dollars spent on corporate subsidies and other business tax breaks directly decrease the amount of funds available for critical services provided by the state.

This safety net also keeps dollars flowing in communities so consumers can continue to purchase goods and services from businesses. The Florida safety net grows weaker each year through budget cuts, even as the legislature directs more and more tax dollars to businesses without knowing whether these benefits accomplish the objectives for which they were granted.

- Reviewing the scope and beneficiaries of current budget and tax incentives and breaks fosters accountability and helps the public and legislators determine whether they result in economic growth.
- Some appropriations to corporations and tax breaks provided to business may have outlasted their original purpose and needlessly cost the state money.
- An accounting of tax dollars distributed as benefits to businesses advances an important goal of business groups themselves: calling for “fairness and equity in Florida’s tax system and discourag[ing] government to be in the role of determining winners and losers through unfair and inconsistent tax policy.”⁵

In short, evaluating benefits extended to private enterprises is good for taxpayers, policymakers, and businesses that wish to be good corporate citizens in the communities and state where they live and operate.

This report quantifies the monetary benefits given by state government to businesses each year, in the name of economic development and job creation, through tax and budget policies. This taxpayer-financed aid to business is broadly termed “benefits” in this report. Benefits incorporate not only job subsidies, but also the far larger amounts of state government aid directly oriented toward fostering business activity, including the exclusion of several hundred thousand businesses from paying corporate income tax.

A follow-up report will take a closer look at subsidies aimed at creating jobs, examine the rationales for current and proposed new benefits to business, and propose reforms. Reforms would (1) improve accountability for Florida’s spending on economic development; and (2) make sure the public knows whether corporations that benefit from tax breaks pay their fair share for the necessary expenses of state government. The reforms would bring corporate subsidies and other business benefits out of the darkness and into the sunshine for public examination.

At Least \$4 Billion in Breaks Are Provided to Business Each Year

Calculating total state aid to business operations is challenging for many reasons. Hundreds of tax and budget provisions that provide benefits to some businesses are scattered through both annual appropriations by the Florida Legislature and tax laws that provide special breaks to selected firms. No official state report attempts to provide a comprehensive accounting.

Furthermore, state officials have provided shifting accounts of the amounts spent on “economic incentives.”⁶ Some benefits are shielded from public knowledge behind laws that declare information about job subsidies and corporate tax payments confidential. The term “business” itself is a broad one – including everything from sole proprietorships and small family businesses to huge multistate and multinational corporations – increasing the difficulty of totaling all tax and budget benefits provided to enterprises conducting commercial activity in the state.

Florida already provides more than \$4 billion in annual monetary benefits to businesses through tax and budget policies that escape scrutiny – at a time of continuing cuts to education and other state services.

Nevertheless, at least \$4 billion in annual breaks to business – through tax and budget policies alone – can be identified for recent years.

A relatively small part of the annual total is due to the job subsidy programs currently under scrutiny. Those programs have cost the state about \$1.7 billion from 1995 through 2011.⁷ A far greater amount is the result of sales tax exemptions for business activities and the structure of the state corporate income tax, which excludes hundreds of thousands of businesses.

The \$4 billion annual total from tax and budget policies alone (outlined in Sections I and II below) represents only a portion of benefits handed out by the state to business entities. The total does not include savings to corporations from changes in law, such as weakening of growth management or limiting lawsuits against businesses. Nor does the total incorporate money associated with business-friendly changes in rules and regulations. Also excluded from the total are the untold millions of dollars in business benefits provided from tax money by local governments each year.

Section I: “Economic Development” Benefits Provided Through Budget and Tax Laws Total More Than \$2 Billion Each Year

Florida lacks a **unified development budget**, a report required by some states that pulls together budget and expenditure information for all “business-development” programs in the state.

But unofficial, partial accountings of aid to businesses prepared by staff of a Florida Senate committee documented \$2.6 billion in tax dollars spent, or revenue forgone, in support of business in the 2009-10 fiscal year and \$2.4 billion in 2010-11.

The authors of these “Portfolio of State Economic Development Incentives” reports^{8,9} defined state economic development incentives “as those programs with budgeted or authorized public dollars that are directly or indirectly invested in activities of business.”¹⁰

Tax breaks, known as tax preferences or tax expenditures, “are essentially government spending programs that happen to be administered through the tax code.”

That means they included direct spending for job retention and creation plus the value of more than 150 sales tax exemptions provided to companies engaged in particular businesses. (Other aid to businesses provided through the structure of the state corporate income tax is not included in the “Portfolio” reports but is discussed below.)

The Portfolios provide a snapshot of the types and cost of programs and tax breaks Florida provides for “economic development.” They capture two major methods of granting aid: (1) direct appropriation of taxpayer funds to selected companies; and (2) much larger benefits hidden away in state tax laws. Direct appropriations involve expenditures authorized by the legislature annually for specific programs or purposes. Tax breaks – credits, refunds, exemptions, and exclusions bestowing preferred treatment to some businesses – represent forgone revenue that otherwise would be paid in state taxes and would be available to fund essential functions of government.

In both cases, state tax money is directed toward businesses. Tax dollars come straight out of the state treasury in the case of appropriations and tax breaks give away the money before it reaches the state treasury. Tax breaks, called tax preferences or tax expenditures, “are essentially government spending programs that happen to be administered through the tax code.”¹¹

But there are differences between appropriations and tax expenditures or preferences. “Once adopted, tax preferences often receive less scrutiny than appropriations, which must be enacted every year. Tax preferences remain effective until a positive action is taken to change them. Unlike appropriations, which are for fixed amounts, tax preferences are often open-ended.”¹²

The Portfolios show that direct appropriations and tax expenditures for “economic development” totaled more than \$2 billion in each of the last two fiscal years:

Portfolio of Economic Development Incentives

| | 2009-10 | 2010-11 |
|---|------------------------|--------------------------|
| Direct Financial Incentives | \$ 87.4 million | \$163.2 million |
| Indirect Incentives to Support | | |
| Business Investment or Development | \$ 45.1 million | \$ 71.8 million |
| Tax Credits¹³ | \$ 59.1 million | \$105.5 million |
| Tax Refunds | \$ 60.8 million | \$ \$43.7 million |
| Tax Exemptions for Business | \$2.3 billion | \$2.0 billion |
| Total | \$2.6 billion | \$2.4 billion |

(FCFEP from “Portfolio of State Economic Development Incentives,” Appendix III, Florida Senate Interim Report 2010-211, December 2009, for Fiscal Year 2009-10; and “2010 Portfolio of State Economic Development Incentives,” compiled by staff of the Senate Commerce Committee, November 10, 2010)

The Five Categories of “Economic Development” Support of Business

Direct financial incentives in the Portfolios included state-funded grants and loans to firms in some of the programs used by state officials to lure or reward corporations that promise to retain or create jobs. Among those is the Quick Action Closing Fund, appropriated \$42 million in 2011-12,¹⁴ which allows the governor to unilaterally approve handouts under \$2 million and merely notify legislative leaders of payments to corporations of \$2 million to \$5 million.¹⁵

Indirect incentives to support business investment or development include funding for Enterprise Florida, Space Florida, the Florida Sports Foundation, and the Florida Commission on Tourism.

Tax credits are amounts subtracted from taxes owed on the state corporate income tax, insurance premium tax, and sales tax. Tax credits are awarded companies for a variety of activities, such as locating a business in enterprise zones or rural and urban high-crime areas. Tax credits also include \$53.5 million for movie and television production in 2010-11 in the Entertainment Industry Financial Incentive Program.

Tax refund programs include such expenditures as up to \$30 million refunded annually to professional sports franchises, the Pro Golf Hall of Fame, and the International Game Fish World Center.

Tax exemptions include more than 150 sales tax exemptions for purchases classified as business items (as opposed to household items or sales by nonprofit organizations). One example detailed in the report: Companies providing boat and aircraft production and services benefitted from \$170 million in sales tax exemptions in 2009-10.

The total of “economic development” programs and expenditures grows often. In its 2011 session, for example, the legislature added about \$75 million in annual tax breaks to corporations.¹⁶ Bills filed for the 2012 session would provide other tax breaks.¹⁷ And the new Department of Economic Opportunity is seeking an appropriation of \$230 million for job subsidies in some programs in the next legislative session, an increase from \$93 million in the current year.¹⁸

Section II: Nearly \$2 Billion In Benefits to Businesses Is Provided Through Corporate Income Tax Loopholes

Not included in the total calculated in the “Portfolios” above are benefits companies gain from the structure of the state corporate income tax. The tax, created 40 years ago with voter approval of a constitutional amendment, provides about \$2 billion in revenue each year. But the total could be much more – without raising the 5.5 percent tax rate – if fewer types of businesses were exempt and if state law closed loopholes to prevent the use of tax avoidance strategies employed by large multistate corporations.

Most Florida Businesses Don’t Benefit From Job Subsidies Or Business Tax Exemptions

These types of breaks directed to specific corporations or firms conducting specified types of business total tens of billions of dollars in the last decade. But most Florida businesses don’t benefit. They don’t receive a subsidy for any jobs they create, or benefit from one of the more than 150 sales tax breaks received by some firms doing certain kinds of business. These handouts and tax breaks often give a taxpayer-funded competitive advantage to large multistate corporations at the expense of Florida-owned businesses who do without state subsidies or tax breaks.

The tax is levied on net profits earned in Florida on certain kinds of business organizations but not on others. Business entities organized as “C corporations” (so designated because of the relevant section of the Internal Revenue Code), the standard for-profit corporate model, are subject to the tax.¹⁹

But new types of business organizations created in

recent decades have mushroomed in Florida. The hundreds of thousands of businesses organized as “S corporations” and limited liability companies (which are not corporations²⁰) generally are exempt from the state corporate income tax.²¹ Their profits pass through the business entity directly to the owner or stockholders. In most other states, such “pass-through” income is taxed through the states’ personal income tax. But because Florida has no personal income tax, **the owners of these businesses pay no state income tax, either personal or corporate**, on their profits.

These corporate income tax-exempt businesses have grown exponentially. Before the legislature exempted limited liability companies (LLCs) in 1998, only 5,392 were registered in Florida. That number

grew to 38,639 in 2002.²² By 2010, the total was 548,893, and today 622,379 active LLCs are registered with the state.²³

Since changes in federal law in 1986 made more businesses eligible for S status,²⁴ their number has ballooned in Florida. According to the IRS, 194,000 Florida C corporations filed federal corporate income tax returns in 2010. The IRS reported that Florida was home to 601,000 S corporations, more than any

other state – about 200,000 more than either California or New York and more than twice as many as Texas.²⁵

Combined, more than 1.2 million Florida S corporations and LLCs are exempt from the state corporate income tax (and thus their income is exempt from all state taxation of income). Florida forgoes about **\$1 billion** in potential revenue annually by exempting these businesses from the corporate income tax – \$798 million from S corporations and \$197 million from LLCs.²⁶

In addition, the state treasury

loses about half a billion dollars each year by allowing loopholes that benefit large multistate corporations. One loophole allows corporations to shift taxable profits earned in Florida to other states that tax profits at a lower rate or not at all. Closing that loophole with a law requiring “combined reporting” of all of a corporation’s income, preventing it from shifting income to a lower- or no-tax state and taxing profits earned in Florida, would yield about **\$453 million** each year. Moreover, adopting a “throwback rule” – allowing Florida to collect corporate income tax on profits earned in the state that are not taxed anywhere because of a technicality – would provide another **\$46 million** annually.²⁷

Another **\$250 million** in tax breaks is awarded to corporations by the way Florida law defines taxable income (allowing subtractions from federal taxable income, which is the baseline generally used by states.)²⁸

These tax benefits, combined with the \$2.4 billion listed in the “Portfolio” above, make the total of tax breaks and direct benefits granted to business/corporations at least \$4.1 billion in Fiscal Year 2010-11.

| ADDING IT UP | |
|---|-----------------------|
| Annual Cost of Business Subsidies and Tax Benefits | |
| Fiscal Year 2010-11 | |
| • Exempting S corporations and LLCs | \$1 billion |
| • Absence of “combined reporting” | \$453 million |
| • Absence of “throwback rule” | \$ 46 million |
| • Subtractions from taxable income | \$250 million |
| Subtotal | \$1.75 billion |
| Economic Development Subsidies and Business Sales Tax Exemptions | \$2.4 billion |
| Total | \$4.15 billion |

Changing the state corporate income tax in the ways recommended above would ensure that corporations pay their fair share of taxes for the public investments from which they benefit: the system that educates and trains their workers; the transportation systems and roads that move their products; the police, fire, and court systems that protect their property and business transactions; and other state services that support a desirable quality of life for business owners, employees, and customers.

Conclusion

The state's budget and tax laws provide substantial benefits to corporations and other businesses in Florida with little or no examination or review. Before even more breaks are enacted, the public interest would be served through an open, transparent assessment of current benefits and breaks to ensure that all businesses pay their fair share to fund their community's public infrastructure, which is critical to ensuring Florida is a good place to live and conduct business.

Accountability is a mantra of state leaders when applied to teachers, whose salaries are now tied to students' test results, and public employees, whose names and salaries are available on the governor's website. No equivalent accountability mechanisms exist for the billions of tax dollars devoted each year to businesses. No process or review has established which business-aid programs actually work to foster economic growth and a higher quality of life in Florida. Meanwhile, the legislature cuts budgets for acknowledged drivers of economic growth like education and Medicaid, which because of the multiplier effect produce huge economic benefits for the state.

The followup report will provide recommendations to make businesses more accountable for the taxpayer-funded benefits they receive and to help ensure that large, profitable firms pay their fair share of the expenses of our public infrastructure.

Changing the state corporate income tax would ensure that corporations pay their fair share of taxes for the public investments from which they benefit: the system that educates and trains their workers; the transportation systems that move their products; the police, fire, and court systems that protect their property and business transactions; and other state services that support a desirable quality of life for business owners, employees, and customers.

This report was researched and written by Alan Stonecipher. The report and its findings do not necessarily reflect the views of the FCFEP Board of Directors.

Endnotes

- ¹ “2012 Job Creation and Economic Growth Agenda,” Governor Rick Scott. <http://www.flgov.com/wp-content/uploads/2011/10/Jobs2012FINAL.pdf>
- ² “Where We Stand, A Guide to the Florida Chamber’s 2012 Business Agenda,” Florida Chamber of Commerce. http://www.flchamber.com/docs/WhereWeStand_2012.pdf
- ³ “Florida’s New ‘Economic Opportunity’ Agency Reviewing Past Tax-Funded Flops,” Sun-Sentinel, October 5, 2011. http://weblogs.sun-sentinel.com/news/politics/dcblog/2011/10/floridas_new_economic_opportun.html
- ⁴ “Governor Rick Scott’s Jobs Czar Defends Florida’s Economic Development Programs,” St. Petersburg Times, October 29, 2011. <http://www.tampabay.com/news/business/corporate/gov-rick-scotts-jobs-czar-defends-floridas-economic-incentive-programs/1199036>
- ⁵ “Where We Stand, A Guide to the Florida Chamber’s 2012 Business Agenda,” Florida Chamber of Commerce. http://www.flchamber.com/docs/WhereWeStand_2012.pdf
- ⁶ “State Must Quickly Clean Up Incentive Data,” Orlando Sentinel, November 10, 2011. <http://www.orlandosentinel.com/business/os-kassab-state-fails-on-incentives-20111110,0,3136660.column>
- ⁷ “State Jobs Agency Wants More Money – Though It Can’t Keep Track of What’s Been Spent,” Orlando Sentinel, November 9, 2011. <http://www.orlandosentinel.com/news/politics/os-state-agency-hasnt-tracked-money-20111109,0,6045433.story>
- ⁸ “Portfolio of State Economic Development Incentives,” Sunset Review of the Qualified Target Industry Tax Refund Incentive Program, Interim Report 2010-11, Senate Committee on Commerce, December 2009. http://archive.flsenate.gov/data/Publications/2010/Senate/reports/interim_reports/pdf/2010-211cm.pdf, Appendix III.
- ⁹ “2010 Portfolio of State Economic Development Incentives,” compiled by the staff of the Senate Commerce Committee, November 10, 2010. <http://www.flsenate.gov/PublishedContent/Committees/2010-2012/CM/MeetingRecords/CM1282010.pdf>
- ¹⁰ Ibid.
- ¹¹ “Tax Expenditures: Spending by Another Name,” Institute on Taxation and Economic Policy, October 2011. <http://www.itepnet.org/pdf/pb4exp.pdf>
- ¹² “2011 Florida Tax Handbook Including Fiscal Impact of Potential Changes,” Florida Revenue Estimating Conference. <http://edr.state.fl.us/content/revenues/reports/tax-handbook/taxhandbook2011.pdf>
- ¹³ These estimates include credit and refund programs whose amounts are capped by law or through the annual budget; some of the authorized amounts of credits and refunds may not have been used. Other credits and refunds do not have to be authorized by the legislature and thus are uncapped. No estimates of the dollar amount for uncapped programs are included, although millions of dollars in credits and refunds in these programs were approved in previous years.
- ¹⁴ Presentation by Florida Department of Economic Opportunity, Florida House of Representatives Economic Development Committee, September 21, 2011. http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2590&Session=2012&DocumentType=Meeting%20Packets&FileName=EAC%209-21-2011_HANDOUTS.pdf
- ¹⁵ Florida House of Representatives 2011 Session Summary, Page 328. <http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Session&CommitteeId=&Session=2011&DocumentType=End%20of%20Session%20Summaries&FileName=2011%20End%20Of%20Session%20Summary.pdf>
- ¹⁶ “Measures Affecting Revenues” 2011 Session, Economic and Demographic Research, Florida Legislature. <http://edr.state.fl.us/Content/revenues/reports/measures-affecting-revenues/index.cfm>
- ¹⁷ Senate Bill 588, for example: <http://www.flsenate.gov/Session/Bill/2012/588>

<http://www.orlandosentinel.com/news/politics/os-state-agency-hasnt-tracked-money-20111109,0,6045433.story>

¹⁸ “State Jobs Agency Wants More Money – Though It Can’t Keep Track of What’s Been Spent,” Orlando Sentinel, November 9, 2011. <http://www.orlandosentinel.com/news/politics/os-state-agency-hasnt-tracked-money-20111109,0,6045433.story>

¹⁹ “Florida’s Corporate Income Tax,” Florida Department of Revenue.

<http://dor.myflorida.com/dor/taxes/corporate.html>

²⁰ “An Overview of Low-profit Limited Liability Companies,” Issue Brief 2011-210, Florida Senate Committee on Commerce. <http://www.flsenate.gov/PublishedContent/Committees/2010-2012/CM/MeetingRecords/CM1282010.pdf>

²¹ “Florida’s Corporate Income Tax, Department of Revenue. <http://dor.myflorida.com/dor/taxes/corporate.html>

²² “Why Did Florida’s Corporate Income Tax Revenue Fall While Corporate Profits Rose?” Senate Committee on Finance and Taxation, November 2003.

²³ “Yearly Statistics,” Division of Corporations, Florida Department of State, accessed November 10, 2011.

http://ccfcorp.dos.state.fl.us/corp_stat.html

²⁴ “Why Did Florida’s Corporate Income Tax Revenue Fall While Corporate Profits Rose?” Senate Committee on Finance and Taxation, November 2003.

²⁵ Number of Returns Filed, by Type of Return and State and Fiscal Year - IRS Data Book Table 3.

<http://www.irs.gov/taxstats/article/0,,id=206490,00.html>

²⁶ “2011 Florida Tax Handbook 2011 Including Fiscal Impact of Potential Changes.”

<http://edr.state.fl.us/content/revenues/reports/tax-handbook/taxhandbook2011.pdf>, Page 65.

²⁷ Ibid., Page 66.

²⁸ Ibid., Page 65.