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HOUSE OF REPRESENTATIVES
COMMITTEE ON
TOURISM
ANALYSIS

BILL #: House Bill 1801

RELATING TO: Cultural Organizations

SPONSOR(S): Representative Johnson

COMPANION BILL(S): SB 2414(I)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) TOURISM
(2) COMMUNITY AFFAIRS
(3) FINANCE & TAXATION
(4) GENERAL GOVERNMENT APPROPRIATIONS
(5)

I. SUMMARY:

Chapter 196, F.S., sets forth allowable exemptions for ad valorem taxes and the process for which such exemptions are made.

Chapter 196, F.S., provides for various exemptions based upon property use. Some of those include property used predominately for charitable, religious, scientific, or literary purposes; historic property used for certain commercial or nonprofit purposes; historic property open to the public; certain historic properties; property used by hospitals, nursing homes, and homes for special services; property used by non-profit homes for the aged; community centers; educational institutions within the state and their property used by them or by any other exempt entity or educational institution exclusively for educational purposes; labor organization property; property owned and used by governmental entities; space laboratories; not-for-profit sewer and water company property; and certain properties used for economic development purposes.

House Bill 1801 amends s. 196.012, F.S., to expand the definition of a "new business" to include an arts or cultural organization exempt under s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, or any person or entity that is building or renovating real property used as theater space, or an art gallery open to the public, or making other improvements to real property used in the development and exhibition of the performing or visual arts. The definition includes expansion of an existing facility.

Section 196.1995, F.S., sets forth the requirements, process for obtaining, and limitations on economic development ad valorem tax exemptions. A new subsection (6) is added to that section to include the newly defined segments of a "new business" as one which the board of county commissioners or governing authority of a municipality may exempt from ad valorem taxation. The new subsection also provides a formula to determine the exemption based on square footage of the property dedicated to such purposes. Existing subsections (6) through (9) of s. 196.1995, F.S., are renumbered as subsections (7) through (10).

Section 3 of House Bill 1801 provides for legislative recognition of the Central Florida Theatre Alliance and the declaration of it as the premier umbrella organization for the promotion of theater in the Orlando area.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Chapter 196, F.S., sets forth allowable exemptions for ad valorem taxes and the process for which such exemptions are made.

Chapter 196, F.S., provides for various exemptions based upon property use. Some of those include property used predominately for charitable, religious, scientific, or literary purposes; historic property used for certain commercial or nonprofit purposes; historic property open to the public; certain historic properties; property used by hospitals, nursing homes, and homes for special services; property used by non-profit homes for the aged; community centers; educational institutions within the state and their property used by them or by any other exempt entity or educational institution exclusively for educational purposes; labor organization property; property owned and used by governmental entities; space laboratories; not-for-profit sewer and water company property; and certain properties used for economic development purposes.

Section 196.012, F.S., provides definitions for terms used in the chapter. Among those terms defined is "new business." By definition, such a business is one:

- establishing 10 or more jobs to employ 10 or more full-time employees at a fixed location in the state comprising an industrial or manufacturing plant for the manufacturing, processing, compounding, fabricating, or producing of tangible personal property for sale;

- establishing 25 or more jobs to employ 25 or more full-time employees, the sales factor of which for the facility with respect to which it requests an economic development ad valorem tax exemption is less than 0.50 for each year the exemption is claimed;

- which is an office space that is owned and used by a corporation newly domiciled in Florida, provided the office space houses 50 or more full-time employees of the corporation; or

- located in an enterprise zone that first begins operation on a site clearly separate from any other commercial or industrial operation owned by the same business.

Section 196.1995, F.S., sets forth the requirements for and process for obtaining economic development ad valorem tax exemptions as well as any limitations on such exemptions. The first four subsections speak to the procedures for and the format for use by the board of county commissioners of any county or the governing authority of any municipality to use in calling for a referendum. Subsection (5) provides that upon a majority vote of the board of county commissioners or the governing authority of the municipality, at its discretion, by ordinance may exempt from ad valorem taxation up to 100 percent of the assessed value of all improvements to real property made by or for the use of a new business and of all tangible personal property of such new business, or up to 100 percent of the assessment of all added improvements to real property made to facilitate the expansion of an existing business and of the net increase in all tangible personal property acquired to facilitate such an expansion of an existing business, provided that the improvements to real property are made or the tangible personal property is added or increased on or after the day the ordinance is adopted. Subsection (5) states that it applies only to taxes levied by the respective unit of government granting the exemption. The subsection does not apply to property acquired to replace existing property not considered to facilitate a business expansion nor to taxes levied for payment of bonds or to taxes authorized by a vote of electors pursuant to s. 9(b) or s. 12, Art.VII of the State Constitution. With regard to certain facilities, the exemption under the subsection is effective up to 10 years regardless of any change in the governing authority's ability to grant exemptions. Subsection (6) provides for exemptions under s. 196.1995, F.S., to last for 10 years after which they may be renewed for up to an additional 10 years pursuant to a referendum. Subsection (7) requires a person, firm, or corporation desiring an economic development ad valorem tax exemption to file a written application on a form prescribed by the Department of Revenue with the board of county commissioners or the governing authority of the municipality, or both, in the year the exemption is desired to take effect. The application requests the adoption of an ordinance to effectuate the request and requires that certain specific information be provided concerning the applicant. Subsection (8) requires that before any action can be taken on the application, the board of county commissioners or the governing authority of the municipality must give a copy of the application to the county's property appraiser. The property appraiser must review the application and report back certain specific information to the board or the governing authority. Included in the information is an estimate of the revenue which would be lost to the county or municipality during the current fiscal year if the exemption applied for were granted had the property for which the exemption is requested otherwise been subject to taxation. Finally, subsection (9) of s. 196.1995, F.S., states that any ordinance granting an exemption under the section must be adopted in the same manner as any other ordinances. The subsection states what information must be included in the ordinance.

B. EFFECT OF PROPOSED CHANGES:

House Bill 1801 amends s. 196.012, F.S., to expand the definition of a "new business" to include an arts or cultural organization exempt under s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, or any person or entity that is building or renovating real property used as theater space, or an art gallery open to the public, or making other improvements to real property used in the development and exhibition of the performing or visual arts. The definition includes expansion of an existing facility.

Section 196.1995, F.S., sets forth the requirements, process for obtaining, and limitations on economic development ad valorem tax exemptions. A new subsection (6) is added to that section to include the newly defined segments of a "new business" as one which the board of county commissioners or governing authority of a municipality may exempt from ad valorem taxation. The new subsection also provides a formula to determine the exemption based on square footage of the property dedicated to such purposes. Existing subsections (6) through (9) of s. 196.1995, F.S., are renumbered as subsections (7) through (10).

Section 3 of House Bill 1801 provides for legislative recognition of the Central Florida Theatre Alliance and the declaration of it as the premier umbrella organization for the promotion of theater in the Orlando area.

C. APPLICATION OF PRINCIPLES:

1. <u>Less Government:</u>

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

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

No.

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

Yes. The local governmental entity can already exempt certain new businesses from ad valorem taxation; however, the bill increases the types of businesses that can qualify for exemptions. This will potentially require additional work on the parts of local governing authorities regarding such applications for exemption and additional work for the respective county's property appraiser.

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

No.

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?

No.

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

No.

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

It could reduce certain local tax revenues, if adopted by the local governmental entity.

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?

No.

3. Personal Responsibility:

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

No.

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

No.

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?

No.

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:

Amends ss. 196.012 and 196.1995, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Expands the definition of “new business” in s. 196.012, F.S., to include an arts or cultural organization that is tax exempt under s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, or any person or entity that is building or renovating improvements to real property which will include theater space, an art gallery open to the public, or some other improvement that is dedicated to the development and exhibition of the performing or visual arts.

Section 2. Amends s. 196.1995, F.S., to provide for an ad valorem tax exemption for certain new businesses that are dedicated to the arts or cultural purposes. Exempts only that portion of a real property improvement that is theater space, an art gallery open to the public, or other improvement dedicated to the development and exhibition of the performing or visual arts. The amount of exemption is calculated by multiplying the total amount of the ad valorem taxes that would otherwise be imposed times the percentage obtained by dividing the total square footage of the improvement into the square footage that is dedicated to theater space, an art gallery open to the public, or space dedicated to the development and exhibition of the performing or visual arts.

Section 3. Recognizes the Central Florida Theatre Alliance for its promotion of the theatrical arts.

Section 4. Provides that the bill will take effect upon becoming a law.

III. FISCAL ANALYSIS & 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:

   House Bill 1801 has a negative indeterminate fiscal impact on counties and municipalities that choose to provide ad valorem tax exemptions for the newly defined category of “new business.”

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:

   Increased economic activity could be experienced from persons owning or operating the new classification of “new business” dedicated to the arts or cultural purposes. The ad valorem tax exemption could serve as incentive for the location of or the building of such businesses in an area.

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

   To the extent that such an exemption would encourage the development or location of such businesses in an area, it could have a positive impact on the employment market and private enterprise. It could possibly have an adverse impact on competition for existing facilities or businesses involved with arts or cultural endeavors.

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 the counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill authorizes but does not require counties or municipalities to provide for ad valorem tax exemptions for the expanded definition of “new businesses”; therefore, it does not reduce the authority that municipalities or counties have to raise revenue in the aggregate.

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

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

Section 3 of the bill provides for legislative recognition of a local organization that is similar to what is provided through the resolution process.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON TOURISM:

Prepared by:	Staff Director:
Judy C. McDonald	Judy C. McDonald