

CHAMBER ACTION

1 The Finance & Tax Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to enterprise zones; amending s. 195.099,
7 F.S.; reenacting a periodic review requirement; providing
8 for future expiration; amending s. 220.03, F.S.; revising
9 a definition; amending s. 212.08, F.S.; limiting the
10 exemption by refund of certain taxes for rehabilitation of
11 certain property in an enterprise zone; providing an
12 exception; providing for retroactive application; amending
13 s. 212.096, F.S.; revising definitions; revising an
14 information requirement for claiming an enterprise zone
15 jobs tax credit; amending s. 220.13, F.S.; reenacting a
16 definitional provision; providing for future expiration of
17 provisions relating to enterprise zone credits; amending
18 s. 220.181, F.S.; revising certain criteria for granting
19 an enterprise zone jobs tax credit; amending s. 290.0055,
20 F.S.; providing a meeting notice requirement for a
21 governing body adopting an enterprise zone boundary change
22 resolution; providing for time-limited continuing
23 eligibility for a building materials tax exemption for

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24 certain businesses; specifying eligibility requirements;
25 providing for retroactive application; providing for
26 future repeal; providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:

29
30 Section 1. Subsection (1) of section 195.099, Florida
31 Statutes, is reenacted and amended to read:

32 195.099 Periodic review.--

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

37 (b) ~~The provisions of~~ This subsection shall expire ~~and be~~
38 ~~void~~ on the date specified in s. 290.016 for the expiration of
39 the Florida Enterprise Zone Act June 30, 2005.

40 Section 2. Paragraph (ff) of subsection (1) of section
41 220.03, Florida Statutes, is amended to read:

42 220.03 Definitions.--

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

47 (ff) "New job has been created" means that, on the date of
48 application, the total number of full-time jobs is greater than
49 the total was ~~has increased in an enterprise zone from the~~
50 ~~average of the previous 12 months prior to that date, as~~

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51 | demonstrated to the department by a business located in the
52 | enterprise zone.

53 | Section 3. Paragraph (g) of subsection (5) of section
54 | 212.08, Florida Statutes, is amended to read:

55 | 212.08 Sales, rental, use, consumption, distribution, and
56 | storage tax; specified exemptions.--The sale at retail, the
57 | rental, the use, the consumption, the distribution, and the
58 | storage to be used or consumed in this state of the following
59 | are hereby specifically exempt from the tax imposed by this
60 | chapter.

61 | (5) EXEMPTIONS; ACCOUNT OF USE.--

62 | (g) Building materials used in the rehabilitation of real
63 | property located in an enterprise zone.--

64 | 1. Building materials used in the rehabilitation of real
65 | property located in an enterprise zone shall be exempt from the
66 | tax imposed by this chapter upon an affirmative showing to the
67 | satisfaction of the department that the items have been used for
68 | the rehabilitation of real property located in an enterprise
69 | zone. Except as provided in subparagraph 2., this exemption
70 | inures to the owner, lessee, or lessor of the rehabilitated real
71 | property located in an enterprise zone only through a refund of
72 | previously paid taxes. To receive a refund pursuant to this
73 | paragraph, the owner, lessee, or lessor of the rehabilitated
74 | real property located in an enterprise zone must file an
75 | application under oath with the governing body or enterprise
76 | zone development agency having jurisdiction over the enterprise
77 | zone where the business is located, as applicable, which
78 | includes:

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79 | a. The name and address of the person claiming the refund.
80 | b. An address and assessment roll parcel number of the
81 | rehabilitated real property in an enterprise zone for which a
82 | refund of previously paid taxes is being sought.
83 | c. A description of the improvements made to accomplish
84 | the rehabilitation of the real property.
85 | d. A copy of the building permit issued for the
86 | rehabilitation of the real property.
87 | e. A sworn statement, under the penalty of perjury, from
88 | the general contractor licensed in this state with whom the
89 | applicant contracted to make the improvements necessary to
90 | accomplish the rehabilitation of the real property, which
91 | statement lists the building materials used in the
92 | rehabilitation of the real property, the actual cost of the
93 | building materials, and the amount of sales tax paid in this
94 | state on the building materials. In the event that a general
95 | contractor has not been used, the applicant shall provide this
96 | information in a sworn statement, under the penalty of perjury.
97 | Copies of the invoices which evidence the purchase of the
98 | building materials used in such rehabilitation and the payment
99 | of sales tax on the building materials shall be attached to the
100 | sworn statement provided by the general contractor or by the
101 | applicant. Unless the actual cost of building materials used in
102 | the rehabilitation of real property and the payment of sales
103 | taxes due thereon is documented by a general contractor or by
104 | the applicant in this manner, the cost of such building
105 | materials shall be an amount equal to 40 percent of the increase
106 | in assessed value for ad valorem tax purposes.

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107 f. The identifying number assigned pursuant to s. 290.0065
108 to the enterprise zone in which the rehabilitated real property
109 is located.

110 g. A certification by the local building code inspector
111 that the improvements necessary to accomplish the rehabilitation
112 of the real property are substantially completed.

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

115 i. If applicable, the name and address of each permanent
116 employee of the business, including, for each employee who is a
117 resident of an enterprise zone, the identifying number assigned
118 pursuant to s. 290.0065 to the enterprise zone in which the
119 employee resides.

120 2. This exemption inures to a city, county, other
121 governmental agency, or nonprofit community-based organization
122 through a refund of previously paid taxes if the building
123 materials used in the rehabilitation of real property located in
124 an enterprise zone are paid for from the funds of a community
125 development block grant, State Housing Initiatives Partnership
126 Program, or similar grant or loan program. To receive a refund
127 pursuant to this paragraph, a city, county, other governmental
128 agency, or nonprofit community-based organization must file an
129 application which includes the same information required to be
130 provided in subparagraph 1. by an owner, lessee, or lessor of
131 rehabilitated real property. In addition, the application must
132 include a sworn statement signed by the chief executive officer
133 of the city, county, other governmental agency, or nonprofit
134 community-based organization seeking a refund which states that

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135 the building materials for which a refund is sought were paid
136 for from the funds of a community development block grant, State
137 Housing Initiatives Partnership Program, or similar grant or
138 loan program.

139 3. Within 10 working days after receipt of an application,
140 the governing body or enterprise zone development agency shall
141 review the application to determine if it contains all the
142 information required pursuant to subparagraph 1. or subparagraph
143 2. and meets the criteria set out in this paragraph. The
144 governing body or agency shall certify all applications that
145 contain the information required pursuant to subparagraph 1. or
146 subparagraph 2. and meet the criteria set out in this paragraph
147 as eligible to receive a refund. If applicable, the governing
148 body or agency shall also certify if 20 percent of the employees
149 of the business are residents of an enterprise zone, excluding
150 temporary and part-time employees. The certification shall be in
151 writing, and a copy of the certification shall be transmitted to
152 the executive director of the Department of Revenue. The
153 applicant shall be responsible for forwarding a certified
154 application to the department within the time specified in
155 subparagraph 4.

156 4. An application for a refund pursuant to this paragraph
157 must be submitted to the department within 6 months after the
158 rehabilitation of the property is deemed to be substantially
159 completed by the local building code inspector or by September 1
160 after the rehabilitated property is first subject to assessment.

161 5. The provisions of s. 212.095 do not apply to any refund
162 application made pursuant to this paragraph. Not more than one

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163 exemption through a refund of previously paid taxes for the
164 rehabilitation of real property shall be permitted for any
165 single parcel of property unless there is a change in ownership,
166 a new lessor, or a new lessee of the real property. No refund
167 shall be granted pursuant to this paragraph unless the amount to
168 be refunded exceeds \$500. No refund granted pursuant to this
169 paragraph shall exceed the lesser of 97 percent of the Florida
170 sales or use tax paid on the cost of the building materials used
171 in the rehabilitation of the real property as determined
172 pursuant to sub-subparagraph 1.e. or \$5,000, or, if no less than
173 20 percent of the employees of the business are residents of an
174 enterprise zone, excluding temporary and part-time employees,
175 the amount of refund granted pursuant to this paragraph shall
176 not exceed the lesser of 97 percent of the sales tax paid on the
177 cost of such building materials or \$10,000. A refund approved
178 pursuant to this paragraph shall be made within 30 days of
179 formal approval by the department of the application for the
180 refund. This subparagraph shall apply retroactively to July 1,
181 2005.

182 6. The department shall adopt rules governing the manner
183 and form of refund applications and may establish guidelines as
184 to the requisites for an affirmative showing of qualification
185 for exemption under this paragraph.

186 7. The department shall deduct an amount equal to 10
187 percent of each refund granted under the provisions of this
188 paragraph from the amount transferred into the Local Government
189 Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20
190 for the county area in which the rehabilitated real property is

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191 | located and shall transfer that amount to the General Revenue
192 | Fund.

193 | 8. For the purposes of the exemption provided in this
194 | paragraph:

195 | a. "Building materials" means tangible personal property
196 | which becomes a component part of improvements to real property.

197 | b. "Real property" has the same meaning as provided in s.
198 | 192.001(12).

199 | c. "Rehabilitation of real property" means the
200 | reconstruction, renovation, restoration, rehabilitation,
201 | construction, or expansion of improvements to real property.

202 | d. "Substantially completed" has the same meaning as
203 | provided in s. 192.042(1).

204 | 9. This paragraph expires on the date specified in s.
205 | 290.016 for the expiration of the Florida Enterprise Zone Act.

206 | Section 4. Paragraphs (a) and (e) of subsection (1) and
207 | paragraph (e) of subsection (3) of section 212.096, Florida
208 | Statutes, are amended to read:

209 | 212.096 Sales, rental, storage, use tax; enterprise zone
210 | jobs credit against sales tax.--

211 | (1) For the purposes of the credit provided in this
212 | section:

213 | (a) "Eligible business" means any sole proprietorship,
214 | firm, partnership, corporation, bank, savings association,
215 | estate, trust, business trust, receiver, syndicate, or other
216 | group or combination, or successor business, located in an
217 | enterprise zone. The business must demonstrate to the department
218 | that, on the date of application, the total number of full-time

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219 | jobs defined under paragraph (d) is greater than the total was
220 | ~~has increased from the average of the previous 12 months prior~~
221 | ~~to that date~~. An eligible business does not include any business
222 | which has claimed the credit permitted under s. 220.181 for any
223 | new business employee first beginning employment with the
224 | business after July 1, 1995.

225 | (e) "New job has been created" means that, on the date of
226 | application, the total number of full-time jobs is greater than
227 | the total was ~~has increased in an enterprise zone from the~~
228 | ~~average of the previous 12 months prior to that date~~, as
229 | demonstrated to the department by a business located in the
230 | enterprise zone.

231 |
232 | A person shall be deemed to be employed if the person performs
233 | duties in connection with the operations of the business on a
234 | regular, full-time basis, provided the person is performing such
235 | duties for an average of at least 36 hours per week each month.
236 | The person must be performing such duties at a business site
237 | located in the enterprise zone.

238 | (3) In order to claim this credit, an eligible business
239 | must file under oath with the governing body or enterprise zone
240 | development agency having jurisdiction over the enterprise zone
241 | where the business is located, as applicable, a statement which
242 | includes:

243 | (e) Demonstration to the department that, on the date of
244 | application, the total number of full-time jobs defined under
245 | paragraph (1) (d) is greater than the total was ~~has increased in~~

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246 ~~an enterprise zone from the average of the previous~~ 12 months
247 prior to that date.

248 Section 5. Paragraph (a) of subsection (1) of section
249 220.13, Florida Statutes, is reenacted and amended to read:

250 220.13 "Adjusted federal income" defined.--

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

256 (a) Additions.--There shall be added to such taxable
257 income:

258 1. The amount of any tax upon or measured by income,
259 excluding taxes based on gross receipts or revenues, paid or
260 accrued as a liability to the District of Columbia or any state
261 of the United States which is deductible from gross income in
262 the computation of taxable income for the taxable year.

263 2. The amount of interest which is excluded from taxable
264 income under s. 103(a) of the Internal Revenue Code or any other
265 federal law, less the associated expenses disallowed in the
266 computation of taxable income under s. 265 of the Internal
267 Revenue Code or any other law, excluding 60 percent of any
268 amounts included in alternative minimum taxable income, as
269 defined in s. 55(b)(2) of the Internal Revenue Code, if the
270 taxpayer pays tax under s. 220.11(3).

271 3. In the case of a regulated investment company or real
272 estate investment trust, an amount equal to the excess of the

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273 net long-term capital gain for the taxable year over the amount
274 of the capital gain dividends attributable to the taxable year.

275 4. That portion of the wages or salaries paid or incurred
276 for the taxable year which is equal to the amount of the credit
277 allowable for the taxable year under s. 220.181. ~~The provisions~~
278 ~~of~~ This subparagraph shall expire ~~and be void~~ on the date
279 specified in s. 290.016 for the expiration of the Florida
280 Enterprise Zone Act June 30, 2005.

281 5. That portion of the ad valorem school taxes paid or
282 incurred for the taxable year which is equal to the amount of
283 the credit allowable for the taxable year under s. 220.182. ~~The~~
284 ~~provisions of~~ This subparagraph shall expire ~~and be void~~ on the
285 date specified in s. 290.016 for the expiration of the Florida
286 Enterprise Zone Act June 30, 2005.

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

291 7. That portion of assessments to fund a guaranty
292 association incurred for the taxable year which is equal to the
293 amount of the credit allowable for the taxable year.

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

299 9. The amount taken as a credit for the taxable year under
300 s. 220.1895.

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

304 11. The amount taken as a credit for the taxable year
305 under s. 220.187.

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

309 220.181 Enterprise zone jobs credit.--

310 (1)(a) There shall be allowed a credit against the tax
311 imposed by this chapter to any business located in an enterprise
312 zone which demonstrates to the department that, on the date of
313 application, the total number of full-time jobs is greater than
314 the total was ~~has increased from the average of the previous 12~~
315 months prior to that date. The credit shall be computed as 20
316 percent of the actual monthly wages paid in this state to each
317 new employee hired when a new job has been created, as defined
318 under s. 220.03(1)(ff), unless the business is located in a
319 rural enterprise zone, pursuant to s. 290.004(6), in which case
320 the credit shall be 30 percent of the actual monthly wages paid.
321 If no less than 20 percent of the employees of the business are
322 residents of an enterprise zone, excluding temporary and part-
323 time employees, the credit shall be computed as 30 percent of
324 the actual monthly wages paid in this state to each new employee
325 hired when a new job has been created, unless the business is
326 located in a rural enterprise zone, in which case the credit
327 shall be 45 percent of the actual monthly wages paid, for a
328 period of up to 24 consecutive months. If the new employee hired

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329 when a new job is created is a participant in the welfare
330 transition program, the following credit shall be a percent of
331 the actual monthly wages paid: 40 percent for \$4 above the
332 hourly federal minimum wage rate; 41 percent for \$5 above the
333 hourly federal minimum wage rate; 42 percent for \$6 above the
334 hourly federal minimum wage rate; 43 percent for \$7 above the
335 hourly federal minimum wage rate; and 44 percent for \$8 above
336 the hourly federal minimum wage rate.

337 (2) When filing for an enterprise zone jobs credit, a
338 business must file under oath with the governing body or
339 enterprise zone development agency having jurisdiction over the
340 enterprise zone where the business is located, as applicable, a
341 statement which includes:

342 (f) Demonstration to the department that, on the date of
343 application, the total number of full-time jobs is greater than
344 the total was ~~has increased from the average of the previous 12~~
345 months prior to that date.

346 Section 7. Paragraph (c) is added to subsection (6) of
347 section 290.0055, Florida Statutes, to read:

348 290.0055 Local nominating procedure.--

349 (6)

350 (c) At least 90 days before adopting a resolution seeking
351 a change in the boundary of an enterprise zone, the governing
352 body shall include in a notice of the meeting at which the
353 resolution will be considered an explanation that a change in
354 the boundary of an enterprise zone will be considered and that
355 the change may result in loss of enterprise zone eligibility for
356 the area affected by the boundary change.

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357 Section 8. (1) Notwithstanding the provisions of s.
358 212.08(5)(g), Florida Statutes, as amended by this act, a
359 business developing a project involving the rehabilitation of
360 real property that has been excluded from an enterprise zone
361 because of the redesignation requirements of s. 290.012 or s.
362 290.0065, Florida Statutes, shall remain eligible to apply for
363 the building materials tax exemption under s. 212.08(5)(g),
364 Florida Statutes, for that project through December 31, 2007, if
365 the following requirements are met:

366 (a) The project must have been located in an enterprise
367 zone on or before December 31, 2005.

368 (b) The project must have a duration extending beyond
369 December 31, 2005.

370 (c) The project must have been excluded from the
371 enterprise zone due to the portion of the enterprise zone in
372 which the project is located not meeting the pervasive poverty
373 rate requirements of s. 290.0058(2)(a) or (b), Florida Statutes.

374 (d) The difference between the pervasive poverty rate
375 requirements of s. 290.0058(2)(a), Florida Statutes, and the
376 actual poverty rate in the area in which the project is located
377 must be 5 percentage points or less.

378 (e) The business must apply for a certificate of
379 eligibility for the project with the enterprise zone development
380 agency by November 1, 2006, and demonstrate that the project
381 meets the requirements of this section.

382 (f) The enterprise zone development agency must provide a
383 copy of the certificate of eligibility to the Department of
384 Revenue.

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385 (2) The provisions of this section are remedial in nature
386 and shall apply retroactively to December 31, 2005. This section
387 is repealed December 31, 2007.

388 Section 9. This act shall take effect upon becoming a law.