

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.)

Prepared By: Commerce and Consumer Services Committee

BILL: CS/SB 1912

SPONSOR: Commerce and Consumer Services Committee and Senator Smith

SUBJECT: Enterprise Zones: Transfer of Credits

DATE: April 5, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Barrett	Cooper	CM	Fav/CS
2.			CA	
3.			GE	
4.			GA	
5.				
6.				

I. Summary:

This committee substitute allows businesses located in rural enterprise zones, which are eligible for enterprise zone jobs tax credits, to transfer unused credits.

This committee substitute amends sections 212.096, 220.181, and 290.007 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.¹

The Florida Enterprise Zone Act of 1994 was scheduled to be repealed on December 31, 2005, but was re-enacted as the Florida Enterprise Zone Act (act) by ch. 2005-287, L.O.F., for an additional ten years, and is now scheduled to be repealed December 31, 2015.

¹ Section 290.003, F.S.

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 1994.² 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 the 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.³
- **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.⁴
- **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 \$10,000.⁵
- **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 \$10,000.⁶

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

² Sections 290.0055 and 290.0065, F.S.

³ Sections 212.096 and 220.181, F.S.

⁴ Section 220.182, F.S.

⁵ Section 212.08(5)(g), F.S.

⁶ Section 212.08(5)(h), F.S.

- the municipality in which the business is located has passed an ordinance to exempt the municipal utility taxes on such business.⁷
- 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.⁸
 - 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.⁹
 - Local impact fee abatement or reduction, or low-interest or interest-free loans, or grants to businesses.¹⁰

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.

Transfer of Unused Credits under the Brownfields Act¹¹

An unused tax credit authorized under ss. 199.1055 or 376.30781, F.S., available for the entity that rehabilitates a brownfield site may be transferred to the surviving entity of a merger or acquisition in whole or in units of not less than 25 percent and remains subject to the limitations of the law providing the tax credits. The credits may not be subsequently transferred again but succeed to a surviving or acquiring entity subject to the law providing the tax credits.

III. Effect of Proposed Changes:

Section 1 amends s. 212.096, F.S., the enterprise zone jobs tax credit against sales tax, to authorize DOR to adopt rules relating to transfers of such credits.

Section 2 amends s. 220.181, F.S., the enterprise zone jobs tax credit against corporate income tax, to authorize DOR to adopt rules relating to transfers of such credits.

Section 3 amends s. 290.007, F.S., to allow the transfer of unused credits by qualified entities within enterprise zones. (Section 290.007, F.S., lists all of the state incentives available in enterprise zones.)

This section provides that businesses located in rural enterprise zones that are eligible for the enterprise zone jobs tax credit against sales or corporate income tax may transfer any unused jobs tax credits, in whole or in units of no less than 25 percent of the remaining credit. The entity

⁷ Sections 212.08(15) and 166.231(8), F.S.

⁸ Section 196.1995, F.S.

⁹ Section 205.054, F.S.

¹⁰ Section 290.0057(1)(e), F.S.

¹¹ Sections 376.77-376.85, F.S.

acquiring such credit may use the credit in the same manner and with the same limitations as described in ss. 212.096 and 220.181, F.S. (These sections provide for the enterprise zone job tax credit program.) Such transferred credits may not be transferred again but may be passed on to a surviving or acquiring entity subject to the same conditions and limitations described in s. 290.007, F.S.

Section 2 provides an effective date of July 1, 2006.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Subsection (b) of s. 18, Art. VII, State Constitution, provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the Legislature may not enact, amend or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority exists on February 1, 1989.

By allowing the transfer of unused credits within enterprise zones, the committee substitute reduces the sales tax base of municipalities and counties, thereby reducing their revenue-raising authority. However, the fiscal impact is estimated to be insignificant, and therefore will not require a two-thirds vote. On March 31, 2006, the Revenue Estimating Conference estimated that the fiscal impact to local governments will be \$.2 million in fiscal year 2006-07 and \$.3 million in fiscal year 2008-09.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

On March 31, 2006, the Revenue Estimating Conference estimated that allowing businesses located in rural enterprise zones to transfer unused jobs tax credits will result in a revenue loss of \$1.3 million in fiscal year 2006-07, and \$1.9 million in fiscal year 2007-08.

B. Private Sector Impact:

Businesses located in rural enterprise zones that qualify for job tax credits but do not have sufficient tax liability to receive the tax credits will benefit, as this committee

substitute would allow them to transfer the credits to a business with sufficient tax liability.

C. Government Sector Impact:

DOR may incur administrative costs relating to administration of the tax credit transfers.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

VIII. Summary of Amendments:

None.

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