

By Senator Smith

14-1094-05

See HB 573

1                                   A bill to be entitled  
 2            An act relating to enterprise zones;  
 3            authorizing the Office of Tourism, Trade, and  
 4            Economic Development to approve requests to  
 5            amend enterprise zone boundaries; providing  
 6            amendment requirements; authorizing existing  
 7            enterprise zones to request recertification;  
 8            providing request requirements; amending s.  
 9            212.08, F.S.; reducing the amount of sales tax  
 10           refunded for business property used in an  
 11           enterprise zone; revising the definition of the  
 12           term "business property"; amending s. 290.007,  
 13           F.S.; authorizing eligible businesses to  
 14           transfer unused credits; providing requirements  
 15           and limitations; amending s. 290.016, F.S.;  
 16           extending the expiration date of the Florida  
 17           Enterprise Zone Act of 1994; providing an  
 18           effective date.

19  
20 Be It Enacted by the Legislature of the State of Florida:

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22            Section 1. (1) Notwithstanding any provision of  
 23 sections 290.001-290.016, Florida Statutes, the Office of  
 24 Tourism, Trade, and Economic Development may approve any  
 25 request to amend the boundaries of an enterprise zone created  
 26 or recertified after September 1, 2005. Boundary amendments  
 27 authorized pursuant to this subsection are subject to the  
 28 following requirements:

29            (a) The amendment shall not increase the overall size  
 30 of the zone beyond 20 square miles.  
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1           (b) The amendment shall be consistent with the  
2 rationale for the establishment of the enterprise zone as  
3 provided in section 290.0058, Florida Statutes.

4           (c) The local enterprise zone development agency shall  
5 request the amendment from the Office of Tourism, Trade, and  
6 Economic Development. The request must contain maps and  
7 sufficient information to allow the office to determine the  
8 number of noncontiguous areas and the total enterprise zone  
9 size. The request must also contain the justification for  
10 changing the existing enterprise zone boundaries.

11           (d) The office shall have 30 days to review and act  
12 upon the boundary amendment request.

13           (2) All enterprise zones existing as of December 31,  
14 2004, may submit a letter requesting recertification of the  
15 existing enterprise zone to the Office of Tourism, Trade, and  
16 Economic Development by September 1, 2005. No reasonable  
17 request for recertification shall be denied. Such request  
18 shall include:

19           (a) A description of the progress made within the zone  
20 as measured against the existing strategic plan.

21           (b) A map of the zone.

22           (c) A statement of the goals for the next calendar  
23 year, including, but not limited to, the number of new jobs,  
24 housing starts, and infrastructure projects and new capital  
25 investment.

26           (d) A narrative description of the zone with address  
27 ranges.

28           Section 2. Paragraph (h) of subsection (5) of section  
29 212.08, Florida Statutes, is amended to read:

30           212.08 Sales, rental, use, consumption, distribution,  
31 and storage tax; specified exemptions.--The sale at retail,

1 the rental, the use, the consumption, the distribution, and  
2 the storage to be used or consumed in this state of the  
3 following are hereby specifically exempt from the tax imposed  
4 by this chapter.

5 (5) EXEMPTIONS; ACCOUNT OF USE.--

6 (h) Business property used in an enterprise zone.--

7 1. Business property purchased for use by businesses  
8 located in an enterprise zone which is subsequently used in an  
9 enterprise zone shall be exempt from the tax imposed by this  
10 chapter. This exemption inures to the business only through a  
11 refund of previously paid taxes. A refund shall be authorized  
12 upon an affirmative showing by the taxpayer to the  
13 satisfaction of the department that the requirements of this  
14 paragraph have been met.

15 2. To receive a refund, the business must file under  
16 oath with the governing body or enterprise zone development  
17 agency having jurisdiction over the enterprise zone where the  
18 business is located, as applicable, an application which  
19 includes:

20 a. The name and address of the business claiming the  
21 refund.

22 b. The identifying number assigned pursuant to s.  
23 290.0065 to the enterprise zone in which the business is  
24 located.

25 c. A specific description of the property for which a  
26 refund is sought, including its serial number or other  
27 permanent identification number.

28 d. The location of the property.

29 e. The sales invoice or other proof of purchase of the  
30 property, showing the amount of sales tax paid, the date of  
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1 purchase, and the name and address of the sales tax dealer  
2 from whom the property was purchased.

3 f. Whether the business is a small business as defined  
4 by s. 288.703(1).

5 g. If applicable, the name and address of each  
6 permanent employee of the business, including, for each  
7 employee who is a resident of an enterprise zone, the  
8 identifying number assigned pursuant to s. 290.0065 to the  
9 enterprise zone in which the employee resides.

10 3. Within 10 working days after receipt of an  
11 application, the governing body or enterprise zone development  
12 agency shall review the application to determine if it  
13 contains all the information required pursuant to subparagraph  
14 2. and meets the criteria set out in this paragraph. The  
15 governing body or agency shall certify all applications that  
16 contain the information required pursuant to subparagraph 2.  
17 and meet the criteria set out in this paragraph as eligible to  
18 receive a refund. If applicable, the governing body or agency  
19 shall also certify if 20 percent of the employees of the  
20 business are residents of an enterprise zone, excluding  
21 temporary and part-time employees. The certification shall be  
22 in writing, and a copy of the certification shall be  
23 transmitted to the executive director of the Department of  
24 Revenue. The business shall be responsible for forwarding a  
25 certified application to the department within the time  
26 specified in subparagraph 4.

27 4. An application for a refund pursuant to this  
28 paragraph must be submitted to the department within 6 months  
29 after the tax is due on the business property that is  
30 purchased.  
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1           5. The provisions of s. 212.095 do not apply to any  
2 refund application made pursuant to this paragraph. The amount  
3 refunded on purchases of business property under this  
4 paragraph shall be the lesser of 97 percent of the sales tax  
5 paid on such business property or ~~\$500~~\$5,000, or, if no less  
6 than 20 percent of the employees of the business are residents  
7 of an enterprise zone, excluding temporary and part-time  
8 employees, the amount refunded on purchases of business  
9 property under this paragraph shall be the lesser of 97  
10 percent of the sales tax paid on such business property or  
11 ~~\$1,000~~\$10,000. A refund approved pursuant to this paragraph  
12 shall be made within 30 days of formal approval by the  
13 department of the application for the refund. No refund shall  
14 be granted under this paragraph unless the amount to be  
15 refunded exceeds \$100 in sales tax paid on purchases made  
16 within a 60-day time period.

17           6. The department shall adopt rules governing the  
18 manner and form of refund applications and may establish  
19 guidelines as to the requisites for an affirmative showing of  
20 qualification for exemption under this paragraph.

21           7. If the department determines that the business  
22 property is used outside an enterprise zone within 3 years  
23 from the date of purchase, the amount of taxes refunded to the  
24 business purchasing such business property shall immediately  
25 be due and payable to the department by the business, together  
26 with the appropriate interest and penalty, computed from the  
27 date of purchase, in the manner provided by this chapter.  
28 Notwithstanding this subparagraph, business property used  
29 exclusively in:

- 30           a. Licensed commercial fishing vessels,  
31           b. Fishing guide boats, or

1           c. Ecotourism guide boats

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3 that leave and return to a fixed location within an area  
4 designated under s. 370.28 are eligible for the exemption  
5 provided under this paragraph if all requirements of this  
6 paragraph are met. Such vessels and boats must be owned by a  
7 business that is eligible to receive the exemption provided  
8 under this paragraph. This exemption does not apply to the  
9 purchase of a vessel or boat.

10           8. The department shall deduct an amount equal to 10  
11 percent of each refund granted under the provisions of this  
12 paragraph from the amount transferred into the Local  
13 Government Half-cent Sales Tax Clearing Trust Fund pursuant to  
14 s. 212.20 for the county area in which the business property  
15 is located and shall transfer that amount to the General  
16 Revenue Fund.

17           9. For the purposes of this exemption, "business  
18 property" means new or used property defined as "recovery  
19 property" in s. 168(c) of the Internal Revenue Code of 1954,  
20 as amended, except:

21           a. Property classified as 3-year property under s.  
22 168(c)(2)(A) of the Internal Revenue Code of 1954, as amended;

23           b. Industrial machinery and equipment as defined in  
24 sub-subparagraph (b)6.a. and eligible for exemption under  
25 paragraph (b);

26           c. Building materials as defined in sub-subparagraph  
27 (g)8.a.; and

28           d. Business property having a sales price of under  
29 ~~\$500~~\$5,000 per unit.

30           10. The provisions of this paragraph shall expire and  
31 be void on December 31, 2005.

1           Section 3. Subsection (9) is added to section 290.007,  
2 Florida Statutes, to read:

3           290.007 State incentives available in enterprise  
4 zones.--The following incentives are provided by the state to  
5 encourage the revitalization of enterprise zones:

6           (9) An eligible business may transfer any unused  
7 credit in whole or in units of no less than 25 percent of the  
8 remaining credit. The entity acquiring such credit may use the  
9 credit in the same manner and with the same limitation as  
10 described in ss. 212.096 and 220.181. Such transferred credits  
11 may not be transferred again but may succeed to a surviving or  
12 acquiring entity subject to the same conditions and  
13 limitations described in this section.

14           Section 4. Section 290.016, Florida Statutes, is  
15 amended to read:

16           290.016 Repeal.--Sections 290.001-290.015 shall stand  
17 repealed on December 31, 2015 ~~2005~~.

18           Section 5. This act shall take effect July 1, 2005.

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