

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 2588

SPONSOR: Health Care Committee and Senator Bennett

SUBJECT: Enterprise Zone Incentives to serve the uninsured

DATE: April 25, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Garner</u>	<u>Wilson</u>	<u>HE</u>	<u>Fav/CS</u>
2.	<u>Barrett</u>	<u>Cooper</u>	<u>CM</u>	<u>Favorable</u>
3.	_____	_____	<u>CA</u>	_____
4.	_____	_____	<u>GE</u>	_____
5.	_____	_____	<u>TA</u>	_____
6.	_____	_____	<u>WM</u>	_____

I. Summary:

This committee substitute creates a sales tax exemption for certain medical equipment and supplies purchased and used by qualified health care facilities that serve uninsured patients and are located in enterprise zones. The exemption only applies to the first \$500,000 of taxable medical equipment or supplies purchased in any taxable year.

To qualify, the health care facility must declare that at least 10 percent of the cost incurred for care by the facility in the previous taxable year was for uncompensated care and that the health care facility did not receive supplemental Medicaid, disproportionate share hospital, or low-income pool funding pursuant to ch. 409, F.S.

The exemption is set to expire December 31, 2015.

This committee substitute amends sections 212.08 and 290.0056 of the Florida Statutes.

II. Present Situation:

The Florida Enterprise Zone Act

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

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 Florida Enterprise Zone Act was scheduled to be repealed on December 31, 2005, but was re-enacted by ch. 2005-287, L.O.F., for an additional ten years, and is now scheduled to be repealed December 31, 2015.

The act established a process for the nomination and designation of a maximum number 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 Florida 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, and 51 of 53 were re-designated. The other four of the current 55 enterprise zones were created by ch. 2005-244, L.O.F. These four enterprise zones include: the City of Lakeland, and Indian River, Sumter, and Orange Counties. 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 following state tax incentives are provided to businesses to encourage investment in enterprise zones:

- **Jobs credit against sales or corporate income taxes.** In order to be eligible, businesses 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

¹ s. 290.003, F.S.

² ss. 290.0055 and 290.0065, F.S.

³ ss. 212.096 and 220.181, F.S.

⁴ s. 220.182, F.S.

⁵ s. 212.08(5)(g), F.S.

- **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 used to induce businesses to invest in enterprise zones:

- **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.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

The Uninsured

By definition, enterprise zones are located in communities that are suffering from pervasive poverty, unemployment, and general distress. Typically, the residents in these communities are disproportionately poor, and represent disproportionately racial and ethnic minorities. These individuals also disproportionately receive their health coverage through Medicaid or Medicare, or are uninsured.

In the most recent study of the uninsured in Florida, the number of uninsured Floridians was estimated at 19.2 percent.¹¹ The survey found that among uninsured working-aged adults, about a third do not have a job, either because they are actively seeking employment (20.9 percent) or

⁶ s. 212.08(5)(h), F.S.

⁷ ss. 212.08(15) and 166.231(8), F.S.

⁸ s. 196.1995, F.S.

⁹ s. 205.054, F.S.

¹⁰ s. 290.0057(1)(e), F.S.

¹¹ *A Profile of Uninsured Floridians: Findings from the 2004 Florida Health Insurance Study*. R. Paul Duncan et al, February 2005, The Department of Health Services Research, Management and Policy, University of Florida. Found at http://ahca.myflorida.com/Medicaid/Research/Projects/fhis2004/PDF/profile-final_feb2005.pdf (last visited on April 11, 2006)

because they are out of the workplace (16.1 percent) due to schooling, disability, or family obligations. Another 13.9 percent are exclusively self-employed.

About 37.3 percent of uninsured adults work full-time for an employer, while 11.9 percent are employed part-time. The uninsured typically gain access to health care services through what are known as “safety-net” hospitals or facilities that include public hospitals, private non-profit hospitals, community health centers, and many physicians, all of whom help shoulder the burden of uncompensated care.

Although approximately 19.2 percent of Florida’s population is uninsured at anytime during a year, the percent of the population that is uninsured is much greater in many areas designated as enterprise zones. The table below is a sample of counties that have a greater percent of their population uninsured than the state average. Some of these counties have an enterprise zone designation or have an enterprise zone within the county boundaries.

Counties with Uninsured Above the State Average (19.2 Percent)					
County	Percent Uninsured	Enterprise Zone	County	Percent Uninsured	Enterprise Zone
Gadsden	36.2	✓	Manatee	21.0	✓
Hendry	31.6	✓	Jackson	20.9	✓
Hardee	30.8	✓	Sumter	20.9	
DeSoto	29.6	✓	Franklin	20.7	✓
Miami-Dade	28.6	✓	Jefferson	20.7	
Collier	28.0	✓	Suwannee	20.5	
Okeechobee	26.3	✓	Baker	20.4	
Glades	26.2	✓	Columbia	20.4	
St. Lucie	25.4	✓	Holmes	20.4	✓
Indian River	23.5	✓	Lake	20.4	
Lee	23.2	✓	Putnam	20.4	✓
Lafayette	22.8		Marion	20.3	
Hamilton	22.4	✓	Gulf	20.2	✓
Liberty	21.9	✓	Taylor	20.2	✓
Charlotte	21.8		Dixie	20.1	✓
Gilchrist	21.6		Flagler	20.1	
Union	21.5		Washington	20.1	✓
Madison	21.3	✓	Monroe	20.0	
Calhoun	21.2	✓	Wakulla	19.9	✓
Bradford	21.1		Walton	19.9	✓
Citrus	21.0		Levy	19.8	

While a broad range of providers serve uninsured patients, the largest share of uncompensated care, in terms of dollars, is provided by hospitals.¹² Those who are uninsured for an entire year pay for over a third of their health care costs out-of-pocket and many have real problems paying

¹² *Medicaid’s Disproportionate Share Hospital Program: Complex Structure, Critical Payments*. Robert E. Mechanic, National Health, Policy Forum, September 2004. Found at http://www.nhpf.org/pdfs_bp/BP_MedicaidDSH_09-14-04.pdf (last visited on April 11, 2006)

their medical bills. The uninsured are over twice as likely as the insured to report having problems paying their medical bills and are almost three times as likely to be contacted by a collection agency about medical bills.¹³

Medical Equipment Exemption

Current law exempts the sale, rental, use, consumption, distribution, and storage of certain goods from state taxes. These exemptions apply to specified medical goods including:¹⁴

- Any medical products and supplies or medicine dispensed according to an individual prescription or prescriptions written by a prescriber authorized by law to prescribe medicinal drugs;
- Hypodermic needles;
- Hypodermic syringes;
- Chemical compounds and test kits used for the diagnosis or treatment of human disease, illness, or injury;
- Common household remedies recommended and generally sold for internal or external use in the cure, mitigation, treatment, or prevention of illness or disease in human beings, but not including cosmetics or toilet articles, notwithstanding the presence of medicinal ingredients therein, according to a list prescribed and approved by the Department of Health (DOH), which list shall be certified to DOR from time to time and included in the rules promulgated by DOR;
- Artificial eyes and limbs;
- Orthopedic shoes;
- Prescription eyeglasses and items incidental thereto or which become a part thereof;
- Dentures;
- Hearing aids;
- Crutches;
- Prosthetic and orthopedic appliances; and
- Funerals.

In addition, any items intended for one-time use which transfer essential optical characteristics to contact lenses are exempt; however, this exemption only applies after \$100,000 of the tax imposed on such items has been paid in any calendar year by a taxpayer who claims the exemption in such year. Funeral directors must pay tax on all tangible personal property used by them in their business.

III. Effect of Proposed Changes:

Section 1 amends s. 212.08(5), F.S., by creating paragraph (r) to provide a sales and use tax exemption for certain medical equipment and supplies.

¹³ *Ten Myths about the Uninsured*. Kaiser Commission on Medicaid and the Uninsured. Publication Number 7307. April 28, 2005. Found at <http://www.kff.org/uninsured/upload/Myths-about-the-Uninsured-Fact-Sheet.pdf> (last visited on April 11, 2006)

¹⁴ s. 212.08(2)(a), F.S.

Subparagraph 1 exempts certain medical equipment and supplies purchased for use by health care facilities that serve uninsured patients located in enterprise zones. The equipment and supplies must be subsequently used in an enterprise zone. This section specifies that the exemption inures to the health care facility only through a refund of previously paid taxes. A refund may be authorized upon approval by DOR that the taxpayer meets the requirements of 212.08(5)(r), F.S.

Subparagraph 2 requires the health care facility to file under oath with the governing body or enterprise zone development agency having jurisdiction over the enterprise zone in which the health care facility is located, an application that includes:

- The name and address of the health care facility claiming the refund;
- The identification number of the enterprise zone in which the health care facility is located;
- A specific description of the medical equipment for which the refund is sought, including the serial numbers or other permanent identification numbers of the equipment;
- A specific description of the medical supplies for which a refund is sought, including the serial or lot numbers or other numbers identifying the purchased supplies;
- The sales invoice or other proof of purchase of the medical equipment or supplies, showing the amount of sales tax paid, the date of purchase, and the name and address of the sales tax dealer from whom the medical equipment or supplies were purchased;
- An affidavit declaring that at least 10 percent of the cost incurred for care by the health care facility in the previous taxable year was for uncompensated care and that the health care facility did not receive supplemental Medicaid, disproportionate share hospital, or low-income pool funding pursuant to ch. 409, F.S.; and,
- A statement defining the taxpayer's taxable year.

Subparagraph 3 requires that, within 10 working days after receipt of an application, the governing body or enterprise zone development agency shall review the application to determine if it contains all of the necessary information. The governing body or agency must certify all applications that contain the required information as eligible to receive a refund. The certification must be in writing and a copy of the certification must be transmitted to the executive director of DOR.

Subparagraph 4 requires an application for a refund to be submitted to DOR within 6 months after the close of the taxable year during which the eligible medical equipment or supplies were purchased.

Subparagraph 5 specifies that the standard DOR refund procedures, pursuant to s. 212.095, F.S., do not apply to any refund application made pursuant to this paragraph. It also specifies that this exemption only applies to the first \$500,000 of taxable medical equipment or supplies purchased by a health care facility and used in the facility in any taxable year. A refund may not be granted unless the amount to be refunded exceeds \$100 in sales tax paid on purchases made within a 60-day time period. A refund may not be granted for medical equipment or supplies eligible for exemption or refund pursuant to s. 212.08(2), F.S.

Subparagraph 6 requires DOR to adopt rules governing the manner and form of refund applications and provides DOR the ability to establish guidelines for determining qualification for the exemption.

Subparagraph 7 requires a health care facility that uses medical equipment or supplies outside an enterprise zone within 3 years after the date of purchase, and that received a refund under this section for such purchase, to immediately repay the refunded tax amount, plus interest and penalties, computed from the date of purchase. Notwithstanding this subparagraph, a health care facility may dispose of disposable supplies according to the law.

Subparagraph 8 requires DOR to deduct an amount equal to 10 percent of each refund granted under this paragraph from the amount to be transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20, F.S., for the county area in which the medical equipment or supplies are located and to deposit that amount into the General Revenue Fund.

Subparagraph 9 provides the following definitions:

- “Medical equipment” means durable medical equipment that can be used repeatedly and that serves a medical purpose in the diagnosis, treatment, or care of an individual;
- “Medical supplies” means items that are consumable, expendable, disposable or nondurable, and that serve a medical purpose in the diagnosis, treatment, or care of an individual; and
- “Health care facility” means a facility licensed pursuant to ch. 395, F.S., or a county health department, a children's medical services program, a federally qualified health center, a federally funded migrant health center, a rural clinic, or any other publicly funded community health program and any other program designated by the Department of Health as a community health center that provides primary care services to the uninsured.

Subparagraph 10 specifies that this exemption expires on the date of the expiration of the Florida Enterprise Zone Act as specified in s. 290.016, F.S., which is December 31, 2015.

Section 2 amends s. 290.0056, F.S., to specify that the governing body of an enterprise zone development agency may appoint to its board a representative from, among other entities, health care facilities operating within the nominated area. This section also permits one of the commissioners on the board to be employed in the health care field. These appointments may only be made when a position on the board becomes vacant after July 1, 2007, and appointment of a new commissioner is required to fill the vacancy or an additional member is to be appointed after July 1, 2007. This section also provides a cross-reference to the newly created tax exemption.

Section 3 provides an effective date of January 1, 2007.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

The provisions of this committee substitute have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

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 creating a sales tax exemption for certain medical equipment and supplies purchased by facilities in enterprise zones would result in a recurring revenue loss of \$14.3 million.

B. Private Sector Impact:

Qualified health care facilities located in enterprise zones that purchase medical supplies and equipment will benefit, as such purchases will be exempt from sales tax.

C. Government Sector Impact:

DOR may incur administrative costs related to the administration of the sales tax exemption.

VI. Technical Deficiencies:

DOR has identified a number of issues relating to the administration of the tax exemption, including:

- It is unclear how this exemption is intended to relate to the enterprise zone business property refund under s. 212.08(5)(h), F.S. It appears that some of the same equipment would qualify for either of these refunds.
- As medical records are confidential, it is unclear how DOR would determine, for audit purposes, that taxpayers claiming this refund meet the requirement of providing primary care services to uninsured individuals.
- For the enterprise zone building materials refund and the enterprise zone business property refund, the refund amount is restricted to 97 percent of the state sales tax paid, up to \$5000, to reflect a collection allowance. This exemption is not limited to 97 percent of sales tax paid.

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.
