

ENROLLED
HB 7055, Engrossed 2

2006 Legislature

1 A bill to be entitled

2 An act relating to enterprise zones; amending s. 195.099,
3 F.S.; reenacting a periodic review requirement; providing
4 for future expiration; amending s. 220.03, F.S.; revising
5 a definition; amending s. 212.08, F.S.; limiting the
6 exemption by refund of certain taxes for rehabilitation of
7 certain property in an enterprise zone; providing an
8 exception; providing for retroactive application; amending
9 s. 212.096, F.S.; revising definitions; revising an
10 information requirement for claiming an enterprise zone
11 jobs tax credit; amending s. 220.13, F.S.; reenacting a
12 definitional provision; providing for future expiration of
13 provisions relating to enterprise zone credits; amending
14 s. 220.181, F.S.; revising certain criteria for granting
15 an enterprise zone jobs tax credit; amending s. 290.0055,
16 F.S.; providing a meeting notice requirement for a
17 governing body adopting an enterprise zone boundary change
18 resolution; creating s. 290.0072, F.S.; authorizing the
19 City of Winter Haven to apply to the Office of Tourism,
20 Trade, and Economic Development for designation of an
21 enterprise zone; providing requirements for the area of
22 the enterprise zone; requiring the office to establish the
23 effective date of the enterprise zone; providing an
24 effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:
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28 Section 1. Subsection (1) of section 195.099, Florida
 29 Statutes, is reenacted and amended to read:

30 195.099 Periodic review.--

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

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

38 Section 2. Paragraph (ff) of subsection (1) of section
 39 220.03, Florida Statutes, is amended to read:

40 220.03 Definitions.--

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

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

51 Section 3. Paragraph (g) of subsection (5) of section
 52 212.08, Florida Statutes, is amended to read:

53 212.08 Sales, rental, use, consumption, distribution, and
 54 storage tax; specified exemptions.--The sale at retail, the

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55 rental, the use, the consumption, the distribution, and the
56 storage to be used or consumed in this state of the following
57 are hereby specifically exempt from the tax imposed by this
58 chapter.

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

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

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

77 a. The name and address of the person claiming the refund.

78 b. An address and assessment roll parcel number of the
79 rehabilitated real property in an enterprise zone for which a
80 refund of previously paid taxes is being sought.

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81 c. A description of the improvements made to accomplish
82 the rehabilitation of the real property.

83 d. A copy of the building permit issued for the
84 rehabilitation of the real property.

85 e. A sworn statement, under the penalty of perjury, from
86 the general contractor licensed in this state with whom the
87 applicant contracted to make the improvements necessary to
88 accomplish the rehabilitation of the real property, which
89 statement lists the building materials used in the
90 rehabilitation of the real property, the actual cost of the
91 building materials, and the amount of sales tax paid in this
92 state on the building materials. In the event that a general
93 contractor has not been used, the applicant shall provide this
94 information in a sworn statement, under the penalty of perjury.
95 Copies of the invoices which evidence the purchase of the
96 building materials used in such rehabilitation and the payment
97 of sales tax on the building materials shall be attached to the
98 sworn statement provided by the general contractor or by the
99 applicant. Unless the actual cost of building materials used in
100 the rehabilitation of real property and the payment of sales
101 taxes due thereon is documented by a general contractor or by
102 the applicant in this manner, the cost of such building
103 materials shall be an amount equal to 40 percent of the increase
104 in assessed value for ad valorem tax purposes.

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

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

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

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

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

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135 Housing Initiatives Partnership Program, or similar grant or
136 loan program.

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

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

159 5. The provisions of s. 212.095 do not apply to any refund
160 application made pursuant to this paragraph. Not more than one
161 exemption through a refund of previously paid taxes for the

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

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

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

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189 | located and shall transfer that amount to the General Revenue
 190 | Fund.

191 | 8. For the purposes of the exemption provided in this
 192 | paragraph:

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

195 | b. "Real property" has the same meaning as provided in s.
 196 | 192.001(12).

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

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

202 | 9. This paragraph expires on the date specified in s.
 203 | 290.016 for the expiration of the Florida Enterprise Zone Act.

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

207 | 212.096 Sales, rental, storage, use tax; enterprise zone
 208 | jobs credit against sales tax.--

209 | (1) For the purposes of the credit provided in this
 210 | section:

211 | (a) "Eligible business" means any sole proprietorship,
 212 | firm, partnership, corporation, bank, savings association,
 213 | estate, trust, business trust, receiver, syndicate, or other
 214 | group or combination, or successor business, located in an
 215 | enterprise zone. The business must demonstrate to the department

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

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

229 |
 230 | A person shall be deemed to be employed if the person performs
 231 | duties in connection with the operations of the business on a
 232 | regular, full-time basis, provided the person is performing such
 233 | duties for an average of at least 36 hours per week each month.
 234 | The person must be performing such duties at a business site
 235 | located in the enterprise zone.

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

241 | (e) Demonstration to the department that, on the date of
 242 | application, the total number of full-time jobs defined under

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243 | paragraph (1)(d) is greater than the total was ~~has increased in~~
 244 | ~~an enterprise zone from the average of the previous~~ 12 months
 245 | prior to that date.

246 | Section 5. Paragraph (a) of subsection (1) of section
 247 | 220.13, Florida Statutes, is reenacted and amended to read:

248 | 220.13 "Adjusted federal income" defined.--

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

254 | (a) Additions.--There shall be added to such taxable
 255 | income:

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

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

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269 3. In the case of a regulated investment company or real
 270 estate investment trust, an amount equal to the excess of the
 271 net long-term capital gain for the taxable year over the amount
 272 of the capital gain dividends attributable to the taxable year.

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

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

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

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

292 8. In the case of a nonprofit corporation which holds a
 293 pari-mutuel permit and which is exempt from federal income tax
 294 as a farmers' cooperative, an amount equal to the excess of the

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295 gross income attributable to the pari-mutuel operations over the
 296 attributable expenses for the taxable year.

297 9. The amount taken as a credit for the taxable year under
 298 s. 220.1895.

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

302 11. The amount taken as a credit for the taxable year
 303 under s. 220.187.

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

307 220.181 Enterprise zone jobs credit.--

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

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322 | the actual monthly wages paid in this state to each new employee
 323 | hired when a new job has been created, unless the business is
 324 | located in a rural enterprise zone, in which case the credit
 325 | shall be 45 percent of the actual monthly wages paid, for a
 326 | period of up to 24 consecutive months. If the new employee hired
 327 | when a new job is created is a participant in the welfare
 328 | transition program, the following credit shall be a percent of
 329 | the actual monthly wages paid: 40 percent for \$4 above the
 330 | hourly federal minimum wage rate; 41 percent for \$5 above the
 331 | hourly federal minimum wage rate; 42 percent for \$6 above the
 332 | hourly federal minimum wage rate; 43 percent for \$7 above the
 333 | hourly federal minimum wage rate; and 44 percent for \$8 above
 334 | the hourly federal minimum wage rate.

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

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

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

346 | 290.0055 Local nominating procedure.--

347 | (6)

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

355 Section 8. Section 290.0072, Florida Statutes, is created
 356 to read:

357 290.0072 Enterprise zone designation for the City of
 358 Winter Haven.--The City of Winter Haven may apply to the Office
 359 of Tourism, Trade, and Economic Development for designation of
 360 one enterprise zone for an area within the City of Winter Haven,
 361 which zone shall encompass on area up to 5 square miles.
 362 Notwithstanding s. 290.0065 limiting the total number of
 363 enterprise zones designated and the number of enterprise zones
 364 within a population category, the Office of Tourism, Trade, and
 365 Economic Development may designate one enterprise zone under
 366 this section. The Office of Tourism, Trade, and Economic
 367 Development shall establish the initial effective date of the
 368 enterprise zone designated pursuant to this section.

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