

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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

BILL: SB 1022

INTRODUCER: Senator Garcia

SUBJECT: Sales Tax Increment Districts

DATE: January 30, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Philo	Hrdlicka	CM	Pre-meeting
2.			CA	
3.			BC	
4.				
5.				
6.				

I. Summary:

SB 1022 creates the Municipal Revitalization Act and makes associated changes to calculations and distributions under the Revenue Sharing Trust Fund for Municipalities.

The Florida Legislature has created or authorized the creation of several programs and mechanisms to encourage businesses to operate and provide jobs in distressed areas, and assist local governments in financing infrastructure and capital projects that will result in revitalizing business and residential communities and creating jobs.

This bill authorizes the creation, by local resolution, of *sales tax increment redevelopment districts* within municipalities that have a population greater than 250,000 and that are located within a designated enterprise zone. This bill also permits the designated redevelopment agency for the enterprise zone where the sales tax increment redevelopment district is located to share with the state any annual increase in sales tax collections.

The bill amends the provisions relating to the distribution formula under the Municipal Revenue Sharing Program, to require distributions to municipalities that have a *sales tax increment redevelopment district* prior to the final adjustment. The distributions must be made to the appropriate designated redevelopment agency eligible for distribution.

The bill requires the Department of Revenue to determine monthly, the specific amount payable to each eligible designated redevelopment agency and the aggregate amount of sales tax revenue that is required for distribution, and transfer that amount from the General Revenue Fund to the Revenue Sharing Trust Fund for Municipalities.

The Revenue Estimating Conference has not determined the fiscal impact to the state or local government as a result of this bill.

The bill provides an effective date of July 1, 2012.

The bill substantially amends ss. 212.20, 218.23, 290.004, 290.0056, and 290.007, F.S., and creates ss. 290.01351, 290.0136, 290.0137, 290.0138, 290.0139, and 290.01391, F.S.

II. Present Situation:

Redevelopment of distressed urban communities is primarily a local government responsibility. Local governments use the state's redevelopment programs in conjunction with other federal and local programs to help package deals for revitalizing distressed urban communities. While Florida's programs do not directly provide a large amount of funds, they are viewed as being useful in helping leverage other funding support and in demonstrating government commitment to revitalization. Florida's programs also are viewed as being useful in helping local governments get community and private sector buy-in on revitalization projects.¹

The Florida Legislature has created or authorized the creation of several programs and mechanisms to encourage businesses to operate in and provide jobs in distressed areas, and assist local governments in financing infrastructure and capital projects that will result in revitalizing business and residential communities and creating jobs. Some of the primary programs and mechanisms are discussed below.

Community Redevelopment Act

The Community Redevelopment Act of 1969, Ch. 163, Part III, F.S. , was enacted to provide a mechanism to revitalize slum and blighted areas “which constitute a serious and growing menace, injurious to the public health, safety, morals, and welfare of the residents of the state.”² The act authorizes each local government to establish a Community Redevelopment Agency (CRA) to revitalize designated slum and blighted areas upon a “finding of necessity” and a further finding of a need for a CRA to carry out community redevelopment.³

CRAs are funded primarily through tax increment financing (TIF).⁴ As property tax values in the redevelopment area rise above property values in the base year the redevelopment area was created, increment revenues are generated by applying the current millage rate levied by each taxing authority in the area to the increase in value. Each non-exempt taxing authority that levies taxes on property within a community redevelopment area must annually appropriate the amount of increment revenues to the CRA trust fund. These revenues are used primarily to service bonds

¹Florida Legislature, Office of Program Policy Analysis and Government Accountability, *Locals Find Urban Revitalization Programs Useful; More Centralized Program Information Would Be Helpful*, Report No. 05-32 (May 2005), at 1 (available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/0532rpt.pdf>).

² Section 163.335(1), F.S.

³ Section 163.356(1), F.S.

⁴ See s. 163.387, F.S. For a general overview of tax increment financing, see City of Tampa, Economic and Urban Development Department, *Tax Increment Financing in Florida* (available at http://www.tampagov.net/dept_economic_and_urban_development/information_resources/Tax_Increment_Financing.asp).

issued to finance redevelopment projects. CRAs created prior to 2002 may receive TIF contributions for 60 years, while CRAs subsequently created may receive TIF contributions for 40 years.⁵

The Florida Enterprise Zone Program

The Florida Enterprise Zone Program was created in 1982 to encourage economic development in economically distressed areas of the state by providing incentives and inducing private investment. Currently, Florida has 62.⁶ The program is scheduled to be repealed on December 31, 2015.⁷

The Department of Economic Opportunity is responsible for approving applications for enterprise zones, and also approves changes in enterprise zone boundaries when authorized by the Florida Legislature. As part of the application process for an enterprise zone, the county or municipality in which the designation will be located also is responsible for creating an Enterprise Zone Development Agency and an enterprise zone development plan.

An enterprise zone development plan (or strategic plan) must accompany an application. At a minimum this plan must:⁸

- Describe the community's goal in revitalizing the area;
- Describe how the community's social and human resources—transportation, housing, community development, public safety, and education and environmental concerns—will be addressed in a coordinated fashion;
- Identify key community goals and barriers;
- Outline how the community is a full partner in the process of developing and implementing this plan;
- Describe the commitment from the local governing body in enacting and maintaining local fiscal and regulatory incentives;
- Identify the amount of local and private resources available and the private/public partnerships;
- Indicate how local, state, and federal resources will all be utilized;
- Identify funding requested under any state or federal program to support the proposed development; and
- Identify baselines, methods, and benchmarks for measuring success of the plan.

Florida's enterprise zones qualify for (A) state sales tax incentives, (B) state corporate income tax incentives, and (C) local incentives:

A. State Sales Tax Incentives

Available state sales tax incentives for enterprise zones include:

⁵ Section 163.387(2)(a), F.S.

⁶ Enterprise Florida website at http://www.floridaenterprisezones.com/PageView.asp?PageType=R&edit_id=1.

⁷ Section 290.016, F.S.

⁸ Section 290.0057, F.S.

- Building Materials Used in the Rehabilitation of Real Property Located in an Enterprise Zone:⁹ Provides a refund for sales taxes paid on the purchase of certain building materials, up to \$5,000 or 97 percent of the tax paid. If 20 percent or more of the permanent, full time employees of the business are residents of an enterprise zone the refund will be no more than the lesser of \$10,000 or 97 percent of the tax paid per parcel.
- Business Property Used in Enterprise Zones:¹⁰ Provides a refund for sales taxes paid on the purchase of certain equipment (tangible personal property such as office equipment, warehouse equipment, and some industrial machinery and equipment), up to \$5,000 or 97 percent of the sales tax paid. If 20 percent or more of the permanent, full time employees of the business are residents of an enterprise zone the refund will be no more than the lesser of 97 percent of the sales tax paid on the business property or \$10,000. The property must be used exclusively in the enterprise zone for at least 3 years.
- Enterprise Zone Jobs Credit against Sales Tax (Rural):¹¹ For businesses located within a rural enterprise zone, this incentive provides a sales and use tax credit for 30 percent of the actual monthly wages paid to new employees who live within a rural county. If more than 20 percent of the employees are residents of an enterprise zone, the credit is 45 percent of the actual monthly wages paid.
- Enterprise Zone Jobs Credit against Sales Tax (Urban):¹² For businesses located within an enterprise zone, this incentive provides a sales and use tax credit for 20 percent of the actual monthly wages paid to new employees who live within the enterprise zone. If more than 20 percent of the employees are residents of an enterprise zone, the credit is 30 percent of the actual monthly wages paid.
- Community Contribution Tax Credit:¹³ Provides 50 percent sales tax refund for donations made to local community development projects.
- Electrical Energy Used in an Enterprise Zone:¹⁴ Provides 50 percent sales tax exemption to qualified businesses located within an enterprise zone on the purchase of electrical energy. The exemption is only available if the municipality in which the business is located has passed an ordinance to exempt qualified enterprise zone businesses from 50 percent of the municipal utility tax.

B. State Corporate Income Tax Incentives

Available state corporate income tax incentives for enterprise zones include:

- Enterprise Zone Jobs Credit against Corporate Income Tax (Urban and Rural):¹⁵ Provides a sales and use tax credit to qualified businesses located in an enterprise zone for 20 percent of the actual monthly wages paid to new employees who live within the enterprise zone. The percentage of the actual monthly wages paid could be greater than 20 percent under certain circumstances or if the business is located in a rural enterprise zone.

⁹ Section 212.08(5)(g), F.S.

¹⁰ Section 212.08(5)(h), F.S.

¹¹ Section 212.096(2), F.S.

¹² See s. 212.096, F.S.

¹³ Section 212.08(5)(p), F.S.

¹⁴ Section 212.08(15), F.S.

¹⁵ Section 220.181, F.S.

- Enterprise Zone Property Tax Credit:¹⁶ Provides a credit against Florida corporate income tax equal to 96 percent of ad valorem taxes paid on the new or improved property.
- Community Contribution Tax Credit:¹⁷ Provides a 50-percent credit on Florida corporate income tax or insurance premium tax, or a sales tax refund, for donations made to local community development projects.

C. Local Incentives

In addition to state incentives, some local governments offer the following local incentives as part of the Enterprise Zone Development Plan:¹⁸

- Reduction of occupational license fees.
- Ad valorem tax exemption on improved property.
- Local option economic development property tax exemption.
- Utility tax abatement.
- Façade/Commercial Rehabilitation Grants or Loans.
- Local funds for capital projects.
- Reduced building permit fees or land development fees.
- Reduction of specific local government regulations in the area.

Approximately \$19.975 million worth of local incentives were provided between October 2009 and September 2010. This amount represents an increase of approximately \$8.397 million more than the previous reporting period.¹⁹

Revenue Sources Available to Fund Local Infrastructure

Additional revenue sources available to fund local infrastructure include (A) impact fees, (B) special assessments, (C) Local Discretionary Sales Surtaxes, and (D) local option fuel taxes:²⁰

A. Impact Fees²¹

- Charges imposed by local governments against new development to provide for capital facilities' costs made necessary by population growth.
- The majority of county and municipal government-imposed impact fees generate revenues to fund physical environment and transportation infrastructure.
- Revenue collections have decreased significantly in recent years due to the housing bust and local governments' efforts to freeze, reduce, or repeal impact fees in light of economic conditions.

¹⁶ Section 220.182, F.S.

¹⁷ Sections 220.183, F.S. *See also* s. 624.5105, F.S.

¹⁸ Executive Office of the Governor, Office of Tourism, Trade & Economic Development, *Florida Enterprise Zone Annual Report, October 1, 2009 – September 30, 2010* (March 2011), at 15 (available at <http://www.floridaenterprisezones.com/Zones/Org1/uploads/2011EZAnnualReport.pdf>); *see also* s. 290.0135, F.S.

¹⁹ *Id.*

²⁰ Florida Legislature, Office of Economic and Demographic Research, *Economic Development Financial Reference Manual* (Jan. 11, 2012), at 5-8 (available at <http://edr.state.fl.us/Content/presentations/localgovernment/2012economicdevelopmentfinancialreferencemanual.pdf>).

²¹ *Id.* at 5.

*B. Special Assessments*²²

- Charges imposed by local governments against property to fund the construction and maintenance of capital facilities and certain services.
- The majority of county and municipal government-imposed special assessments generate revenues to fund local services rather than capital facilities.
- Although still trending positive, revenue collections have slowed in recent years.

*C. Local Discretionary Sales Surtaxes*²³

- Eight separate levies that can be imposed by county governments or school districts to fund a variety of local infrastructure, public health, or public safety needs depending on the particular levy. The total tax rate varies by county from 1.5 percent to 3.5 percent.
- Proceeds from the following surtaxes generate revenues to fund physical environment and transportation infrastructure:
 - Charter County and Regional Transportation System Surtax
 - Local Government Infrastructure Surtax
 - Small County Surtax
 - School Capital Outlay Surtax
- As a sole method of authorization for several different surtaxes, voter approval in a countywide referendum may limit increased utilization of this funding.

*D. Local Option Fuel Taxes*²⁴

- Three separate levies, totaling a maximum of 12 cents per gallon on motor fuel (i.e., gasoline), that can be imposed by county governments to fund transportation infrastructure needs.

Revenue Sources Available to Fund Local Economic Development Efforts

Other revenue sources are available to fund local economic development efforts, including (A) convention development taxes, (B) local business tax, and (C) local option tourist development tax:²⁵

*A. Convention Development Taxes*²⁶

- Three county governments (Duval, Miami-Dade, and Volusia) are eligible to levy a tax on transient rental transactions. The maximum tax rates are either 2 or 3 percent depending on the particular levy.
- Generally, the tax proceeds may be used for capital construction of convention centers and other tourist-related facilities as well as tourism promotion. However, the authorized uses vary by levy.

²² *Id.* at 6.

²³ *Id.* at 7 (citing s. 212.055, F.S.).

²⁴ *Id.* at 8 (citing ss. 336.021 and 336.025, F.S.).

²⁵ *Id.* at 9-11.

²⁶ *Id.* at 9 (citing ss. 212.0305(4)(a) and 212.0305(4)(c)-(e), F.S.).

*B. Local Business Tax*²⁷

- County and municipal governments are eligible to levy the tax for the privilege of engaging in or managing any business, profession, or occupation within their respective jurisdictions.
- Although the tax proceeds are considered general revenue for the county or municipality, county business tax revenues may be used for overseeing and implementing a comprehensive economic development strategy.²⁸

*C. Local Option Tourist Development Tax*²⁹

- Eligible county government may impose up to five separate taxes on transient rental transactions. The ordinance levying and imposing the tax must be approved in a referendum election by a majority of the electors voting in such election.
- Generally, the tax proceeds may be used for capital construction of tourist-related facilities, tourist promotion, and beach and shoreline maintenance. However, the authorized uses vary by levy.

Economic Development Incentives Report - Annual Survey of Local Governments

In 2010,³⁰ the Legislature required local governments that have granted economic incentives in excess of \$25,000 during the local fiscal year to report to the Legislative Committee on Intergovernmental Relations or its successor,³¹ annually by January 15, the economic incentives given to businesses during the local fiscal year. Municipalities having annual revenues less than \$250,000 are exempt from this requirement.

According to the Office of Economic and Demographic Research (EDR), 38 counties and 36 municipalities completed the survey for local FY 2009-10.³² The survey results are as follows:

- Reporting counties issued \$84.4 million in incentives for economic development (\$29.6 million in direct incentives³³ to 125 businesses; \$40.5 million in indirect incentives³⁴ to 62 businesses; \$12.7 million in fee or tax based incentives to 111 businesses; and \$1.5 million in below market leases/deeds).
- Reporting municipalities issued \$60.7 million in incentives for economic development (\$9.0 million in direct incentives to 71 businesses; \$1.5 million in indirect incentives to 29

²⁷ *Id.* at 10 (citing ch. 205, F.S. and reporting that several bills (SB 760, HB 1063, and HB 4025) have been filed for the 2012 legislative session that would repeal the local business tax effective July 1, 2012).

²⁸ *Id.* (citing s. 205.033(7), F.S.).

²⁹ *Id.* at 11 (citing 212.0104(3), F.S.).

³⁰ Chapter 201-147, ss. 1 and 2, L.O.F. (codified at ss. 125.045(5) and 166.021(8)(e), F.S.).

³¹ The Legislative Committee on Intergovernmental Relations was not funded in FY 2010-11 and the committee ceased operations on June 30, 2010. Several of the committee's work products regarding local government finance have been continued by the Office of Economic and Demographic Research (EDR). Florida Legislature, Online Sunshine (available at http://www.leg.state.fl.us/cgi-bin/View_Page.pl?Directory=committees/joint/lcir/&File=index_css.html&Tab=committees).

³² See Florida Legislature, Office of Economic and Demographic Research, *Economic Development Incentives*, available at <http://edr.state.fl.us/Content/local-government/economic-development-incentives/index.cfm>.

³³ "Direct incentives" are monetary assistance provided to a business from the county or municipality or through an organization authorized by the county or municipality. Such incentives include, but are not limited to, grants, loans, equity investments, loan insurance and guarantees, and training subsidies. Sections 125.045(5)(a)1. and 166.021(8)(e)1.a., F.S.

³⁴ "Indirect incentives" are in the form of grants and loans provided to businesses and community organizations that provide support to businesses or promote business investment or development. Sections 125.045(5)(a)2. and 166.021(8)(e)1.b., F.S.

businesses; \$36.8 million in fee or tax based incentives to 185 businesses; and \$13.3 million in below market leases/deeds to 45 businesses).

- Indirect incentives given to local government entities or organizations supporting and promoting business investment or development in the amount of \$40.5 million were the most popular incentive issued by counties.
- Municipalities issued the most incentives in the form of fee and tax credits in the amount of \$36.8 million.

Municipal Revenue Sharing Program

The Revenue Sharing Act of 1972, located in Part II of ch. 218, F.S., was enacted to ensure a minimum level of revenue parity across units of local government. The act created the Revenue Sharing Trust Fund for Municipalities (trust fund), which currently receives:

- 1.3409 percent of sales and use tax collections = 71.86 percent of total program funding.³⁵
- The net collections from the one-cent municipal fuel tax on motor fuel = 28.11 percent of total program funding.³⁶
- 12.5 percent of the state alternative fuel user decal fee collections = 0.03 percent of total program funding.³⁷

An allocation formula serves as the basis for the distribution of these revenues to each municipality that meets strict eligibility requirements. Municipalities must use the funds derived from the one-cent municipal fuel tax for transportation-related expenditures. Additionally, there are statutory limitations on the use of the funds as a pledge for bonded indebtedness.

Program Administration

The program is administered by DOR. Monthly distributions must be made to eligible municipal governments as prescribed in ss. 218.215 and 218.23, F.S. The program is comprised of state sales taxes, municipal fuel taxes, and state alternative fuel user decal fees that are collected and transferred to the trust fund.

Once each fiscal year, DOR must compute apportionment factors for use during the fiscal year.³⁸ The computation must be made prior to July 25 of each fiscal year and must be based upon information submitted and certified to DOR before June 1. Except in the case of error, the apportionment factors must remain in effect for the fiscal year. It is the duty of the local government to submit the certified information required for the program's administration to DOR in a timely manner. A local government's failure to provide timely information authorizes DOR to utilize the best information available or, if no such information is available, to take any necessary action, including partial or entire disqualification. Additionally, the local government waives its right to challenge DOR's determination as to the jurisdiction's share of program revenues.

³⁵ Florida Legislature, Office of Economic and Demographic Research, *2011 Local Government Financial Information Handbook* (Oct. 2011), at 79 (citing s. 212.20(6)(d)5., F.S.) (available at <http://edr.state.fl.us/Content/local-government/reports/lgfh11.pdf>).

³⁶ *Id.* (citing s. 206.605(1), F.S.).

³⁷ *Id.* (citing s. 206.879(1), F.S.).

³⁸ *Id.* at 80 (citing s. 218.26, F.S.).

Section 218.23(1), F.S., sets forth the requirements for a municipal government to be eligible to participate in revenue sharing beyond the minimum entitlement in a fiscal year.

Distribution of Proceeds

Subsection (3) of s. 218.23, F.S., provides a distribution formula for determining the amount of distribution to a unit of local government. The distribution formula is as follows:

- First - A municipal government's entitlement shall be computed on the basis of the "apportionment factor" provided in s. 218.245, F.S., which shall apply to all trust fund receipts available for distribution.
- Second - The revenue to be shared via the formula in any fiscal year is adjusted so that no municipality receives less than its guaranteed entitlement, which is equal to the aggregate amount received from the state in fiscal year 1971-72 under then-existing statutory provisions.
- Third - the revenue to be shared via the formula in any fiscal year is adjusted so that no county receives less than its guaranteed entitlement plus the second guaranteed entitlement for counties (this step is not applicable to municipalities).
- Fourth - The revenue to be shared via the formula in any fiscal year is adjusted so that all municipalities receive at least their minimum entitlement, which means the amount of revenue necessary for a municipality to meet its obligations as the result of pledges, assignments, or trusts entered into that obligated trust fund monies.³⁹
- Fifth - Any remaining trust fund monies shall be distributed to eligible municipalities that qualify to receive additional monies beyond the guaranteed entitlement in proportion to the total remainder.⁴⁰

Additional distributions are provided under ss. 212.20(6) and 218.245(3), F.S.

Authorized Use of Funds

Several statutory restrictions exist regarding the authorized use of municipal revenue sharing proceeds. Funds derived from the municipal fuel tax on motor fuel shall be used only for the purchase of transportation facilities and road and street rights-of-way; construction, reconstruction, and maintenance of roads, streets, bicycle paths, and pedestrian pathways; adjustment of city-owned utilities as required by road and street construction; and construction, reconstruction, transportation related public safety activities, maintenance, and operation of transportation facilities. Municipalities are authorized to expend these funds in conjunction with other municipalities, counties, state government, or the federal government in joint projects. According to DOR, municipalities may assume that 28.11 percent of their estimated 2012 fiscal year distribution is derived from the municipal fuel tax. Therefore, at least that proportion of each municipality's revenue sharing distribution must be expended on the transportation-related purposes discussed above.⁴¹

Municipalities are restricted as to the amount of program funds that can be assigned, pledged, or set aside as a trust for the payment of principal or interest on bonds, tax anticipation certificates, or any other form of indebtedness, and there shall be no other use restriction on these shared

³⁹ Section 218.21(7), F.S.

⁴⁰ 2011 Local Government Financial Information Handbook, at 82.

⁴¹ *Id.*

revenues.⁴² Municipalities may assign, pledge, or set aside as trust for the payment of principal or interest on bonds, tax anticipation certificates, or any other form of indebtedness, an amount up to 50 percent of the funds received in the prior year.⁴³ Consequently, it is possible that some portion of a municipality’s growth monies will become available as a pledge for bonded indebtedness.

According to DOR, the following is the estimated statewide distributions to municipal governments under the Municipal Revenue Sharing Program for FY 2011-12:⁴⁴

	Guaranteed	Distributions s. 212.20(6)(d)5., F.S	Growth Money	Distributions s. 218.245(3), F.S	Yearly Total
Statewide Totals	\$124,683,365	\$122,327,637	\$24,800,089	\$45,800,000	\$317,611,090

III. Effect of Proposed Changes:

Section 1 amends subparagraph 212.20(6)(d)5., F.S., to state that the amounts required under s. 290.0138(2), F.S., as created in the bill, shall also be distributed monthly to the Revenue Sharing Trust Fund for Municipalities (trust fund).

Section 2 creates paragraph 218.23(3)(e), F.S., relating to the distribution formula, to require adjustments for municipalities that have a sales tax increment district and are eligible for distribution under ss. 290.0137 and 290.0138, F.S., prior to the final adjustment.

Section 3 amends s. 290.004, F.S., to provide definitions for the following terms: “bond,” “retail development costs,” “retail development project,” “retail development project developer,” “sales tax increment district,” and “tax increment revenues.”

Section 4 creates subsection 290.0056(11), F.S., to authorize a governing body that designates a sales tax increment district to exercise additional powers for the purpose of providing local financing for public and private improvements that will foster job growth and enhance the base of retailers within an enterprise zone, unless otherwise prohibited by ordinance. These additional powers include:

- Enter into cooperative contracts and agreements with a county, municipality, governmental agency, or private entity for services and assistance;
- Acquire, own, convey, construct, maintain, improve, and manage property and facilities, and grant and acquire licenses, easements, and options with respect to such property;
- Expend incremental sales tax revenues to promote and advertise the commercial advantages of the district in order to attract new businesses and encourage the expansion of existing businesses;

⁴² *Id.* at 83 (citing s. 218.25(1), F.S.).

⁴³ *Id.* (citing s. 218.25(4), F.S).

⁴⁴ *Id.* at 90.

- Expend incremental sales tax revenues to promote and advertise the district to the public and engage in cooperative advertising programs with businesses located in the district; and
- Expend incremental sales tax revenues pursuant to a development agreement with a retail development project developer to underwrite retail development costs.

Section 5 amends s. 290.007, F.S., which addresses state incentives that are available in enterprise zones to encourage revitalization, to include the designation of a sales tax increment district.

The Municipal Revitalization Act

Section 6 creates s. 290.01351, F.S., to establish the Municipal Revitalization Act, which shall include ss. 290.01351-290.01391, F.S., as created in the bill.

Legislative Intent

Section 7 creates s. 290.0136, F.S., to provide that the legislative intent of this act is to improve the economic conditions within the enterprise zone, particularly within the economically distressed area of a municipality that designates a sales tax increment district. The Legislature intends to provide local financing for public and private improvements that will foster job growth for the residents of economically distressed areas and enhance the commercial base of local merchants.

Designation of Sales Tax Increment District

Section 8 creates s. 290.0137, F.S., to authorize by resolution the designation of a sales tax increment district to support the development of a retail development project within municipalities that have a population of at least 250,000 and that are located within a designated enterprise zone, or at least 750,000 in the case of a county and one or more municipalities having been designated an enterprise zone.

Distribution Percentage & DOR Duties

Section 9 creates s. 290.0138, F.S., to address the calculation of tax increment revenue contributions to eligible governing bodies. The governing body is eligible for distribution from the trust fund in the amount of the increased state sales tax collections realized during any month by the municipality over the same monthly period in the prior year as follows:

- 85 percent of the increased collections of \$85,000 or less;
- 75 percent of the increased collections greater than \$85,000 but \$425,000 or less;
- 50 percent of the increased collections greater than \$425,000 but \$675,000 or less; and
- 25 percent of the increased collections greater than \$675,000 but \$1 million or less.

The bill requires DOR to determine monthly the specific amount payable to each eligible governing body and the aggregate amount of sales tax revenue that is required for distribution, and to transfer that amount from the General Revenue Fund to the trust fund, in accordance with s. 212.20(6)(d)5., F.S., created in the bill. All amounts transferred must be distributed as provided in s. 218.23(3)(e), F.S., created in the bill.

The total distribution provided to an eligible governing body shall not exceed the total tax increment revenue contribution set forth in the retail development project agreement, as specified in s. 290.0139, F.S.

The bill directs each governing body receiving percentage distributions to establish a separate tax increment revenue account within its general fund for the deposit of the sales tax increment for each sales tax increment district.

Retail Development Project Agreement

Section 10 creates s. 290.0139, F.S., to require a retail development project developer to enter into a retail development project agreement with the governing body of the county or municipality designating a sales tax increment district prior to using tax increment revenues to underwrite retail development costs. The bill specifies certain provisions that must be included in the agreement and requires the agreement to be approved by resolution of the governing body following a public hearing. The bill provides that tax increment revenues or bond proceeds may not be advanced to pay retail development costs until the retail development project is open to the general public.

Issuance of Bonds

Section 11 creates s. 290.01391, F.S., to authorize the governing body, if authorized or approved by resolution, to use tax increment revenues to support the issuance of revenue bonds to finance retail redevelopment costs of a retail development project, including the payment of principal and interest upon any advances for surveys and plans or preliminary loans. Such bonds do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction and are not subject to the provisions of any other law or charter relating to the authorization, issuance, or sale of bonds. The bonds are declared to be issued for an essential public and governmental purpose, and the interest and income from the bonds are exempt from all taxes, except the corporate income tax in ch. 220, F.S. Bonds issued under this paragraph may:

- Be issued in one or more series and may bear such date or dates;
- Be payable upon demand or mature at such time or times;
- Bear interest at such rate or rates;
- Be in such denomination or denominations,
- Be in such form either with or without coupon or registered;
- Carry such conversion or registration privileges;
- Have such rank or priority;
- Be executed in such manner;
- Be payable in such medium of payment at such place or places;
- Be subject to such terms of redemption (with or without premium);
- Be secured in such manner; and
- Have such other characteristics as may be provided by the resolution or ordinance authorizing their issuance.

These bonds may be sold either at a public or private sale and for such price as the designated redevelopment agency may determine will effectuate the purposes of this section.

In any suit, action, or proceeding involving the validity or enforceability of these bonds, any bond that recites in substance that it has been issued by the governing body in connection with the sales tax increment redevelopment district for a purpose authorized under this section is conclusively presumed to have been issued for that purpose. Further, any project financed by the

bond is also conclusively presumed to have been planned and carried out in accordance with the intended purposes of this section.

Section 12 provides that the act shall take effect on July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

Any annual increases in sales tax collections in a designated sales tax increment district that are shared with the state shall be transferred from the General Revenue Fund to the Revenue Sharing Trust Fund for Municipalities for distribution to eligible designated redevelopment agencies as provided in the bill.

Each governing body receiving distributions under this act is required to establish a separate tax increment revenue account within its general fund for the deposit of the sales tax increment for each sales tax increment district.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Any increase in sales tax collections shared by a governing body will be transferred from the General Revenue Fund to the Revenue Sharing Trust Fund for Municipalities and distributed to eligible designated redevelopment agencies in an amount determined by DOR.

The revenue estimating conference has not yet determined the impact of this bill.

B. Private Sector Impact:

One industry analyst estimates that, given the bill's population and geographic parameters, it would allow for the creation of a total of up to 18 sales tax increment districts (4 each in Broward, Miami-Dade, and Palm Beach Counties; an additional 4 in Hillsborough County and the City of Tampa combined; and two in the city of Jacksonville). Assuming all 18 districts were created and all received a maximum monthly contribution of \$533,500 under the bill, their trust funds would receive a total of \$115,236,000 annually. The state would retain \$100,764,000 of the first \$1 million of the

incremental sales tax revenues collected monthly in each area and all of any incremental sales tax revenues collected over \$1 million monthly.⁴⁵

However, based on a number of factors, the analyst suggests that only between 4 and 6 sales tax increment districts would actually be created (3 in Miami-Dade County, and possibly one each in Broward County and the cities of Tampa and Jacksonville). Assuming the creation of 4 to 6 districts, the maximum amount of the incremental revenues deposited into their trust funds on an annual basis would be in the range of \$25,736,000 to \$38,412,000, while the state would retain from \$25,504,000 to \$33,588,000. The state would also retain all incremental revenues generated that exceed \$1 million per month.⁴⁶

C. Government Sector Impact:

Certain local entities with a specified population that are located within a designated enterprise zone will be authorized to designate a sales tax increment district by resolution. The governing body designating a sales tax increment district is granted certain additional powers, including the power to issue bonds to finance the retail redevelopment costs of a retail development project.

DOR will be required to determine monthly, the specific amount payable to each designated redevelopment agency and the aggregate amount of sales tax revenue that is required for distribution, and transfer that amount from the General Revenue Fund to the Revenue Sharing Trust Fund for Municipalities. (*See Related Issues section below.*)

VI. Technical Deficiencies:

The following technical deficiencies will need to be addressed:

- The term “sales tax increment redevelopment district” on lines 355-56 of the bill should be changed to “sales tax increment district,” in order to reflect the changes made by the bill.
- The term “retail project development agreement” on line 425 of the bill should read “retail development project agreement” to be consistent with section 10 of the bill.
- The provisions applying to counties (e.g., lines 349-50 and 438 of the bill) are potentially unclear. If the intent of the bill is to allow the provisions herein to apply to municipalities and counties, then amendments may be needed to address possible distributions into the Revenue Sharing Trust Fund for Counties (as opposed to only the Revenue Sharing Trust Fund for Municipalities). Should this be the case, both the title of the bill and the act created therein may need to be amended.

VII. Related Issues:

DOR has raised two concerns:

⁴⁵ Miami Economic Associates, Inc., *Financial Impact on the State of Florida—Proposed Municipal Revitalization Act* (Jan. 2012), at 4 (on file with the Senate Office on Commerce and Tourism).

⁴⁶ *Id.* at 4-5.

First, the bill requires DOR to determine the monthly aggregate amount of sales tax revenue that is required for distribution to an eligible governing body. But DOR has expressed concern that Florida businesses may currently file and pay sales and use tax using a single tax return for each location or by filing one tax return for each county in which the business is located, and that businesses with locations in multiple counties may use a consolidated tax return reporting tax collections for each county in which the business operates. DOR does not currently collect tax information at a boundary level lower than a county (within a city or within an enterprise zone), and does not collect sales tax information necessary to calculate the “increased sale tax collections” within a municipality as proposed by the bill.⁴⁷

Second, “tax increment revenues” is defined to mean the additional sales tax revenues within the area of a sales tax increment district which exceeds the amount of sales tax revenues in the base year. When a county or municipality designates a sales tax increment district, the resolution is required to “specify the base year amount of sales tax revenue for determination of the amount of sales tax increment revenues resulting from a retail development project. Section 290.0138(1), F.S., provides for a “percentage distribution” of the “increased collections of the sales tax revenues *realized during any month by the municipality*” to the governing body of the designated sales tax increment area.

DOR speculates that it may be the sponsor’s intent to require it to determine the “percentage distribution” based on the distribution to municipalities made from the trust fund using a base year designated by the governing body in its resolution. But, as proposed, DOR submits that it is not clear how it should determine the “percentage distribution amount.” It suggests that once it understands the sponsor’s intent, a formula method by which to determine the amount of increased sales tax collections within a municipality could be developed.⁴⁸

DOR states that these issues cannot be resolved through rulemaking.⁴⁹

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)
- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

⁴⁷ DOR, *SB 1022 Agency Analysis* (Dec. 29, 2011), at 5-6 (on file with the Senate Committee on Commerce and Tourism).

⁴⁸ *Id.* at 6.

⁴⁹ *Id.* at 6-7.