

# 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.)

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Prepared By: Government Efficiency Appropriations Committee

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BILL: CS/SB 1132

INTRODUCER: Commerce and Consumer Services Committee and Senator King

SUBJECT: Enterprise Zone Tax Incentives

DATE: March 30, 2006

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Barrett</u>	<u>Cooper</u>	<u>CM</u>	<b>Fav/CS</b>
2.	<u>Fournier</u>	<u>Johansen</u>	<u>GE</u>	<b>Favorable</b>
3.	_____	_____	<u>TA</u>	_____
4.	_____	_____	<u>WM</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

In 2005, the Florida Enterprise Zone Act was amended, re-enacted, and scheduled for repeal in 2015. This committee substitute amends two obsolete expiration dates for related provisions, to make them consistent with the expiration of the Enterprise Zone Act. This committee substitute also clarifies that the enterprise zone building materials sales tax refund may only be used once per parcel of real property unless there is a change in ownership, a new lessor, or a new lessee of the real property. This committee substitute also amends the definition of “new job has been created” for purposes of the enterprise zone jobs tax credit against the sales and corporate income taxes. Finally, this committee substitute provides that, at least 90 days before changing the boundary of an enterprise zone, the governing body must notify all property owners and businesses that may be excluded from the enterprise zone by virtue of the boundary change.

This committee substitute amends sections 195.099, 212.08, 212.096, 220.03, 220.13, 220.181, and 290.0055 of the Florida Statutes.

## II. Present Situation:

### Florida Enterprise Zone Program

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

to provide the necessary means 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.<sup>1</sup>

The Florida Enterprise Zone Act of 1994 was scheduled to be repealed on December 31, 2005, but was re-enacted as the Florida Enterprise Zone Act (act) by ch. 2005-287, L.O.F., for an additional ten years, and is now scheduled to be repealed December 31, 2015.

Under the act, areas of the state meeting specified criteria, including suffering from pervasive poverty, unemployment, and general distress, have been designated as enterprise zones. The act established a process for the nomination and designation of a maximum of 20 enterprise zones in 1994.<sup>2</sup> Subsequently, the Legislature has designated additional zones. Currently, there are 55 enterprise zones in the state. When the Enterprise Zone Act was re-enacted by ch. 2005-287, L.O.F., the 53 existing enterprise zones were allowed to apply for re-designation; 51 of 53 have been re-designated. Four of the 55 enterprise zones were created by ch. 2005-244, L.O.F.: City of Lakeland, Indian River County, Sumter County, and Orange County. There are also three Federal Enterprise Communities and two Federal Empowerment Zones. Certain federal, state, and local incentives are authorized to induce private businesses to invest in these enterprise zones.

### **State Incentives**

The program's incentives are as follows:

- Jobs credit against sales or corporate income taxes: in order to be eligible, businesses must be located in an enterprise zone and must increase the number of full time jobs. The credit amount varies based on job location and wage of employee.<sup>3</sup>
- 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.<sup>4</sup>
- 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 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.<sup>5</sup>
- 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.<sup>6</sup>

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<sup>1</sup> Section 290.003, F.S.

<sup>2</sup> Sections 290.0055 and 290.0065, F.S.

<sup>3</sup> Sections 212.096 and 220.181, F.S.

<sup>4</sup> Section 220.182, F.S.

<sup>5</sup> Section 212.08(5)(g), F.S.

<sup>6</sup> Section 212.08(5)(h), F.S.

### Local Incentives

The following are examples of local incentives:

- Sales tax exemption for electrical energy used in an enterprise zone: A sales tax exemption (state and local taxes) is available to qualified businesses located in an enterprise zone on the purchase of electrical energy. 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.<sup>7</sup>
- 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.<sup>8</sup>
- 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.<sup>9</sup>
- Local impact fee abatement or reduction, or low-interest or interest-free loans, or grants to businesses.<sup>10</sup>

### State Agencies

The Governor's Office of Tourism, Trade, and Economic Development (OTTED) administers the Florida Enterprise Zone Act; the Department of Revenue (DOR) reviews and approves or denies a business's application for enterprise zone tax credits; and Enterprise Florida, Inc., is responsible for marketing the act.

### III. Effect of Proposed Changes:

**Section 1** amends s. 195.099, F.S., relating to the property tax credit for enterprise zones, to correct an obsolete expiration date, making it consistent with the expiration of the Enterprise Zone act, which is scheduled to be repealed December 31, 2015 pursuant to s. 290.016, F.S.

**Section 2** amends s. 212.08(5)(g)5., F.S., to clarify that the sales tax refund for building materials used to rehabilitate real property in an enterprise zone may only be used once per parcel of real property, unless there is a change in ownership, a new lessor, or a new lessee of the real property. This section provides that this provision applies retroactively to July 1, 2005.

Until July 1, 2005, the sales tax refund for building materials could only be used once per parcel of real property. During the 2005 Regular Session, this provision was removed, with the intent of allowing the exemption to be granted to subsequent owners of a parcel of property. However, the 2005 change had the unintended consequence of broadening the exemption by allowing it to be used multiple times per parcel. This committee substitute restores the pre-2005 language, providing that the exemption may only be used once per parcel, and amends the provision to allow subsequent owners of the parcel to be eligible for the exemption.

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<sup>7</sup> Sections 212.08(15) and 166.231(8), F.S.

<sup>8</sup> Section 196.1995, F.S.

<sup>9</sup> Section 205.054, F.S.

<sup>10</sup> Section 290.0057(1)(e), F.S.

**Section 3** amends s. 212.096(1)(e) and (3)(e), F.S., to amend the definition of “new job has been created” for purposes of the enterprise zone job tax credit against sales tax. This section provides that to be eligible for the job tax credit, a business located in an enterprise zone must demonstrate to DOR that, on the date of application, the total number of full-time jobs is greater than it was 12 months prior to such date. Currently, a business must demonstrate that the number of full time jobs has increased from the average of the previous 12 months. According to DOR, changing the provision will make it easier to calculate when a new job has been created, because it ties that calculation to a specified date.

**Section 4** amends s. 220.03(1)(ff), F.S., to amend the definition of “new job has been created” for purposes of the enterprise zone job tax credit against the corporate income tax. As in section 3 of the committee substitute, this section provides that to be eligible for the job tax credit a business located in an enterprise zone must demonstrate to DOR that, on the date of application, the total number of full-time jobs is greater than it was 12 months prior to such date.

**Section 5** amends s. 220.13(1)(a)4. and 5., F.S., to change an obsolete expiration date within the definition of “adjusted federal income”, to correspond with the expiration date of the Florida Enterprise Zone Act, which is December 31, 2015.

**Section 6** amends s. 220.181(1)(a) and (2)(f), F.S., to provide that a business is eligible for the enterprise zone job tax credit against corporate income tax, if they can demonstrate to DOR that, on the date of application, the total number of full time jobs is greater than it was 12 months prior to such date. This change mirrors the change to the definition of “new job has been created” in sections 3 and 4 of this committee substitute.

**Section 7** amends s. 290.0055(6), F.S., to provide that, at least 90 days before adopting a resolution seeking a change in the boundary of an enterprise zone, the governing body of the enterprise zone must notify in writing all property owners and businesses that may be excluded from the enterprise zone by virtue of the proposed boundary change.

**Section 8** provides that this act shall take 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:**

This committee substitute may have a positive impact on state revenues, as it limits the use of the enterprise zone building materials sales tax credit to once per parcel of real property, unless there is a change in ownership of the real property.

**B. Private Sector Impact:**

Commercial and residential owners of real property will only be eligible to receive the enterprise zone building materials sales tax credit once per parcel of real property.

**C. Government Sector Impact:**

This committee substitute requires the governing body of an enterprise zone to notify business and property owners of boundary changes.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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

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## **VIII. Summary of Amendments:**

None.

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