

By the Committee on Commerce and Consumer Services; and
Senator King

577-1708-06

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A bill to be entitled
An act relating to enterprise zones; amending
s. 195.099, F.S.; revising the expiration date
of provisions governing the assessment of new,
rebuilt, or expanded businesses to coincide
with the expiration of the Florida Enterprise
Zone Act; amending s. 212.08, F.S.; limiting
the tax exemption provided for the
rehabilitation of real property to one parcel
of real property unless there is a change in
ownership, a new lessor, or a new lessee;
providing for retroactive application; amending
ss. 212.096 and 220.03, F.S.; redefining the
term "new job has been created" for purposes of
the enterprise zone jobs credit against the
sales tax and the income tax code; amending s.
220.13, F.S.; revising the expiration date of a
provision requiring that certain wages,
salaries, and ad valorem school taxes be added
to adjusted federal income; amending s.
220.181, F.S.; revising the requirement for
demonstrating an increase in the number of jobs
for purposes of qualifying for the enterprise
zone jobs credit; amending s. 290.0055;
requiring that business and property owners be
notified of a proposed change to an enterprise
zone boundary; providing an effective date.

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

1 Section 1. Subsection (1) of section 195.099, Florida
2 Statutes, is amended to read:

3 195.099 Periodic review.--

4 (1)(a) The department shall periodically review the
5 assessments of new, rebuilt, and expanded business reported
6 according to s. 193.077(3), to ensure parity of level of
7 assessment with other classifications of property.

8 (b) The provisions of this subsection shall expire and
9 be void on the date specified in s. 290.016 for the expiration
10 of the Florida Enterprise Zone Act ~~June 30, 2005~~.

11 Section 2. Paragraph (g) of subsection (5) of section
12 212.08, Florida Statutes, is amended to read:

13 212.08 Sales, rental, use, consumption, distribution,
14 and storage tax; specified exemptions.--The sale at retail,
15 the rental, the use, the consumption, the distribution, and
16 the storage to be used or consumed in this state of the
17 following are hereby specifically exempt from the tax imposed
18 by this chapter.

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

20 (g) Building materials used in the rehabilitation of
21 real property located in an enterprise zone.--

22 1. Building materials used in the rehabilitation of
23 real property located in an enterprise zone shall be exempt
24 from the tax imposed by this chapter upon an affirmative
25 showing to the satisfaction of the department that the items
26 have been used for the rehabilitation of real property located
27 in an enterprise zone. Except as provided in subparagraph 2.,
28 this exemption inures to the owner, lessee, or lessor of the
29 rehabilitated real property located in an enterprise zone only
30 through a refund of previously paid taxes. To receive a refund
31 pursuant to this paragraph, the owner, lessee, or lessor of

1 | the rehabilitated real property located in an enterprise zone
2 | must file an application under oath with the governing body or
3 | enterprise zone development agency having jurisdiction over
4 | the enterprise zone where the business is located, as
5 | applicable, which includes:
6 | a. The name and address of the person claiming the
7 | refund.
8 | b. An address and assessment roll parcel number of the
9 | rehabilitated real property in an enterprise zone for which a
10 | refund of previously paid taxes is being sought.
11 | c. A description of the improvements made to
12 | accomplish the rehabilitation of the real property.
13 | d. A copy of the building permit issued for the
14 | rehabilitation of the real property.
15 | e. A sworn statement, under the penalty of perjury,
16 | from the general contractor licensed in this state with whom
17 | the applicant contracted to make the improvements necessary to
18 | accomplish the rehabilitation of the real property, which
19 | statement lists the building materials used in the
20 | rehabilitation of the real property, the actual cost of the
21 | building materials, and the amount of sales tax paid in this
22 | state on the building materials. In the event that a general
23 | contractor has not been used, the applicant shall provide this
24 | information in a sworn statement, under the penalty of
25 | perjury. Copies of the invoices which evidence the purchase of
26 | the building materials used in such rehabilitation and the
27 | payment of sales tax on the building materials shall be
28 | attached to the sworn statement provided by the general
29 | contractor or by the applicant. Unless the actual cost of
30 | building materials used in the rehabilitation of real property
31 | and the payment of sales taxes due thereon is documented by a

1 general contractor or by the applicant in this manner, the
2 cost of such building materials shall be an amount equal to 40
3 percent of the increase in assessed value for ad valorem tax
4 purposes.

5 f. The identifying number assigned pursuant to s.
6 290.0065 to the enterprise zone in which the rehabilitated
7 real property is located.

8 g. A certification by the local building code
9 inspector that the improvements necessary to accomplish the
10 rehabilitation of the real property are substantially
11 completed.

12 h. Whether the business is a small business as defined
13 by s. 288.703(1).

14 i. If applicable, the name and address of each
15 permanent employee of the business, including, for each
16 employee who is a resident of an enterprise zone, the
17 identifying number assigned pursuant to s. 290.0065 to the
18 enterprise zone in which the employee resides.

19 2. This exemption inures to a city, county, other
20 governmental agency, or nonprofit community-based organization
21 through a refund of previously paid taxes if the building
22 materials used in the rehabilitation of real property located
23 in an enterprise zone are paid for from the funds of a
24 community development block grant, State Housing Initiatives
25 Partnership Program, or similar grant or loan program. To
26 receive a refund pursuant to this paragraph, a city, county,
27 other governmental agency, or nonprofit community-based
28 organization must file an application which includes the same
29 information required to be provided in subparagraph 1. by an
30 owner, lessee, or lessor of rehabilitated real property. In
31 addition, the application must include a sworn statement

1 signed by the chief executive officer of the city, county,
2 other governmental agency, or nonprofit community-based
3 organization seeking a refund which states that the building
4 materials for which a refund is sought were paid for from the
5 funds of a community development block grant, State Housing
6 Initiatives Partnership Program, or similar grant or loan
7 program.

8 3. Within 10 working days after receipt of an
9 application, the governing body or enterprise zone development
10 agency shall review the application to determine if it
11 contains all the information required pursuant to subparagraph
12 1. or subparagraph 2. and meets the criteria set out in this
13 paragraph. The governing body or agency shall certify all
14 applications that contain the information required pursuant to
15 subparagraph 1. or subparagraph 2. and meet the criteria set
16 out in this paragraph as eligible to receive a refund. If
17 applicable, the governing body or agency shall also certify if
18 20 percent of the employees of the business are residents of
19 an enterprise zone, excluding temporary and part-time
20 employees. The certification shall be in writing, and a copy
21 of the certification shall be transmitted to the executive
22 director of the Department of Revenue. The applicant shall be
23 responsible for forwarding a certified application to the
24 department within the time specified in subparagraph 4.

25 4. An application for a refund pursuant to this
26 paragraph must be submitted to the department within 6 months
27 after the rehabilitation of the property is deemed to be
28 substantially completed by the local building code inspector
29 or by September 1 after the rehabilitated property is first
30 subject to assessment.

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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. No more
3 than one exemption through a refund of previously paid taxes
4 for the rehabilitation of real property shall be permitted for
5 any one parcel of property unless there is a change in
6 ownership, a new lessor, or a new lessee of the real property.

7 No refund shall be granted pursuant to this paragraph unless
8 the amount to be refunded exceeds \$500. No refund granted
9 pursuant to this paragraph shall exceed the lesser of 97
10 percent of the Florida sales or use tax paid on the cost of
11 the building materials used in the rehabilitation of the real
12 property as determined pursuant to sub-subparagraph 1.e. or
13 \$5,000, or, if no less than 20 percent of the employees of the
14 business are residents of an enterprise zone, excluding
15 temporary and part-time employees, the amount of refund
16 granted pursuant to this paragraph shall not exceed the lesser
17 of 97 percent of the sales tax paid on the cost of such
18 building materials or \$10,000. A refund approved pursuant to
19 this paragraph shall be made within 30 days of formal approval
20 by the department of the application for the refund. This
21 subparagraph applies retroactively to July 1, 2005.

22 6. The department shall adopt rules governing the
23 manner and form of refund applications and may establish
24 guidelines as to the requisites for an affirmative showing of
25 qualification for exemption under this paragraph.

26 7. The department shall deduct an amount equal to 10
27 percent of each refund granted under the provisions of this
28 paragraph from the amount transferred into the Local
29 Government Half-cent Sales Tax Clearing Trust Fund pursuant to
30 s. 212.20 for the county area in which the rehabilitated real
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1 property is located and shall transfer that amount to the
2 General Revenue Fund.

3 8. For the purposes of the exemption provided in this
4 paragraph:

5 a. "Building materials" means tangible personal
6 property which becomes a component part of improvements to
7 real property.

8 b. "Real property" has the same meaning as provided in
9 s. 192.001(12).

10 c. "Rehabilitation of real property" means the
11 reconstruction, renovation, restoration, rehabilitation,
12 construction, or expansion of improvements to real property.

13 d. "Substantially completed" has the same meaning as
14 provided in s. 192.042(1).

15 9. This paragraph expires on the date specified in s.
16 290.016 for the expiration of the Florida Enterprise Zone Act.

17 Section 3. Paragraph (e) of subsection (1) and
18 paragraph (e) of subsection (3) of section 212.096, Florida
19 Statutes, are amended to read:

20 212.096 Sales, rental, storage, use tax; enterprise
21 zone jobs credit against sales tax.--

22 (1) For the purposes of the credit provided in this
23 section:

24 (e) "New job has been created" means that, on the date
25 of application, the total number of full-time jobs is greater
26 than it was 12 months prior to such date ~~has increased in an~~
27 ~~enterprise zone from the average of the previous 12 months~~, as
28 demonstrated to the department by a business located in the
29 enterprise zone.

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1 A person shall be deemed to be employed if the person performs
2 duties in connection with the operations of the business on a
3 regular, full-time basis, provided the person is performing
4 such duties for an average of at least 36 hours per week each
5 month. The person must be performing such duties at a business
6 site located in the enterprise zone.

7 (3) In order to claim this credit, an eligible
8 business must file under oath with the governing body or
9 enterprise zone development agency having jurisdiction over
10 the enterprise zone where the business is located, as
11 applicable, a statement which includes:

12 (e) Demonstration to the department that, on the date
13 of application, the total number of full-time jobs defined
14 under paragraph (1)(d) is greater than it was 12 months prior
15 to such date ~~has increased in an enterprise zone from the~~
16 ~~average of the previous 12 months.~~

17 Section 4. Paragraph (ff) of subsection (1) of section
18 220.03, Florida Statutes, is amended to read:

19 220.03 Definitions.--

20 (1) SPECIFIC TERMS.--When used in this code, and when
21 not otherwise distinctly expressed or manifestly incompatible
22 with the intent thereof, the following terms shall have the
23 following meanings:

24 (ff) "New job has been created" means that, on the
25 date of application, the total number of full-time jobs is
26 greater than it was 12 months prior to such date ~~has increased~~
27 ~~in an enterprise zone from the average of the previous 12~~
28 ~~months~~, as demonstrated to the department by a business
29 located in the enterprise zone.

30 Section 5. Paragraph (a) of subsection (1) of section
31 220.13, Florida Statutes, is amended to read:

1 220.13 "Adjusted federal income" defined.--

2 (1) The term "adjusted federal income" means an amount
3 equal to the taxpayer's taxable income as defined in
4 subsection (2), or such taxable income of more than one
5 taxpayer as provided in s. 220.131, for the taxable year,
6 adjusted as follows:

7 (a) Additions.--There shall be added to such taxable
8 income:

9 1. The amount of any tax upon or measured by income,
10 excluding taxes based on gross receipts or revenues, paid or
11 accrued as a liability to the District of Columbia or any
12 state of the United States which is deductible from gross
13 income in the computation of taxable income for the taxable
14 year.

15 2. The amount of interest which is excluded from
16 taxable income under s. 103(a) of the Internal Revenue Code or
17 any other federal law, less the associated expenses disallowed
18 in the computation of taxable income under s. 265 of the
19 Internal Revenue Code or any other law, excluding 60 percent
20 of any amounts included in alternative minimum taxable income,
21 as defined in s. 55(b)(2) of the Internal Revenue Code, if the
22 taxpayer pays tax under s. 220.11(3).

23 3. In the case of a regulated investment company or
24 real estate investment trust, an amount equal to the excess of
25 the net long-term capital gain for the taxable year over the
26 amount of the capital gain dividends attributable to the
27 taxable year.

28 4. That portion of the wages or salaries paid or
29 incurred for the taxable year which is equal to the amount of
30 the credit allowable for the taxable year under s. 220.181.

31 The provisions of this subparagraph ~~shall expire and be void~~

1 on the date specified in s. 290.016 for the expiration of the
2 Florida Enterprise Zone Act June 30, 2005.

3 5. That portion of the ad valorem school taxes paid or
4 incurred for the taxable year which is equal to the amount of
5 the credit allowable for the taxable year under s. 220.182.
6 The provisions of this subparagraph ~~shall expire and be void~~
7 on the date specified in s. 290.016 for the expiration of the
8 Florida Enterprise Zone Act June 30, 2005.

9 6. The amount of emergency excise tax paid or accrued
10 as a liability to this state under chapter 221 which tax is
11 deductible from gross income in the computation of taxable
12 income for the taxable year.

13 7. That portion of assessments to fund a guaranty
14 association incurred for the taxable year which is equal to
15 the amount of the credit allowable for the taxable year.

16 8. In the case of a nonprofit corporation which holds
17 a pari-mutuel permit and which is exempt from federal income
18 tax as a farmers' cooperative, an amount equal to the excess
19 of the gross income attributable to the pari-mutuel operations
20 over the attributable expenses for the taxable year.

21 9. The amount taken as a credit for the taxable year
22 under s. 220.1895.

23 10. Up to nine percent of the eligible basis of any
24 designated project which is equal to the credit allowable for
25 the taxable year under s. 220.185.

26 11. The amount taken as a credit for the taxable year
27 under s. 220.187.

28 Section 6. Paragraph (a) of subsection (1) and
29 paragraph (f) of subsection (2) of section 220.181, Florida
30 Statutes, are amended to read:

31 220.181 Enterprise zone jobs credit.--

1 (1)(a) There shall be allowed a credit against the tax
2 imposed by this chapter to any business located in an
3 enterprise zone which demonstrates to the department that, on
4 the date of application, the total number of full-time jobs is
5 greater than it was 12 months prior to such date ~~has increased~~
6 ~~from the average of the previous 12 months~~. The credit shall
7 be computed as 20 percent of the actual monthly wages paid in
8 this state to each new employee hired when a new job has been
9 created, as defined under s. 220.03(1)(ff), unless the
10 business is located in a rural enterprise zone, pursuant to s.
11 290.004(6), in which case the credit shall be 30 percent of
12 the actual monthly wages paid. If no less than 20 percent of
13 the employees of the business are residents of an enterprise
14 zone, excluding temporary and part-time employees, the credit
15 shall be computed as 30 percent of the actual monthly wages
16 paid in this state to each new employee hired when a new job
17 has been created, unless the business is located in a rural
18 enterprise zone, in which case the credit shall be 45 percent
19 of the actual monthly wages paid, for a period of up to 24
20 consecutive months. If the new employee hired when a new job
21 is created is a participant in the welfare transition program,
22 the following credit shall be a percent of the actual monthly
23 wages paid: 40 percent for \$4 above the hourly federal minimum
24 wage rate; 41 percent for \$5 above the hourly federal minimum
25 wage rate; 42 percent for \$6 above the hourly federal minimum
26 wage rate; 43 percent for \$7 above the hourly federal minimum
27 wage rate; and 44 percent for \$8 above the hourly federal
28 minimum wage rate.

29 (2) When filing for an enterprise zone jobs credit, a
30 business must file under oath with the governing body or
31 enterprise zone development agency having jurisdiction over

1 the enterprise zone where the business is located, as
2 applicable, a statement which includes:

3 (f) Demonstration to the department that, on the date
4 of application, the total number of full-time jobs is greater
5 than it was 12 months prior to that date ~~has increased from~~
6 ~~the average of the previous 12 months.~~

7 Section 7. Subsection (6) of section 290.0055, Florida
8 Statutes, is amended to read:

9 290.0055 Local nominating procedure.--

10 (6)(a) The office may approve a change in the boundary
11 of any enterprise zone ~~that which~~ was designated pursuant to
12 s. 290.0065. A boundary change must continue to satisfy the
13 requirements of subsections (3), (4), and (5).

14 (b) Upon a recommendation by the enterprise zone
15 development agency, the governing body of the jurisdiction
16 which authorized the application for an enterprise zone may
17 apply to the office for a change in boundary once every 3
18 years by adopting a resolution that:

19 1. States with particularity the reasons for the
20 change; and

21 2. Describes specifically and, to the extent required
22 by the office, the boundary change to be made.

23 (c) At least 90 days before adopting a resolution
24 seeking a change in the boundary of an enterprise zone, the
25 governing body must notify in writing all property owners and
26 businesses that may be excluded from the enterprise zone by
27 virtue of the proposed boundary change.

28 Section 8. This act shall take effect upon becoming a
29 law.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
Senate Bill 1132

The committee substitute differs from the bill in the following ways:

- Amends an additional date to be consistent with the expiration date of the Enterprise Zone Act.
- Amends the definition of "new job has been created" in two additional paragraphs to be consistent with the change in the bill.
- Requires the governing body of an enterprise zone to notify all businesses and property owners of a proposed boundary change 90 days before the boundary change takes place.