

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 1503

Super Enterprise Zones

**SPONSOR(S):** Rivera

**TIED BILLS:**

**IDEN./SIM. BILLS:** SB 2538

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Economic Development</u>	<u>8 Y, 0 N</u>	<u>Croom</u>	<u>Croom</u>
2) <u>Economic Expansion &amp; Infrastructure Council</u>	<u></u>	<u>Croom</u>	<u>Tinker</u>
3) <u>Policy &amp; Budget Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

**SUMMARY ANALYSIS**

This bill creates super enterprise zones and gives the Office of Tourism, Trade, and Economic Development the ability to designate five super enterprise zones in the state for a 10-year period each. To qualify as a super enterprise zone an area must be located in an enterprise zone and meet specific economic criteria.

Designation as a super enterprise zone will provide certified businesses in the zone with a tax-free status. Certified businesses will be eligible for a 100 percent exemption from sales and discretionary tax on tangible personal property. In addition, retail sales made by certified businesses in a super enterprise zone are provided a 100 percent exemption on sales and discretionary tax for any tangible personal property item priced up to \$1,000.

This bill creates an application and approval process for super enterprise zones, requires annual reports, and provides for an interim and final review by the Office of Program Policy Analysis and Government Accountability.

This act provides for repeal of this program on June 30, 2020.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Ensure lower taxes:** The bill creates sales tax exemptions for certified businesses in severely impoverished areas of the state.

**Empowers families:** Consumers shopping at certified businesses will be relieved of sales tax on personal property items priced up to \$1,000.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

The Florida Enterprise Zone Program was created in 1982 to encourage economic development in economically distressed areas of the state by providing incentives and inducing private investment.<sup>1</sup> Sections 290.001-290.016, F.S., authorize the creation of the zones and sets forth criteria and goals for the program.

Prior to submitting an application for a zone, a local government body must determine an area:

- Has chronic extreme and unacceptable levels of poverty, unemployment, physical deterioration, and economic disinvestment;
- Needs rehabilitation or redevelopment for the public health, safety, and welfare of the residents in the county or municipality; and
- Can be revitalized through the inducement of the private sector.

The Office of Tourism, Trade, and Economic Development (OTTED) is responsible for approving applications for enterprise zones; in addition, OTTED approves changes in enterprise zone boundaries when authorized by the Florida Legislature. There are currently 56 state enterprise zones. Included in that number are: three Federal Enterprise Communities, two Federal Empowerment Zones, 26 Rural Enterprise Zones, and 30 Urban Enterprise Zones.

As part of the application process for an enterprise zone, the local county or municipality is also responsible to create an Enterprise Zone Development Agency and an enterprise zone development plan.

Outlined in s. 290.0056, F.S., an Enterprise Zone Development Agency is required to have a board of commissioners of at least 8, and no more than 13 members. The agency has the following powers and responsibilities:

- Assisting in the development, implementation and annual review of the zone and updating the strategic plan or measurable goals;
- Identifying ways to remove regulatory burdens;
- Promoting the incentives to residents and businesses;
- Recommending boundary changes;
- Working with nonprofit development organizations; and
- Ensuring the enterprise zone coordinator receives annual training and works with Enterprise Florida, Inc.

Outlined in s. 290.0057, F.S., an enterprise zone development plan (or strategic plan) must accompany an application. At a minimum this plan must:

- Describe the community's goal in revitalizing the area;

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<sup>1</sup> Several studies on Florida's Enterprise Zone Program have been conducted by the Office of Program Policy Analysis and Government Accountability are available online at <http://www.opaga.state.fl.us/>.

- Describe how the community's social and human resources—transportation, housing, community development, public safety, and education and environmental concerns—will be addressed in a coordinated fashion;
- Identify key community goals and barriers;
- Outline how the community is a full partner in the process of developing and implementing this plan;
- Describe the commitment from the local governing body in enacting and maintaining local fiscal and regulatory incentives;
- Identify the amount of local and private resources available and the private/public partnerships;
- Indicate how local, state, and federal resources will all be utilized;
- Identify funding requested under any state or federal program to support the proposed development; and
- Identify baselines, methods, and benchmarks for measuring success of the plan.

Florida's enterprise zones qualify for various corporate income incentives and sales and use tax incentives. A total of \$23.4 million in state incentives were approved by the Department of Revenue, between October 1, 2005 and September 30, 2006, for all state enterprise zones.<sup>2</sup> During the same time period, \$9.8 million in incentives were provided by local governing bodies. Examples of local incentives include: utility tax abatement, reduction of occupational license fees, reduced building permit fees or land development fees, and local funds for capital projects.

Available state sales tax incentives for enterprise zones include:<sup>3</sup>

- **Building Materials Used in the Rehabilitation of Real Property Located in an Enterprise Zone.** Provides a refund for sales taxes paid on the purchase of certain building materials, up to \$5,000 or 97 percent of the tax paid, whichever is less.
- **Business Equipment Used in Enterprise Zones.** Provides a refund for sales taxes paid on the purchase of certain equipment, up to \$5,000 or 97 percent of the tax paid, whichever is less.
- **Rural Enterprise Zone Jobs Credit Against Sales Tax.** Provides a sales and use tax credit for 30 or 45 percent of wages paid to new employees who live within a Rural County.
- **Urban Enterprise Zone Jobs Credit Against Sales Tax.** Provides a sales and use tax credit for 20 or 30 percent of wages paid to new employees who live within the Enterprise Zone.
- **Business Property Used in an Enterprise Zone.** Provides a refund for sales taxes paid on the purchase of certain business property, the lesser of \$5,000 or 97 percent of the tax paid per parcel of property, which is used exclusively in an Enterprise Zone for at least 3 years.
- **Community Contribution Tax Credit.** Provides 50 percent sales tax refund for donations made to local community development projects.
- **Electrical Energy Used in an Enterprise Zone.** Provides 50 percent sales tax exemption to qualified businesses located within an Enterprise Zone on the purchase of electrical energy.

Available state corporate income tax incentives for enterprise zones include:

- **Rural Enterprise Zone Jobs Credit Against Corporate Income Tax.** Provides a corporate income tax credit for 30 or 45 percent of wages paid to new employees who live within a Rural County.
- **Urban Enterprise Zone Jobs Credit Against Corporate Income Tax.** Provides a corporate income tax credit for 15 or 20 percent of wages paid to new employees who live within the Enterprise Zone.
- **Enterprise Zone Property Tax Credit.** Provides a credit against Florida corporate income tax equal to 96% of ad valorem taxes paid on the new or improved property.

<sup>2</sup> Executive Office of the Governor, *Florida Enterprise Zone Program Annual Report*, March 1, 2007, available online at <http://www.floridaenterprisezones.com/Zones/Org1/uploads/07REPORT.pdf>.

<sup>3</sup> A breakdown of each state financial incentive by enterprise zone for fiscal year 2005-06 is available in the Florida Enterprise Zone Annual Report published on March, 1 2007.

- **Community Contribution Tax Credit.** Provides 50 percent credit on Florida corporate income tax, or insurance premium tax for donations made to local community development projects.

Between October 1, 2005 and September 30, 2006, 3,324 new businesses moved into or were created in enterprise zones, 12,490 new jobs were created by businesses in enterprise zones, and 8,913 businesses received technical assistance from Enterprise Zone Coordinators.

### **Proposed Legislation**

This bill creates s. 290.00681, F.S., establishing as many as five super enterprise zones in the state for a 10-year period each.

Designation as a super enterprise zone will provide certified businesses in the zone with a tax-free status. Certified businesses will be eligible for a 100 percent exemption from sales and discretionary tax on tangible personal property. In addition, retail sales made by certified businesses in a super enterprise zone are eligible for a 100 percent exemption on sales and discretionary tax for any tangible personal property item priced up to \$1,000.

To qualify as a super enterprise zone an area must:

- Be located in an enterprise zone;
- Be no larger than 3 contiguous square miles;
- Have an average unemployment rate four times greater than the state average;
- Have a minimum of 40 percent of residents living below poverty level;<sup>4</sup>
- Have general distress of business and residential property; and
- Demonstrate evidence of significant job loss or dislocation.

The bill gives the Enterprise Zone Development Agency the power to recommend and submit an application to the Office of Tourism, Trade, and Economic Development for the designation of a super enterprise zone. An application must include a development plan and information on the community's goals, the community's approach to social and human resources, local and private support, written approval from any associated county office or mayor's office, and methods for measuring success.

When determining eligibility for a super enterprise zone, OTTED must consider the:

- Priority of applications;
- Evidence of adverse economic conditions;
- Viability of the development plan;
- Public and private commitment;
- How the designation will relate to the community's plan as a whole;
- Level of demonstrated cooperation for surrounding communities;
- How the local regulatory burden will be eased;
- Commitment to improving real property; and
- Infrastructure available to support the development.

To qualify as a certified business and receive a tax exemption certificate a business is required to file an application with the local enterprise zone development agency. The business must also meet the following criteria:

- Operate and be primarily located in the designated super enterprise zone;
- Create new employment in the zone while not causing unemployment elsewhere in the state;
- Have no outstanding state or federal tax obligations; and
- Demonstrate no less than 20 percent of its employees are residents of the super enterprise zone or enterprise zone located within the same county.

<sup>4</sup> The 2007 federal poverty threshold published by the United States Department of Health and Human Services for a family of four is \$20,650. This information is available online at <http://aspe.hhs.gov/poverty/07poverty.shtml>.

Each year, the local enterprise zone development agency is required to submit a list of new and existing certified businesses to the local government entity, the Department of Revenue, and the Office of Tourism, Trade, and Economic Development. The Department of Revenue is required to annually issue each certified business a tax exemption certification. The certificate is good for one year only. The bill gives the Department of Revenue and the local enterprise zone development agency the ability to disqualify a certified business if the business fails to continue to meet required criteria.

New businesses certified on or after July 1, 2008 in a super enterprise zone qualify for the tax exemptions provided in this bill for a period not to exceed 10 years. Existing businesses located in a super enterprise zone are eligible for tax exemptions provided in this bill for a period not to exceed five years.

A business that makes a fraudulent claim for payment of any tax exemption is liable for penalties set forth in s. 212.085, F.S. This statute requires payment of the tax plus a mandatory penalty of 200 percent of the tax, liability for fines, and possible conviction of a felony of the third degree.

The bill requires the local Enterprise Zone Development Agency to annually report to OTTED on the economic impact of the super enterprise zone. The bill also requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct an interim review of the program in 2013, and a final review of the program by 2019. The review by OPPAGA must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

### **Other States**

Most enterprise and tax-free zone programs were set-up to fight poverty and blight in a region and to generate economic development. In order to target the enterprise reforms, states set criteria for unemployment, population loss, and poverty household percentage thresholds. There is wide-spread opinion that determining the success of enterprise and tax-free zones is a difficult process.<sup>5</sup>

New Jersey's Urban Enterprise Zone Program, Michigan's Renaissance Zones, Pennsylvania's Keystone Opportunity Zones, and Minnesota's Job Opportunity Building Zone programs are all examples of tax-free zone initiatives. Generally tax-free zone initiatives designate an area of land where businesses do not have to pay certain taxes for a set number of years. This applies to businesses currently located in the zone and businesses locating into the zone. In order to qualify for the tax-breaks a number of factors must be met such as: poverty level, unemployment rate, average weekly wage, deteriorated property, deteriorated housing, and population loss.

### New Jersey Urban Enterprise Zones<sup>6</sup>

New Jersey created the Urban Enterprise Zone Program in 1983 to revitalize the state's most distressed urban communities. Businesses in these zones are eligible for several tax incentives and exemptions, including the ability to buy tangible personal property, and most services (excluding telecommunication services) without sales tax. In addition, qualified businesses are able to sell personal property at a reduced rate of 50 percent of the regular sales tax rate. Since its creation, 25,000 businesses have participated in the program and have invested more than \$19 billion in their businesses.

### Michigan Renaissance Zones<sup>7</sup>

Michigan created the first tax-free zones in 1997 to foster economic development. Michigan specifically selected certain sites in distressed areas to be tax-free for 15 years. Michigan's program has largely been touted as a successful public policy program. Internal reports show that the Renaissance Program

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<sup>5</sup> Most nationwide studies do not differentiate between enterprise zones and tax-free zones. Usually tax-free zones are considered a type of enterprise zone.

<sup>6</sup> Information on New Jersey Urban Enterprise Zone Program is available online at [http://www.state.nj.us/commerce/econ\\_uez\\_program.shtml](http://www.state.nj.us/commerce/econ_uez_program.shtml).

<sup>7</sup> Information on Michigan Renaissance Zones is available online at <http://www.michigan.org/medc/services/sitedevelopment/renzzone/>.

created \$330 million in investment in just three years. By 2002 the program had generated 216 projects and created more than 5,800 jobs.

Although Michigan has the longest running tax-free program, the state has not yet performed a comprehensive evaluation or audit of the program. The yearly report provided a brief overview of Michigan's program and lists the business projects that were developed in the zones over the last year.

#### Pennsylvania Keystone Opportunity Zones<sup>8</sup>

The Keystone Opportunity Zone (KOZ) program was developed in Pennsylvania in 1999 to attract new investment and jobs to economically distressed areas. Local and state taxes are eliminated in a zone for any business or property owner locating there for up to 12 years. Pennsylvania has expanded the program and now offers 12 tax-free zones, each of which can have 20 subzones and a maximum of 6,500 acres per zone. In three years, the KOZ program has attracted over 200 different projects, involving more than \$550 million in public and private funds. KOZ programs have created over 23,000 new jobs and helped retain 20,000 jobs since the program began.

#### Minnesota Job Opportunity Building Zones<sup>9</sup>

More recently, in 2004, Minnesota adopted the Job Opportunity Building Zone (JOBZ) program to expand economic development in the state. The program includes 335 communities in Minnesota. So far the program has received positive buzz. Governor Pawlenty announced that in the first year 118 projects were attracted into JOBZ areas.

### C. SECTION DIRECTORY:

**Section 1.** – Amends s. 212.02, F.S., adding a definition for “certified business.” Providing repeal on June 30, 2020.

**Section 2.** – Amends s. 212.08, F.S., providing exemptions for sales and use tax under s. 212.08, F.S., and discretionary sales surtaxes under s. 212.055, F.S. Providing repeal on June 30, 2020.

**Section 3.** – Amends s. 212.0056, F.S., authorizing an enterprise zone development agency to recommend and submit an application for a super enterprise zone and requiring the agency to submit a list of certified businesses annually to OTTED.

**Section 4.** – Amends s. 290.0057, F.S., requiring any application for a super enterprise zone to include a strategic plan.

**Section 5.** – Amends s. 290.0057, F.S., repealing requirements for super enterprise zones effective July 1, 2020.

**Section 6.** – Creates s. 290.00681, F.S., establishing criteria and eligibility for super enterprise zones and applications. Providing repeal on June 30, 2020.

**Section 7.** – Amends s. 290.007, F.S., outlining incentives available in super enterprise zones.

**Section 8.** – Amends s. 290.007, F.S., repealing incentives available in super enterprise zones on June 30, 2020.

**Section 9.** – Provides for review of super enterprise zones by the Office of Program Policy Analysis and Government Accountability.

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<sup>8</sup> Information on Keystone Opportunity Zones is available online at <http://koz.newpa.com>.

<sup>9</sup> JOBZ NEWZ, *Minnesota's Job Opportunity Building Zone Initiative, A Report on Year One*, available online at <http://www.deed.state.mn.us/bizdev/jobz.htm>.

**Section 10.** – Provides an effective date of July 1, 2007.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The bill authorizes additional tax exemptions for certified businesses in super enterprise zones. The creation of new tax exemptions will negatively impact revenue collection for the state. An official estimate was adopted on March 8, 2007 by the Revenue Estimating Conference as:

<u>FY 07-08</u>	<u>FY 08-09</u>	<u>FY 09-10</u>
(\$18.7m)	(\$41.3m)	(\$45.4m)

#### 2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

The bill authorizes tax exemptions for local discretionary sales tax in super enterprise zones. Local governments must support and apply for designation as a super enterprise zone for certified businesses to receive the tax exemption. An official estimate was adopted on March 8, 2007 by the Revenue Estimating Conference as:

<u>FY 07-08</u>	<u>FY 08-09</u>	<u>FY 09-10</u>
(\$4.2m)	(\$9.3m)	(\$10.1m)

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Unknown.

### D. FISCAL COMMENTS:

The Office of Tourism, Trade, and Economic Development reports it can administer the super enterprise zone program without additional resources. The Department of Revenue has not identified any additional costs for implementing this bill.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds. This bill does not reduce the percentage of state tax shared with counties or municipalities. This bill reduces the authority that municipalities have to raise revenue if the municipality applies and receives a super enterprise zone designation.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

#### **IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

On Thursday March 8, 2007, the Committee on Economic Development reported the bill favorably with a traveling strike-all amendment. This amendment:

- Includes several technical adjustments suggested by the Office of Tourism, Trade, and Economic Development and the Department of Revenue to ensure the program works effectively.
- Clarifies that OTTED will set deadlines for super enterprise zone applications.
- Requires data from the most current decennial (ten-year) census to be used when determining poverty and unemployment levels of a community.