

STORAGE NAME: h1225.edit.doc
DATE: March 23, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
ECONOMIC DEVELOPMENT AND INTERNATIONAL TRADE
ANALYSIS**

BILL #: HB 1225
RELATING TO: Economic Development
SPONSOR(S): Representative(s) Pickens and Kilmer

TIED BILL(S):

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

- (1) ECONOMIC DEVELOPMENT AND INTERNATIONAL TRADE
 - (2) FISCAL POLICY AND RESOURCES
 - (3) COUNCIL FOR COMPETITIVE COMMERCE
 - (4)
 - (5)
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I. SUMMARY:

The bill would increase the enterprise zone job tax credit against sales and corporate income tax and authorize OTTED to contract with Enterprise Florida, Inc., to perform certain administrative duties.

The bill would provide for rural considerations in grant review and evaluation processes. It would require Rural Economic Development Initiative (REDI) agencies to review grant and loan application evaluation criteria and make recommendations to ensure access for rural counties to state resources. It would require REDI agencies to review financial match requirements for projects in rural communities and develop proposals to waive or reduce the match requirements for those projects. It would require state agencies to submit all proposed rule changes to OTTED for review by REDI agencies. The bill would include economic development organizations substantially underwritten by a unit of local government with financial assistance under the rural Community Development Revolving Loan Fund.

The bill would provide a definition of "rural enterprise zone;" include EFI in the determination of eligibility for enterprise zone status; and provide that an area designated as a rural empowerment zone, a rural enterprise community, or a rural champion community be designated as a state rural enterprise zone. It would provide for certain boundary amendments by rural enterprise zones; would revise criteria for enterprise zone tax credits for businesses located in rural enterprise zones; and would provide that an area designated as a rural champion community or a community in a designated area of critical economic concern may apply for designation as a rural enterprise zone.

The Revenue Impact Conference has not addressed this bill.

The bill would take effect July 1, 2001.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" 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:

The bill would require state agencies to submit proposed rules to OTTED for review by REDI agencies.

B. PRESENT SITUATION:

Rural Economic Conditions

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. Many rural residents live throughout a county and not in compact neighborhoods. The zone size limitations for low population areas are too small for businesses to take full advantage of the tax credits that the enterprise zones were designed to provide.

Rural communities have not shared in the state's prosperity. Rural Florida makes up 7 percent of the state's population with a growth rate that is out-pacing the state average; however, the income gap is growing. According to data provided by Enterprise Florida, Inc. (EFI), between 1990 and 1997, rural Florida's population has increased by 20 percent compared to the state average of 13.4 percent. The median household income in 32 of 34 of the smallest counties is about 30 percent less than the state's median income, according to a study by the Center on Budget and Policy Priorities. Not a single small county enjoys a per capita personal income that exceeds the state average of \$27,806.

Also of concern are low rates of pay by captured businesses in rural communities. According to 1997 data reported by EFI, manufacturing businesses throughout rural Florida pay lower than average sector wages. In northwest Florida, for example, manufacturing pays on average about 38 percent less per hour than the average manufacturing sector wages for all of Florida. In rural south Florida, manufacturing pays closer to the state manufacturing sector wage average; however, the manufacturing sector employs only 3.6 percent of the rural south Florida population. Prison construction has been a growth industry in rural north Florida counties; however, these jobs

contribute to a dependence on government as the largest high-wage employer, and this source of development adds less to the tax base than other engines of development.

Adding to these difficulties, recent public policy decisions have made it more difficult for these communities to maintain their residents' income levels or to generate revenues for education and critical government services. For example, Preservation 2000 and other conservation and protection programs have removed taxable land from the inventory of wealth-creating assets in rural communities. The constitutional amendment banning the use of certain types of nets for commercial fishing has cut incomes in coastal communities. Although each of these programs involves a laudable public goal, their cumulative impact has meant less wealth and has limited the fiscal capacity of the affected communities.

Thirty-four counties meet a legislatively prescribed definition of "rural community" as meaning a county with a population of 75,000 or less or a county with a population of 100,000 or less that is adjacent to a county with a population of 75,000 or less. (See, e.g., s. 288.0656(2)(b), F.S.)

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.

Enterprise Zone Program

Florida established one of the first enterprise zone programs in the country in 1980 to encourage economic growth and investment in distressed areas by offering tax advantages to businesses willing to make such an investment. An "enterprise zone" is a specific geographic area targeted for economic revitalization. Since July 1, 1995, the state has designated 34 enterprise zones (March 1, 2000, *Florida Enterprise Zone Program Annual Report* by the Office of Tourism, Trade, and Economic Development).

In 1994, the Legislature passed significant revisions to the first Enterprise Zone Program established in 1980. The original program became overwhelmed with the number of zones allowed. As a result, the existing zones were repealed on December 31, 1994, and parameters were established for designation of new zones. Administrative responsibilities of the program were transferred from the Department of Community Affairs to the Department of Commerce. The jobs tax credit eligibility criteria were revised to require both the business and the employee to reside within an enterprise zone.

In 1995, 19 enterprise zones were designated in urban and rural communities throughout the state. Local governments were required to establish a community-based Enterprise Zone Development Agency (EZDA).

In 1996, 11 new enterprise zones were authorized by the Legislature of which 10 submitted acceptable plans and applications. Administrative duties were transferred to the newly created Office of Tourism, Trade, and Economic Development (OTTED) upon the dissolution of the Department of Commerce.

In 1997, OTTED designated the City of Fort Pierce as the 30th enterprise zone.

In 1998, the 31st enterprise zone was added when the Legislature further amended the Enterprise Zone Program by authorizing a new zone to be designated within a brownfield pilot project area (Clearwater). Also in 1998, the Legislature provided that new employees who are welfare transition participants may provide a basis for employers to claim the enterprise zone job tax credit under ss. 212.096 and 220.181, F.S., regardless of whether such employees reside in the zone.

In 1999 and the first two months of 2000, enterprise zones were approved for Lake Apopka (32nd zone), Liberty County (33rd), and Hendry County (34th). In addition, Suwannee, Columbia, and Gadsden counties have submitted applications for enterprise zone designation pending approval from OTTED.

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.

Tax incentives are offered to all types of businesses who are located within a designated Enterprise Zone who employ zone residents, rehabilitate real property or purchase business equipment to be used in the zone. Tax credits are available to businesses that pay either the Florida Corporate Income Tax or the Florida Sales and Use Tax. Sales tax refunds and sales tax exemptions are available if eligible purchases are made.

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.

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 stipulates that for communities having a total population of 20,000 persons or less, the selected enterprise zone area shall not exceed 3 square miles. This section also 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."

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 be 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.

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 that 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.

The effectiveness of enterprise zone tax incentives was the topic of a 1998 report issued by the Senate Committee on Ways and Means, Subcommittee E. In this report, and in testimony provided to the Legislative Committee on Intergovernmental Relations (LCIR) by the Office of Tourism, Trade, and Economic Development, the overall success of the enterprise zone program was discussed, as was whether rural and net-ban affected areas were sharing in that success. Rural and net-ban affected areas do not appear to benefit as much from the program as do urban areas. It was reported that rural enterprise zones claim progress on only 66 percent of goals identified in

their strategic plans, compared with an 87 percent rate of progress toward goals for urban areas, and net-ban affected areas report only a 44 percent rate of progress.

In the 1998 report, the lower progress rate for rural and net-ban affected areas was largely attributed to a lack of local resources necessary to formulate, promote, and market an enterprise zone, and an increase in funding to those specific areas was recommended. Another explanation for insufficient progress in rural areas is that the enterprise zone program currently provides certain tax credits to businesses only for employees who reside within the enterprise zone. In rural areas, it is less likely that employees reside in the enterprise zone, as residential patterns differ from those common to densely populated urban areas. Because the enterprise zone program was originally created with urban areas in mind, the structure of some of the benefits remains more suited to urban communities. Currently, because of the unique characteristics of rural communities, they are not able to fully utilize the benefits conferred by the enterprise zone program under existing law (Florida Senate Committee on Ways and Means, Subcommittee E, *The Effectiveness of Enterprise Zone Tax Incentives: Florida's Enterprise Zone Program Since 1994*, Interim Project Summary 98-63, October 1998).

C. EFFECT OF PROPOSED CHANGES:

The bill would increase the enterprise zone job tax credit against sales and corporate income tax; make a business qualified for the Qualified Target Industry tax refund eligible for the Rural Job Tax Credit; and authorize OTTED to contract with Enterprise Florida, Inc., to perform certain administrative duties.

The bill would provide for rural considerations in grant review and evaluation processes. It would require Rural Economic Development Initiative (REDI) agencies to review grant and loan application evaluation criteria and make recommendations to ensure access for rural counties to state resources. It would require REDI agencies to review financial match requirements for projects in rural communities and develop proposals to waive or reduce the match requirements for those projects. It would require state agencies to submit all proposed rule changes to OTTED for review by REDI agencies. The bill would include economic development organizations substantially underwritten by a unit of local government with financial assistance under the rural Community Development Revolving Loan Fund.

The bill would provide a definition of "rural enterprise zone;" include EFI in the determination of eligibility for enterprise zone status; and provide that an area designated as a rural empowerment zone, a rural enterprise community, or a rural champion community be designated as a state rural enterprise zone. It provides for certain boundary amendments by rural enterprise zones; revises criteria for enterprise zone tax credits for businesses located in rural enterprise zones; and provides that an area designated as a rural champion community or a community in a designated area of critical economic concern may apply for designation as a rural enterprise zone.

See Section II.D., SECTION-BY-SECTION ANALYSIS, for more detail.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Revises the computation for the enterprise zone job tax credit against sales tax. Increases the credit to 20 percent of monthly wages paid for each new job created. If no less than 20 percent of the employees are residents of the enterprise zone, the credit is increased to 30 percent.

For jobs in a rural enterprise zone, the credit is increased to 30 percent and, when at least 20 percent of the employees are residents of the enterprise zone, the credit is increased to 45 percent.

Provides definition of "jobs" to mean full-time positions resulting directly from a project in the state but does not include temporary construction jobs involved with the construction of facilities for a project or any jobs that have previously been included in any application for tax refunds under the Enterprise Zone tax credit (s. 220.181(1), F.S.).

Corrects references, deletes an obsolete date, and makes conforming changes. Amends s. 212.096, F.S.

Section 2. Specifies that a business qualified for the Qualified Target Industry tax refund under s. 288.106, F.S., is eligible for the Rural Job Tax Credit Program. Amends s. 212.098, F.S.

Section 3. Provides a definition of "jobs" to mean full-time positions resulting directly from a project in the state but does not include temporary construction jobs involved with the construction of facilities for a project or any jobs that have previously been included in any application for tax refunds under the Enterprise Zone tax credit (s. 220.181(1), F.S.). Amends s. 220.03, F.S.

Section 4. Revises the enterprise zone job tax credit against corporate income tax. Increases the credit to 20 percent of monthly wages paid for each new job created. If no less than 20 percent of the employees are residents of the enterprise zone, the credit is increased to 30 percent.

For jobs in a rural enterprise zone, the credit is increased to 30 percent and, when at least 20 percent of the employees are residents of the enterprise zone, the credit is increased to 45 percent. Increases the term of the credit to 24 consecutive months.

For welfare transition program participants, the bill would remove the current limitation so that the tax credit of 15 percent would be calculated for the employee's entire monthly wages rather than the first \$1,500.

Corrects a reference and makes conforming changes. Amends s. 220.181, F.S.

Section 5. Authorizes OTTED to contract with EFI to perform administrative duties related to the Regional Rural Development Grants Program. Provides that funds will be released quarterly to EFI for the program and shall be calculated based on the applications in process. Amends s. 288.018, F.S.

Section 6. Provides for rural considerations in the grant review and evaluation processes. Requires, to the fullest extent possible, that the member agencies of REDI are to review all grant and loan application evaluation criteria to ensure the fullest access for rural counties to state resources.

Requires each REDI agency to review all evaluation and scoring procedures and develop modifications based on the impact of a project within a rural community.

Requires evaluation and scoring procedures to: provide for an appropriate ranking based on the proportionate impact of projects on a rural county when compared to similar project impacts on an urban area and recognize the disparity of participation for an equal level of financial support from an urban county and a rural county.

Provides that evaluation criteria weigh contributions in proportion to funding availability at the local level and allow in-kind match in place of financial match for rural counties experiencing financial distress and elevated unemployment.

Requires that the modified evaluation criteria and scoring procedures developed by REDI agencies for existing programs be delivered to OTTED for distribution among REDI agencies for review and comment. Requires that all future rules, programs, evaluation criteria, and scoring processes are to be brought before a REDI meeting for review, discussion, and recommendation to provide rural counties greater access to state resources. Creates s. 288.0185, F.S.

Section 7. Requires REDI agencies to review the financial match requirements for projects in rural communities and develop proposals to waive or reduce the match requirement for those communities proportionate to the fiscal hardship of the county or community. Provides that funds available to a project may be used for financial match of federal programs when fiscal hardship exists and the match may not be waived or reduced. Allows donations of land to count as match when the match requirements are not reduced or eliminated. Requires REDI agencies to expedite the rulemaking process to incorporate the reduction in match by rural communities in fiscal distress. Requires REDI to include in its annual report an evaluation of the status of changes to rules, the number of awards made with waivers, and any recommendations for future changes. Creates s. 288.019, F.S.

Section 8. Requires state agencies to submit all proposed rules to OTTED for review by REDI agencies. Requires a meeting of REDI agencies within 30 days after the receipt of such proposals for comment and recommendations on each proposal. Creates s. 288.0195, F.S.

Section 9. Includes economic development organizations substantially underwritten by a unit of local government with financial assistance under the rural Community Development Revolving Loan Fund. Makes conforming technical changes. Amends s. 288.065, F.S.

Section 10. Provides the definition of "rural enterprise zone" to mean an enterprise zone in a county having a population of 75,000 or few, or a county having a population of 100,000 or fewer which is contiguous to a county having a population of 75,000 or fewer, or by a municipality in such a county, or by such a county and one or more municipalities. Enterprise zones in net ban communities and communities designated as a rural empowerment zone or rural enterprise community pursuant to federal law are considered to be rural enterprise zones. Corrects a reference. Amends s. 290.004, F.S.

Section 11. Corrects references and deletes obsolete language. Amends s. 290.0055, F.S.

Section 12. Corrects a reference. Amends s. 290.0056, F.S.

Section 13. Corrects references. Amends s. 290.0058, F.S.

Section 14. Includes EFI in the determination of which nominated enterprise zones meet criteria & are most appropriate for designation as an enterprise zone. Includes EFI in the development of guidelines for approval of enterprise zone areas. Requires OTTED to provide EFI with a copy of each resolution approved enterprise zone resolution. Provides that the amendment of enterprise zone boundaries must be recommended by EFI.

Provides that an area designated as a rural empowerment zone, a rural enterprise community, or a rural champion community shall be designated as a state rural enterprise zone by OTTED upon completion of certain requirements. Provides that such state enterprise zones may incorporate and

include such designated rural empowerment zone, rural enterprise community, or rural champion community within its boundaries without size limitations.

Corrects references and makes conforming changes. Amends s. 290.0065, F.S.

Section 15. Provides that, upon recommendation of EFI, OTTED may approve a boundary amendment request for a rural enterprise zone. Specifies that net ban enterprise zones are considered rural enterprise zones and eligible for boundary amendments under this section. Boundary amendments under this section may increase the total size of the zone up to 20 square miles and increase the number of noncontiguous areas by one, if that noncontiguous area has zero population, without regard to the pervasive poverty provisions of s. 290.0055, F.S. Local enterprise zone development agency must request boundary amendments from EFI before December 30, 2001, and provide supporting documentation. Creates s. 290.00676, F.S.

Section 16. Provides that businesses located in rural enterprise zones may receive enterprise zone tax credits against corporate income tax or sales tax for hiring any person in a new jobs within the jurisdiction of a rural county, notwithstanding any otherwise specified residency requirement for those tax credits.

Provides that a business located in a rural enterprise zone is qualified for the maximum exemptions or credits if at least 20 percent of such employees of the business are residents of a rural enterprise zone, notwithstanding any other provision of law. Creates s. 290.00677, F.S.

Section 17. Provides that an area designated as a rural champion community pursuant to federal law or a community within a designated area of critical economic concern may apply to EFI for designation as an enterprise zone. Provides that such application must be submitted by December 31, 2001. Provides that OTTED may designate enterprise zones under this section notwithstanding limitations on the authorized number of enterprise zones. Directs OTTED to establish the initial effective date of enterprise zones designated under this section. Creates s. 290.00694, F.S.

Section 18. Provides an effective date of July 1, 2001.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Impact Conference has not addressed this bill.

2. Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

N/A

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

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

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

N/A

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON ECONOMIC DEVELOPMENT AND INTERNATIONAL TRADE:

Prepared by:

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J. Paul Whitfield, Jr.

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