

CHAMBER ACTION

1 The Economic Development, Trade & Banking Committee recommends  
2 the following:

3  
4 **Council/Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

7 An act relating to enterprise zones; authorizing the  
8 Office of Tourism, Trade, and Economic Development to  
9 approve requests to amend enterprise zone boundaries;  
10 providing amendment requirements; authorizing existing  
11 enterprise zones to request recertification; providing  
12 request requirements; amending s. 212.08, F.S.; revising  
13 the definition of the term "business property"; amending  
14 s. 290.016, F.S.; extending the expiration date of the  
15 Florida Enterprise Zone Act of 1994; requiring the Office  
16 of Program Policy Analysis and Government Accountability  
17 to conduct a study of rural enterprise zone issues  
18 relating to tax incentives and jobs creation; requiring a  
19 report to the Legislature; providing an effective date.

20  
21 Be It Enacted by the Legislature of the State of Florida:  
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23           Section 1. (1) Notwithstanding any provision of ss.  
 24 290.001-290.016, Florida Statutes, the Office of Tourism, Trade,  
 25 and Economic Development may approve any request to amend the  
 26 boundaries of an enterprise zone created or recertified after  
 27 September 1, 2005. Boundary amendments authorized pursuant to  
 28 this subsection are subject to the following requirements:

29           (a) The amendment shall not increase the overall size of  
 30 the zone beyond 20 square miles.

31           (b) The amendment shall be consistent with the rationale  
 32 for the establishment of the enterprise zone as provided in s.  
 33 290.0058.

34           (c) The local enterprise zone development agency shall  
 35 request the amendment from the Office of Tourism, Trade, and  
 36 Economic Development. The request must contain maps and  
 37 sufficient information to allow the office to determine the  
 38 number of noncontiguous areas and the total enterprise zone  
 39 size. The request must also contain the justification for  
 40 changing the existing enterprise zone boundaries.

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

43           (2) All enterprise zones existing as of December 31, 2004,  
 44 may submit a letter requesting recertification of the existing  
 45 enterprise zone to the Office of Tourism, Trade, and Economic  
 46 Development by September 1, 2005. No reasonable request for  
 47 recertification shall be denied. Such request shall include:

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

50           (b) A map of the zone.

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

54           (d) A narrative description of the zone with address  
 55 ranges.

56           Section 2. Paragraph (h) of subsection (5) of section  
 57 212.08, Florida Statutes, is amended to read:

58           212.08 Sales, rental, use, consumption, distribution, and  
 59 storage tax; specified exemptions.--The sale at retail, the  
 60 rental, the use, the consumption, the distribution, and the  
 61 storage to be used or consumed in this state of the following  
 62 are hereby specifically exempt from the tax imposed by this  
 63 chapter.

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

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

66           1. Business property purchased for use by businesses  
 67 located in an enterprise zone which is subsequently used in an  
 68 enterprise zone shall be exempt from the tax imposed by this  
 69 chapter. This exemption inures to the business only through a  
 70 refund of previously paid taxes. A refund shall be authorized  
 71 upon an affirmative showing by the taxpayer to the satisfaction  
 72 of the department that the requirements of this paragraph have  
 73 been met.

74           2. To receive a refund, the business must file under oath  
 75 with the governing body or enterprise zone development agency  
 76 having jurisdiction over the enterprise zone where the business  
 77 is located, as applicable, an application which includes:

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78 | a. The name and address of the business claiming the  
79 | refund.

80 | b. The identifying number assigned pursuant to s. 290.0065  
81 | to the enterprise zone in which the business is located.

82 | c. A specific description of the property for which a  
83 | refund is sought, including its serial number or other permanent  
84 | identification number.

85 | d. The location of the property.

86 | e. The sales invoice or other proof of purchase of the  
87 | property, showing the amount of sales tax paid, the date of  
88 | purchase, and the name and address of the sales tax dealer from  
89 | whom the property was purchased.

90 | f. Whether the business is a small business as defined by  
91 | s. 288.703(1).

92 | g. If applicable, the name and address of each permanent  
93 | employee of the business, including, for each employee who is a  
94 | resident of an enterprise zone, the identifying number assigned  
95 | pursuant to s. 290.0065 to the enterprise zone in which the  
96 | employee resides.

97 | 3. Within 10 working days after receipt of an application,  
98 | the governing body or enterprise zone development agency shall  
99 | review the application to determine if it contains all the  
100 | information required pursuant to subparagraph 2. and meets the  
101 | criteria set out in this paragraph. The governing body or agency  
102 | shall certify all applications that contain the information  
103 | required pursuant to subparagraph 2. and meet the criteria set  
104 | out in this paragraph as eligible to receive a refund. If  
105 | applicable, the governing body or agency shall also certify if

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106 20 percent of the employees of the business are residents of an  
107 enterprise zone, excluding temporary and part-time employees.  
108 The certification shall be in writing, and a copy of the  
109 certification shall be transmitted to the executive director of  
110 the Department of Revenue. The business shall be responsible for  
111 forwarding a certified application to the department within the  
112 time specified in subparagraph 4.

113 4. An application for a refund pursuant to this paragraph  
114 must be submitted to the department within 6 months after the  
115 tax is due on the business property that is purchased.

116 5. The provisions of s. 212.095 do not apply to any refund  
117 application made pursuant to this paragraph. The amount refunded  
118 on purchases of business property under this paragraph shall be  
119 the lesser of 97 percent of the sales tax paid on such business  
120 property or \$5,000, or, if no less than 20 percent of the  
121 employees of the business are residents of an enterprise zone,  
122 excluding temporary and part-time employees, the amount refunded  
123 on purchases of business property under this paragraph shall be  
124 the lesser of 97 percent of the sales tax paid on such business  
125 property or \$10,000. A refund approved pursuant to this  
126 paragraph shall be made within 30 days of formal approval by the  
127 department of the application for the refund. No refund shall be  
128 granted under this paragraph unless the amount to be refunded  
129 exceeds \$100 in sales tax paid on purchases made within a 60-day  
130 time period.

131 6. The department shall adopt rules governing the manner  
132 and form of refund applications and may establish guidelines as

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133 | to the requisites for an affirmative showing of qualification  
134 | for exemption under this paragraph.

135 |         7. If the department determines that the business property  
136 | is used outside an enterprise zone within 3 years from the date  
137 | of purchase, the amount of taxes refunded to the business  
138 | purchasing such business property shall immediately be due and  
139 | payable to the department by the business, together with the  
140 | appropriate interest and penalty, computed from the date of  
141 | purchase, in the manner provided by this chapter.

142 | Notwithstanding this subparagraph, business property used  
143 | exclusively in:

- 144 |             a. Licensed commercial fishing vessels,
- 145 |             b. Fishing guide boats, or
- 146 |             c. Ecotourism guide boats

147 |  
148 | that leave and return to a fixed location within an area  
149 | designated under s. 370.28 are eligible for the exemption  
150 | provided under this paragraph if all requirements of this  
151 | paragraph are met. Such vessels and boats must be owned by a  
152 | business that is eligible to receive the exemption provided  
153 | under this paragraph. This exemption does not apply to the  
154 | purchase of a vessel or boat.

155 |         8. The department shall deduct an amount equal to 10  
156 | percent of each refund granted under the provisions of this  
157 | paragraph from the amount transferred into the Local Government  
158 | Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20  
159 | for the county area in which the business property is located  
160 | and shall transfer that amount to the General Revenue Fund.

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161 9. For the purposes of this exemption, "business property"  
162 means new or used property defined as "recovery property" in s.  
163 168(c) of the Internal Revenue Code of 1954, as amended, except:

164 a. Property classified as 3-year property under s.  
165 168(c)(2)(A) of the Internal Revenue Code of 1954, as amended;

166 b. Industrial machinery and equipment as defined in sub-  
167 subparagraph (b)6.a. and eligible for exemption under paragraph  
168 (b);

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

171 d. Business property having a sales price of under \$500  
172 ~~\$5,000~~ per unit.

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

175 Section 3. Section 290.016, Florida Statutes, is amended  
176 to read:

177 290.016 Repeal.--Sections 290.001-290.015 shall stand  
178 repealed on December 31, 2015 ~~2005~~.

179 Section 4. The Office of Program Policy Analysis and  
180 Government Accountability shall conduct an evaluation of the tax  
181 incentives available to rural enterprise zones and the  
182 effectiveness of rural enterprise zones in creating jobs. In  
183 particular, the evaluation must consider whether existing tax  
184 and other financial incentives available under the Enterprise  
185 Zone Act are appropriate for businesses located in rural  
186 enterprise zones and whether incentives such as the transfer of  
187 unused tax credits would enhance the effectiveness of rural  
188 enterprise zones. The evaluation shall include an estimation of

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189 | the costs of new tax incentives. The evaluation shall also  
190 | identify obstacles faced by rural enterprise zones and recommend  
191 | possible solutions. The office shall conduct its evaluation and  
192 | make a report containing its findings and recommendations to the  
193 | President of the Senate and the Speaker of the House of  
194 | Representatives by December 1, 2005.

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