

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 1794
 SPONSOR: Senator Geller
 SUBJECT: Enterprise Zones
 DATE: February 25, 2002 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cibula	Maclure	CM	Favorable
2.	_____	_____	CA	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

SB 1794 authorizes Alachua, Broward, Hendry, Highlands, Jackson, Palm Beach, and Volusia counties to apply to the Office of Tourism, Trade, and Economic Development by December 31, 2002, to amend their existing enterprise zones by replacing areas not suitable for development with areas suitable for development.

This bill substantially amends section 290.0065, Florida Statutes.

II. Present Situation:

The Florida Enterprise Zone Act of 1994 (act), codified in ss. 290.001-290.016, F.S., was created

to assist local communities, their residents, and the private sector in creating the proper economic and social environment to induce the investment of private resources in productive business enterprises located in severely distressed areas and to provide jobs for residents of such areas.

Section 290.003, F.S. Under the act, areas of the state meeting specified criteria, including suffering from pervasive poverty, unemployment, general distress, have been designated as enterprise zones. According to the Office of Tourism, Trade, and Economic Development (OTTED), there are 34 enterprise zones. To induce private business to invest in these enterprise zones, the use of state and local incentives is authorized.

State Incentives

- *Enterprise zone jobs credit against corporate income taxes:* Businesses located in an enterprise zone who pay Florida corporate income taxes are authorized to receive a tax credit against their corporate income tax based on the amount of wages paid to new employees who are either residents of an enterprise zone or participants in a welfare transition program. Section 220.181, F.S.
- *Enterprise zone jobs credit against sales tax:* Businesses located within an enterprise zone who collect and pay Florida sales and use tax are allowed a credit against their sales tax due based on the amount of wages paid to new employees who are either residents of an enterprise zone or participants in a welfare transition program. Section 212.096, F.S.
- *Enterprise zone property tax credit:* New, expanded, or rebuilt businesses located within an enterprise zone are allowed a credit on their Florida corporate income tax based on the amount of property taxes paid. Section 220.182, F.S.
- *Sales tax refund for building materials:* A refund is available for sales taxes paid on the purchase of building materials used in the rehabilitation of real property used in an enterprise zone. The amount of the refund is the lesser of 97 percent of the sales taxes paid or \$5,000, or, if 20 percent or more of the business's employees reside in an enterprise zone, the lesser of 97 percent of the sales taxes paid or \$10,000. Section 212.08(5)(g), F.S.
- *Sales tax refund for business property used in an enterprise zone:* A refund is available for sales taxes paid on the purchase of business property with a purchase price of \$5,000 or more purchased by and for use in a business located in an enterprise zone. The amount of the refund is the lesser of 97 percent of the sales taxes paid or \$5,000, or, if 20 percent or more of the business's employees reside in an enterprise zone, the lesser of 97 percent of the sales taxes paid or \$10,000. Section 212.08(5)(h), F.S.

Local Incentives

- *Sales tax exemption for electrical energy used in an enterprise zone:* A sales tax exemption is available to qualified businesses located in an enterprise zone on the purchase of electrical energy. The amount of the exemption is equal to 50 percent of the sales taxes otherwise due or 100 percent of the sales taxes otherwise due if 20 percent or more of the business's employees reside in an enterprise zone. This exemption is only available if the municipality in which the business is located has passed an ordinance to exempt the municipal utility taxes on such business. Sections 212.08(15) and 166.231(8), F.S.
- *Economic development ad valorem tax exemption:* Up to 100 percent of the assessed value of improvements to real or tangible property of a new or expanded business located in an enterprise zone may be exempted from property taxes if the voters of a municipality authorize the governing body of the municipality to grant such exemptions. Section 196.1995, F.S.

- *Occupational license tax exemption:* By ordinance the governing body of a municipality may exempt 50 percent of the occupational license tax for businesses located in an enterprise zone. Section 205.054, F.S.
- *Local impact fee abatement or reduction, or low-interest or interest-free loans or grants to businesses.* Section 290.0057(1)(e), F.S.,

In FY 1996-97, local and state incentives approved under the Enterprise Zone Program totaled \$11.2 million; in FY 1997-98, local and state incentives totaled \$13 million. Following are enterprise zone statistics for FY 1998-99 and FY 1999-00. Office of Tourism, Trade, and Economic Development, *Florida Enterprise Zone Program Annual Report*, p. 5, March 1, 2001.

CATEGORY	1999/2000	1998/1999	DIFFERENCE
New Businesses in a Zone	766	776	- 10
New Jobs Created in a Zone	5,141	5,305	- 164
State Incentives Approved	\$5,458,835	\$5,170,899	+ \$287,936
Local Incentives Provided	\$10,135,65	\$18,839,076	- \$10,255,879
Total State and Local Incentives Approved	\$15,594,492	\$24,009,975	- \$10,931,560

The Florida Enterprise Zone Act of 1994 is scheduled for repeal on December 31, 2005, as provided by s. 37, ch. 94-136, L.O.F.

Pervasive, Poverty, Unemployment, and General Distress

Typically, when the legislature has authorized the creation of an enterprise zone or authorized the amendment of an enterprise zone boundary, the legislature clearly stated that the new areas must comply with s. 290.0055, F.S., requiring that the area suffer from pervasive poverty, unemployment, and general distress. See, e.g., 290.00693, F.S., but see, s. 290.00555, F.S., (waiving the requirement for pervasive poverty, unemployment, and general distress). To determine whether an area suffers from pervasive poverty, census data must show that the poverty rate in each census block group within the nominated area is at least 20 percent. Section 290.0058(2), F.S. In at least 50 percent of the census block groups within the nominated area the poverty rate must be at least 30 percent. *Id.* If a census block group within a nominated area has no population, it is considered to have a 20-percent poverty rate. Section 290.0058(2)(c), F.S. Unemployment is evidenced by data indicating that the unemployment rate is equal to or greater than the state’s unemployment rate or by evidence indicating especially severe economic conditions for the area resulting in significant job dislocation. Section 290.0058(3), F.S. General distress is evidenced by such factors as a high crime rate, abandoned structures, and deteriorated infrastructure or substantial population decline. Section 288.0055(4), F.S.

Specific Enterprise Zones

Section 290.0065, F.S., authorized the state to designate 20 enterprise zones. Five of these enterprise zones were for communities having a total population of 50,000 persons or more but less than 150,000 persons. Section 290.0065(3)(a)2., F.S. Applicants for the designation of an enterprise zone could include a county or a municipality, or a county and one or more municipalities. Section 290.0055(1), F.S. According to OTTED, under s. 290.0065(3)(a)2., F.S.,

it approved applications for the designation of enterprise zones from Highlands County, Daytona Beach, Fort Lauderdale and Broward County, West Palm Beach and Palm Beach County, and Gainesville. Daytona Beach is located in Volusia County and Gainesville is located in Alachua County.

Section 290.0065(5)(b), F.S., authorized the state to designate additional enterprise zones for areas designated as a rural empowerment zone or rural enterprise community under Title XIII of the Omnibus Budget Reconciliation Act of 1993 or the 1999 Agricultural Appropriations Act. According to OTTED, that authorization resulted in the designation of a 625-square-mile enterprise zone in Hendry County and a 331-square-mile enterprise zone in Jackson County. Jackson County was previously authorized to amend the boundaries of its enterprise zone to substitute an area not suitable for economic development for an area suitable for economic development. Section 290.0065(9), F.S. As a result, Jackson County is not expected by OTTED to seek another amendment to its enterprise zone boundary.

Section 290.0065(9), F.S., authorized the governing body of a county containing an enterprise zone that was designated under s. 290.0065(5)(b), F.S., to amend its enterprise zone boundary to substitute areas within its enterprise zone with areas outside of its enterprise zone. The authority to amend an enterprise zone boundary for a county containing an enterprise zone designated under s. 290.0065(5)(b), F.S., terminated on December 31, 1998.

Section 290.0065(9), F.S., also authorized the governing body of a home rule charter county, or any county the government of which has been consolidated with the government of one or more municipalities in accordance with s. 9, Art. VIII of the State Constitution of 1885, as preserved by s. 6(e), Art. VIII of the State Constitution as revised in 1968 and subsequently amended, to amend its enterprise zone boundary to substitute areas within its enterprise zone with areas outside of its enterprise zone if the amendment is consistent with the categories, criteria, and limitations imposed on initial applications for designation of an enterprise zone as detailed in s. 290.0055, F.S. Although the statute is somewhat unclear, the authority for a county described above to amend its enterprise zone appears to be continuing in nature. If it is the Legislature's intent that these home rule charter counties and consolidated-government counties have continuous authority to amend their enterprise zones, the Legislature may wish to insert the applicable statutory provisions into a separately lettered paragraph in s. 290.0065(9), F.S.

III. Effect of Proposed Changes:

SB 1794 authorizes Alachua, Broward, Hendry, Highlands, Jackson, Palm Beach, and Volusia counties to apply to the Office of Tourism, Trade, and Economic Development by December 31, 2002, to amend their existing enterprise zones by replacing areas not suitable for development with areas suitable for development.

Specifically the bill amends s. 290.0065(9), F.S., to authorize:

- Counties in which enterprise zones were designated pursuant to s. 290.0065(3)(a)2., F.S., to amend their existing enterprise zones by replacing areas not suitable for development with areas suitable for development. The affected counties are Alachua, Broward, Highlands, Palm Beach, and Volusia counties.

- Counties in which enterprise zones were designated under 290.0065(5)(b), F.S., which were counties designated as empowerment zones or rural enterprise communities under federal law, to amend their existing enterprise zones by replacing areas not suitable for development for areas suitable for development. The affected counties are Hendry and Jackson counties.

The bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The Revenue Impact Conference estimated that that HB 877, a bill containing minor technical differences from SB 1794, would have an insignificant local impact. The Revenue Impact Conference assumed that this bill will effect two counties. However, as discussed in the Effect of Proposed Changes section of this analysis, as many as seven counties may be effected by this bill, which would result in a larger fiscal impact.

B. Private Sector Impact:

If an application to amend an enterprise zone's boundaries to substitute areas unsuitable for economic development is approved by the Office of Tourism, Trade, and Economic Development (OTTED), businesses located in the addition should have access to the economic development incentives available to businesses located in an enterprise zone.

C. Government Sector Impact:

The bill may result in increased costs for OTTED and the Department of Revenue to review and approve tax incentives granted to businesses in the expanded area. OTTED represents that its existing resources are sufficient to perform any additional duties that may be required as the result of this bill.

VI. Technical Deficiencies:

It is unclear whether the enterprise zone amendments authorized by this bill must be consistent with the requirements in s. 290.0055, F.S., for pervasive poverty, unemployment, and general distress.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
