

STORAGE NAME: h1437s1a.ca

DATE: April 12, 2000

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
COMMUNITY AFFAIRS
ANALYSIS**

BILL #: CS/HB 1437

RELATING TO: Enterprise Zones

SPONSOR(S): Committee on Business Development & International Trade
and Representative K. Smith

TIED BILL(S):

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

- (1) BUSINESS DEVELOPMENT & INTERNATIONAL TRADE YEAS 9 NAYS 0
- (2) COMMUNITY AFFAIRS YEAS 9 NAYS 0
- (3) FINANCE & TAXATION
- (4) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
- (5)

I. SUMMARY:

The bill provides a definition of a "rural enterprise zone." It authorizes the Office of Tourism, Trade, and Economic Development (OTTED) to amend the boundaries of a rural enterprise zone and provides requirements. It modifies the employee residency requirements for the enterprise zone jobs credits, if the business is located in a rural enterprise zone. For those businesses located within a rural enterprise zone, it provides maximum exemptions or credits with respect to the sales tax credits for building materials used in the rehabilitation of real property in an enterprise zone; for electrical energy used in an enterprise zone; and for the corporate income tax enterprise zone property tax credit, if no less than 20 percent of its employees reside in the county. It authorizes the OTTED to designate rural champion communities as enterprise zones and provides requirements.

The Revenue Estimating Conference estimates a (\$0.1) million negative impact on the General Revenue Fund in FY 2000-01 and a recurring negative impact of (\$0.4 million). An insignificant fiscal impact on local government is projected.

The Committee on Community Affairs adopted two amendments that are traveling with the bill. As discussed in the "AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES" section of the analysis, the amendments replace references to a statutory definition of "rural county" with language consistent with the definition of a "rural enterprise zone." The purpose is to make the population limits for special qualifications for financial incentives the same as those used in the definition of rural enterprise zones.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

The Florida Enterprise Zone Program

Background

Established in 1980, the Florida Enterprise Zone program targets areas for economic revitalization and provides incentives to businesses located in designated areas found in urban and rural communities. An "enterprise zone" is a specific geographic area targeted for economic revitalization. Presently, the state has thirty-four enterprise zones.

By the early nineties, the program had become overwhelmed with the number of zones allowed. To remedy the situation, the legislature passed the Florida Enterprise Zone Act in 1994. As a result, the existing zones were repealed on December 31, 1994, and guidelines were established for the designation of new zones. The act transferred administrative duties from the Department of Community Affairs to the Department of Commerce.

In 1995, nineteen enterprise zones were designated throughout the state. Local governments were required to establish a community based Enterprise Zone Development Agency (EZDA). Each EZDA is responsible for overseeing the implementation of its individual plan and reducing local barriers to revitalization efforts. The agencies are required to market their zones to interested parties and assist local business owners with state and local incentives.

With the dissolution of the Department of Commerce in 1996, the legislature amended the program and transferred the administrative responsibilities to the newly created Office of Tourism, Trade, and Economic Development (OTTED) within the Executive Office of the Governor. In addition, the revision added Work and Gain Economic Self-Sufficiency (WAGES) Program participants (residing in a zone) as eligible employees for a 15 percent jobs tax credit. The legislature also authorized the designation of eleven additional enterprise zones.

In 1997, the legislature authorized twelve new zones. The following year, the program was amended to include a new zone and to allow businesses located within an enterprise zone to claim jobs tax credits for hiring WAGES or Job Training Partnership Act (JTPA) program participants regardless of where they live.

As part of the "Florida Empowerment Zone Act," the 1999 Legislature provided for any area designated as a federal empowerment zone or enterprise community to be designated as a state enterprise zone. The 1999 Legislature also amended the "Florida Enterprise Zone Act" to allow Liberty County, Columbia County or Columbia County and Lake City, Suwannee County or Suwannee County and Live Oak, and Gadsen County to apply to OTTED for designation of specified areas as enterprise zones.

The Florida Enterprise Zone Program includes the following financial incentives to businesses to encourage private investment and increase employment opportunities for enterprise zone residents:

- Enterprise Zone Jobs Tax Credit (Sales & Use Tax);
- Enterprise Zone Jobs Tax Credit (Corporate Income Tax);
- Enterprise Zone Property Tax Credit (Corporate Income Tax);
- Sales Tax Refund for Building Materials Used in an Enterprise Zone;
- Sales Tax Refund for Business Machinery and Equipment Used in an Enterprise Zone;
- Sales Tax Exemption for Electrical Energy Used in an Enterprise Zone;
- Community Contribution Tax Credit Program;
- Enterprise Zone Linked Deposit Program.

Costs of the program have increased as new areas have been added. The total cost of state and local incentives was \$11.2 million in FY 1996-97 and \$13 million in FY 1997-98. During the fourth full year of the revised Enterprise Zone Program, costs have increased by \$11 million such that FY 1998-99 totals \$24 million in state and local incentives (\$5.2 million in state tax incentives approved by the Department of Revenue, and \$18.8 million in incentives provided by the local governing bodies; however, some of the local incentives provided are federal pass-through funds.). This increased activity was the result of 776 new businesses moving into enterprise zones creating 5,305 new jobs.

Requirements and Process for Nominating, Selecting, and Designating Enterprise Zones

Section 290.0055, F.S., provides requirements for nominating and selecting an enterprise zone. It provides size limitations depending on the community population category and requires that the selected area suffer from pervasive poverty, unemployment, and general distress, as described and measured pursuant to s. 290.0058, F.S. Section 290.0058(2), F.S., specifies that pervasive poverty "shall be evidenced by a showing that poverty is widespread throughout the nominated area. The poverty rate of the nominated area shall be established using the following criteria: (a) In each census geographic block group within a nominated area, the poverty rate shall be not less than 20 percent. (b) In at least 50 percent of the census geographic block groups within the nominated area, the poverty rate shall not be less than 30 percent."

Section 290.0065, F.S., outlines the process for designating an enterprise zone. It authorizes OTTED to designate a total of 20 areas as enterprise zones ranked competitively, based on pervasive poverty, unemployment, and general distress of the area. Subsection (3)(a) provides five population categories within which areas designated as an enterprise zone shall be placed.

Boundary Changes

There are currently a number of provisions in the enterprise zone statutes which relate to boundary changes. For example, s. 290.0065(9), F.S., provides for amending the boundaries of any previously designated enterprise zone if pervasive poverty,

unemployment and distress are still present within the new borders. Subsection (10) provides for amending the boundaries of certain zones for the purpose of replacing areas not suitable for development if the application for such amendment is received before December 31, 1998. This subsection requires OTTED to approve the application if it does not increase the overall size of the enterprise zone and the added area is consistent with previous categories, criteria, and limitations.

Qualifications for Enterprise Zone Incentives

Sections 212.096(1)(c) and 220.03(1)(q), F.S., governing the enterprise zone jobs credit, require that employees eligible for the credit reside within the boundaries of an enterprise zone. Sections 212.08(5)(g)5 [building materials sales tax exemption], 212.08(5)(h)5., [business property sales tax exemption], 212.08(15)(a) [electrical energy sales tax exemption], and 220.182(1)(b) [ad valorem income tax credit], F.S., require that employees included in the 20 percent employment calculation used in determining the amount of credit or refund for which a business is eligible.

Section 370.28, F.S., relating to enterprise zones designated in communities affected by the net limitations, provides that if at least 20 percent of the employees of a business located in a net ban enterprise zone are residents of the county in which the zone is located, the business may claim the maximum amount of: 1) the sales tax exemption for building materials used in the rehabilitation of real property in an enterprise zone; 2) the sales tax exemption for business property used in an enterprise zone; 3) the sales tax exemption for electrical energy used in an enterprise zone; and 4) the corporate income tax credit for property taxes paid on new or improved property in an enterprise zone. This authority is provided notwithstanding the requirement in statute that at least 20 percent of the employees of a business must be residents of the enterprise zone for the business to claim the maximum exemption or credit amounts. This statute further specifies that a business located in a net ban enterprise zone may claim the job-creation tax credit based upon the employment of a person who lives within the jurisdiction of the entire county in which the enterprise zone is located, rather than living within the enterprise zone.

Florida's Rural Counties

Despite Florida's recent rapid growth and urbanization, much of the state remains rural in character. Florida has 33 counties with populations under 75,000 and more than 50 percent of the state's 400 municipalities have populations of less than 5,000. Many rural communities lag behind their non-rural counterparts as measured by such indicators as per capita income, employment opportunities, local service provisions, access to health care, and educational achievement and quality. Compared with other states, Florida is unique in that many of its rural areas are located in close proximity to its urban centers. Densely developed urban centers are defined by surrounding open space, while the viability of rural areas depends on healthy, prosperous and contained urban areas with well-defined boundaries.

The Florida Legislature recognized the need to encourage economic development in the state's rural communities with the passage of Senate Bill 1566 (chapter 99-251, Laws of Florida). It created the Rural Economic Development Initiative (REDI), administered by OTTED, to coordinate the efforts and resources of state and regional agencies on the problems which affect the fiscal, economic, and community viability of Florida's rural communities. Further, SB 1566 created the Rural Infrastructure Fund within OTTED to provide grants for infrastructure in support of specific economic development.

Federal Rural Incentives

Through the Community Empowerment Program, the Federal government recognizes the need to bolster economic development in rural communities. Enacted into law in August 1993, the program provides economic incentives to communities which have high rates of poverty. To receive these incentives, a community must present a comprehensive strategic plan developed with the active participation of low-income community residents. For those communities that applied for designation under the Empowerment Zone/Enterprise Community Initiative but did not receive designations as such, the Federal government designates these areas as Champion Communities. The designation strives to recognize the significant local investment of these communities through a variety of resources and assistance.

C. EFFECT OF PROPOSED CHANGES:

The bill provides a definition of a "rural enterprise zone," to mean an enterprise zone that is nominated by a county with a population of 75,000 or fewer, or a county with a population of 100,000 or fewer which is contiguous to a county with a population of 75,000 or fewer, or by a municipality in such a county. An enterprise zone designated in s. 370.28, F.S., would also meet this definition. Based on this definition, the following enterprise zones would be classified as "rural enterprise zones:"

- Chipley/Washington County
- Defuniak Springs
- Dixie County
- Everglades City
- Franklin County
- Freeport
- Gulf County
- Hendry County
- Jackson County
- Liberty County
- Oak Hill
- St. Marks
- Sebring/Highlands County
- Taylor County
- Wakulla County

The bill authorizes OTTED to amend the boundaries of a rural enterprise zone to include up to 15 square miles and to include one additional non-contiguous area. A local enterprise zone development agency must request this amendment prior to December 30, 2000.

The bill modifies the employee residency requirements for the enterprise zone jobs tax credit incentive to include county residents, as well as zone residents. Further, it would modify the 20 percent enhancement clause to count county residents when calculating the percentage of employees residing within an enterprise zone in a "rural enterprise zone" for four enterprise zone incentives (building materials sales tax refunds, business equipment sales tax refunds, electrical energy sales tax exemption and enterprise zone property tax credit).

The bill provides Champion Communities with the opportunity to apply for designation as an enterprise zone.

D. SECTION-BY-SECTION ANALYSIS:

Section 1 Renumbers subsections (8) and (9) of section 290.004, F.S., as subsections (9) and (10), respectively. Creates a new subsection (8), which provides a definition of a “rural enterprise zone.”

Section 2 Creates s. 290.00676, F.S., to provide the “rural enterprise zones” with an opportunity to amend their enterprise zone boundaries to include up to 15 square miles and include one additional noncontiguous area. Requires the local enterprise zone development agency to request the amendment prior to December 30, 2000. The request must contain maps and sufficient information to allow OTTED to determine the number of noncontiguous areas and the total size of the rural enterprise zone.

Section 3 Creates s. 290.00677, F.S. Modifies the employee residency requirements for the enterprise zone job credit for a business located within a rural enterprise zone. For rural enterprise zones, the business is eligible for the maximum exemptions or credits with respect to the sales tax credits for building materials used in the rehabilitation of real property in an enterprise zone, for electrical energy used in an enterprise zone; and for the corporate income tax enterprise zone property tax credit, if no less than 20 percent of its employees reside in the county. Provides application time limits.

Section 4 Creates s. 290.00694, F.S., to allow OTTED to designate rural champion communities as enterprise zones.

Section 5 Provides an effective date of upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference estimates a (\$0.1) million negative impact on the General Revenue Fund in FY 2000-01 and a recurring negative impact of (\$0.4 million).

2. Expenditures:

The Department of Revenue indicates this bill has no fiscal impact on the department.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference estimates an insignificant fiscal impact on local government revenues.

2. Expenditures:

This bill does not require local governments to expend funds.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may generate positive economic effects resulting from the greater availability of various tax incentives.

D. FISCAL COMMENTS:

According to Enterprise Florida, Inc., the fiscal impact of this bill is indeterminate at this time.

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:

Although the bill may reduce the authority of municipalities and counties to raise revenues, the impact is expected to be insignificant.

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:

A. CONSTITUTIONAL ISSUES:

N/A.

B. RULE-MAKING AUTHORITY:

This bill does not necessitate additional rulemaking authority.

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Committee on Community Affairs

On April 12, 2000, the Committee on Community Affairs adopted two amendments that are traveling with CS/HB 1437. The amendments replace references in the bill to a statutory definition of "rural county" with language consistent with the definition of a "rural enterprise zone." References to a "rural county, as defined by s. 288.106(2)(r), F. S." are replaced with "a county with a population of 75,000 or fewer, or a county with a population of 100,000 or fewer which is contiguous to a county with a population of 75,000 or fewer." The purpose of the

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changes is to make the population limits for special qualifications for financial incentives the same as those used in the definition of rural enterprise zones.

Committee on Business Development & International Trade

On March 21, 2000, the Committee on Business Development and International Trade adopted three amendments. The first inserted the word "square," allowing rural enterprise zones to be up to 15 square miles; the second added enterprise zone tax exemptions which were not included in the original bill; and the third provided an exception for rural enterprise zones from a statutory size limit, as well as specified poverty and unemployment conditions, to allow champion communities to be eligible for enterprise zone designation.

VII. SIGNATURES:

COMMITTEE ON BUSINESS DEVELOPMENT & INTERNATIONAL TRADE:

Prepared by:

Staff Director:

James Marshall Cox

J. Paul Whitfield, Jr.

AS REVISED BY THE COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

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