

STORAGE NAME: h3497.ca

DATE: March 6, 1998

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
COMMUNITY AFFAIRS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 3497

RELATING TO: Municipalities

SPONSOR(S): Representative Ball

COMPANION BILL(S): SB 712 (s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE YEAS 8 NAYS 0
 - (2) COMMUNITY AFFAIRS
 - (3) FINANCE & TAXATION
 - (4)
 - (5)
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I. SUMMARY:

This bill authorizes municipal governing bodies to expend public funds to attract and retain business enterprises.

The bill specifies that such use of public funds constitutes a public purpose, and the bill defines economic development activities as including but not limited to the following:

- developing or improving local infrastructure;
- issuing bonds to finance or refinance the cost of capital projects for industrial or manufacturing plants;
- leasing or conveying real property and
- making grants to private enterprises for the expansion of businesses to the community

This bill does not expand the rulemaking authority of a state agency and has no fiscal impact to the state budget.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Current law does not specifically authorize municipalities to expend public funds to attract and retain business enterprises. Counties are authorized to spend public funds for local economic development under section 125.045, Florida Statutes. This bill is similar to section 125.045, Florida Statutes.

Article VII, section 10 of the Florida Constitution prohibits the state, counties, school districts, municipalities, special districts, and agencies of these units from giving, lending, or using their taxing power or credit to aid a private business entity or person. It specifies, however, that these governmental units can invest in public trust funds or other funds insured by the United States or an instrumentality of the United States.

Additionally, local governmental entities may issue and sell revenue bonds to finance the cost of capital projects for airports, port facilities, and certain industrial or manufacturing plants. The section further allows municipalities, counties, special districts, and agencies of these units to be a joint owner of, giving, lending, or using their taxing power or credit for the joint ownership, construction, and operation of electrical energy generating and transmitting facilities.

Article VII, Section 3 of the Florida Constitution allows counties and municipalities to grant economic development ad valorem tax exemptions to new businesses and expansions of existing businesses. Counties and municipalities may grant such exemptions only after passage of a referendum.

Part III of chapter 163, Florida Statutes, permits a county or municipality to create a community redevelopment agency to carry out redevelopment of slum or blighted areas. Once the county or municipality has specifically declared an area slum or blighted, they may create a separate Community Redevelopment Agency (CRA) to redevelop that area or the county itself may act as the CRA. CRAs are not permitted to levy or collect taxes; however, the county is permitted to establish a community redevelopment trust fund utilizing revenues derived from tax increment financing.

In tax increment financing, property values in a certain defined community redevelopment area are frozen by local ordinance at the assessed value for a particular base year. As redevelopment proceeds within the redevelopment area, the actual assessed value of property within the redevelopment area is expected to increase. Taxing authorities located within the community redevelopment area are required to deposit the incremental revenue received as a result of this increase in property value in a redevelopment trust fund established by the CRA.

CRAs are granted those powers "necessary or convenient to carry out and effectuate the purposes of the act." These powers include the power to undertake and carry out community redevelopment and related activities within the community redevelopment area. Section 163.370(1), Florida Statutes, currently states that this redevelopment may include such activities as the acquisition and disposition of real property located within the community redevelopment area and the repair or rehabilitation of structures within the community redevelopment area for dwelling uses.

The Florida Enterprise Zone Act, Chapter 190, Florida Statutes, was originally enacted by the Legislature in 1980 as a means of encouraging private enterprise to locate in and employ residents of slum and blighted areas through the use of tax incentives. Enterprise zones are economically distressed areas in Florida which are eligible for certain corporate and sales tax exemptions from the state and various local incentives. The Act was scheduled for repeal on December 31, 1994. The Legislature substantially modified the Act during the 1994 Regular Session and created the Florida Enterprise Zone Act of 1994.

B. EFFECT OF PROPOSED CHANGES:

Municipalities are authorized to expend public funds to attract and retain business enterprises.

The bill defines economic development activities as including but not limited to developing or improving local infrastructure; issuing bonds to finance or refinance the cost of capital projects for industrial or manufacturing plants; leasing or conveying real property; and making grants to private enterprises for the expansion of businesses to the community.

The bill declares that the use of public funds toward the achievement of economic goals constitutes a public purpose.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

N/A

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

- (2) what is the cost of such responsibility at the new level/agency?

N/A

- (3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

N/A

- b. Does the bill require or authorize an increase in any fees?

N/A

- c. Does the bill reduce total taxes, both rates and revenues?

N/A

- d. Does the bill reduce total fees, both rates and revenues?

N/A

- e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Section 166.021, Florida Statutes

E. SECTION-BY-SECTION RESEARCH:

Section 1: Declares that there is a need to attract and retain business development and economic promotion by municipalities; provides that municipal governing bodies may expend public funds to attract and retain business enterprises; declares that expending funds in this manner serves a public purpose; provides that this provision should be liberally construed; provides a non-inclusive list of spending public funds for economic development activities; and provides that this provision shall not limit home rule powers.

Section 2: Provides an effective date of upon becoming law.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

Municipalities are authorized to expend revenues received from ad valorem and other taxes, surcharges, fees, or other assessments on economic development activities.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

The expenditure of funds by municipalities on economic development activities may have a beneficial impact on certain private enterprises at the expense of others.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority of municipalities and counties to raise revenues, and the bill is therefore exempt from the provisions of Article VII, Section 18(b), Florida Constitution.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill will not reduce the amount of the local Government half Cent Sales Tax shared with municipalities and counties, and it does not reduce the percentage of a state tax shared with municipalities and counties. Therefore, Article VII, Section 18(b), Florida Constitution does not apply.

V. COMMENTS:

Article VII, section 10 of the Florida Constitution prohibits the state and any county, school district, municipality, special district, or agency from becoming a joint owner with a stockholder of or giving, lending, or using its taxing power or credit to aid any corporation, association, partnership, or person. The provision is meant to restrict activities of government to that of the government and to forbid governments from engaging directly or indirectly in commercial enterprises for profit. It also acts to protect public funds and resources from being exploited in promoting private ventures when the public would be, at most, only incidentally benefited. However, in determining what is a public purpose, courts give great weight to legislative determinations. In fact, the Florida Supreme Court has stated that what constitutes a public purpose is, in the first instance, a question for the legislature, and should be deemed correct unless so clearly wrong as to be beyond the power of the legislature. State v Housing Finance Authority of Polk County, 376 So.2d 1158 (Fla. 1979). In addition, it is immaterial to the propriety of an expenditure that the primary beneficiary of a project is a private part, if the public interest, even though indirect, is present and sufficiently strong.

Lending credit requires a greater showing of a benefit to the public. If there is only an incidental benefit to a private party from a county revenue bond issue for a project, the bonds are valid, but if benefits to a private party are themselves the paramount purpose of a project the bonds will not be validated even if the public gains something therefrom. Orange County Indus. Develop. Autho. v. State, 427 So.2d 174 (Fla. 1983).

Legislative acts declaring the expenditure of public funds for economic development activities and the use of public funds toward the achievement of such economic development constitute a public purpose. This legislative determination is given great weight by the courts and may be overcome only by a showing that the legislature acted beyond its power.

The Florida League of Cities support this bill and feel that it is a great benefit for municipalities.

TaxWatch comments that it does not support this bill. TaxWatch has expressed its comments in writing which is attached.

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VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

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