

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Commerce Committee

BILL: SB 1026

INTRODUCER: Senator Pruitt

SUBJECT: Enterprise Zones

DATE: March 12, 2009

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pugh	Cooper	CM	Favorable
2.			CA	
3.			FT	
4.			TA	
5.			WPSC	
6.				

I. Summary:

SB 1026 creates an opportunity for Martin County to apply for and receive an enterprise zone designation. The proposed enterprise zone would be located within the western end of the county and encompass an area up to 10 square miles in size.

According to the bill, the proposed enterprise zone will consist of land primarily within the primary urban services boundary and focus on the Indiantown area, but will exclude the following:

- Property owned by Florida Power & Light to the west;
- Two areas north of the proposed zone that are designated as estate residential; and
- The county-owned Timer Powers Recreational Area.

Additionally, developers of residential condominium projects in the enterprise zone would not be eligible for the various incentives typically available, unless this exemption is prohibited by state law.

Martin County must submit its application to the Governor's Office of Tourism, Trade and Economic Development (OTTED) by December 31, 2009. The application must comply with the requirements in s. 290.0055, F.S. OTTED is given discretion to designate an enterprise zone for Martin County, and if that happens, must establish the enterprise zone's effective date.

SB 1026 creates s. 290.00725 of the Florida Statutes.

II. Present Situation:

Enterprise zones in Florida

Basic statistics

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. Currently, Florida has 56 enterprise zones.

OTTED reports that between October 1, 2007, and September 30, 2008, new businesses numbering 2,719 moved into or were created in enterprise zones and 9,600 new jobs were created by businesses in enterprise zones.¹ More than \$40.3 million in state and nearly \$22.5 million in local-government financial incentives were approved during that same period.

However, while state and local-government incentive funding increased during that reporting period,² there were 2,257 fewer new businesses and 1,856 fewer jobs created in enterprise zones than in the previous year.³ This increase in incentive funding relative to job creation may be tied, in part, to the significant increase in building materials sales tax refunds for condominium projects. *(Please refer to chart on page 5 of this analysis.)*

Over the last 5 years, some 17,462 new businesses have moved into or were created in enterprise zones and 52,629 new jobs have been created.⁴

Designation process

Sections 290.001-290.016, F.S., authorize the creation of enterprise zones and establish criteria and goals for the program. Prior to submitting an application for an enterprise zone, a local government body must determine that 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.

OTTED is responsible for approving applications for enterprise zones, and also approves changes in enterprise zone boundaries when authorized by the Florida Legislature. As part of the application process for an enterprise zone, the county or municipality in which the designation will be located also is responsible for creating an Enterprise Zone Development Agency and an enterprise zone development plan.

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

¹ Florida Enterprise Zone Program Annual Report, October 1, 2007 - September 30, 2008. Published March 1, 2009. On file with the Senate Commerce Committee.

² Ibid, page 6 for the amount of state incentives and page 11 for the local-government incentives. State incentives grew by \$4.6 million and the amount of local-government incentives more than doubled, from \$10 million to \$22.47 million.

³ Ibid, page 1.

⁴ Ibid, page 3.

- 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.

Pursuant to 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;
- 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.

Available incentives

Florida's enterprise zones qualify for various incentives from corporate income tax and sales and use tax liabilities. As noted above, OTTED reported that nearly \$40.36 million in state incentives was approved by the Department of Revenue (DOR), between October 1, 2007, and September 30, 2008, for all state enterprise zones. During the same time period, \$22.47 million in incentives was 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.⁵

Available state sales tax incentives for enterprise zones include:

- 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.
- 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.

⁵ Ibid, page 11.

- 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 employees⁶ 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, up to \$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 20 or 30 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 percent of ad valorem taxes paid on the new or improved property.
- Community Contribution Tax Credit: Provides 50 percent credit on Florida corporate income tax or insurance premium tax, or a sales tax refund, for donations made to local community development projects.

Enterprise zone-condominium issues

Section 212.08(5)(g)1., F.S., authorizes a sales tax exemption for building materials used in the rehabilitation of real property located in an enterprise zone. The exemption functions as a refund of sales taxes. “Rehabilitation” is defined in subparagraph 8.c. as “the reconstruction, renovation, restoration, rehabilitation, construction, or expansion of improvements to real property.” This definition allows the credit to be applied for new construction, to include condominium developments, provided they are located in enterprise zones.

Over the last 6 years, building materials refunds have shown the largest percentage increases among the enterprise zone tax incentives, from \$456,551 in FY 2002-2003 to \$25.6 million in FY 2007-2008.

Part of the increase may be due, at least in part, to the increase in the number of enterprise zones over that time, from 47 to 56. But comparing the last 3 years, with the number of zones fairly stable, the increase in the building materials refunds has experienced exponential growth: from

⁶ For the purposes of both the rural and the urban enterprise zone jobs tax credit, a “new employee” is defined as one who lives in the zone and has worked for the company at least 3 months; the tax credit per new employee may be claimed for up to 24 consecutive months that the employee has been on the payroll. The credit amount varies depending on whether the enterprise zone is rural or urban, and the percentage of total employees who live in the zone.

\$7.4 million in FY 2005-2006 to \$25.6 million in FY 2007-2008. According to the Department of Revenue (DOR), the majority of the claims have been for condominium projects.

Summary of the state incentives offered in the Florida Enterprise Zone Program⁷

CATEGORY	FY 07-08	FY 06-07	FY 05-06	FY 04-05	FY 03-04	FY 02-03	FY 01-02
Jobs Tax Credit (SUT)	\$5,732,605	\$6,087,843	\$6,777,250	\$4,729,834	\$2,579,512	\$1,444,543	\$970,148
Jobs Tax Credit (CIT)	\$5,507,311	\$5,919,236	\$4,253,621	\$2,080,397	\$1,086,747	\$800,029	\$1,965,920
Property Tax Credit (CIT)	\$2,184,036	\$2,291,961	\$1,267,999	\$1,668,168	\$507,022	\$272,942	\$303,542
Building Materials (SUT Refund)	\$25,665,025	\$18,855,129	\$7,415,711	\$3,878,421	\$1,356,462	\$533,673	\$456,551
Business Equipment (SUT Refund)	\$1,269,955	\$1,771,396	\$2,940,864	\$1,618,721	\$1,182,582	\$1,874,145	\$2,813,601
Electrical Energy (SUT exemption)	\$606	\$793,179	\$778,090	\$84,516	\$488,937	\$476,251	\$229,789
Total Value of State Incentives	\$40,359,538	\$35,718,744	\$23,433,535	\$14,060,057	\$7,201,262	\$5,401,583	\$6,739,551
# of EZs	56	56	55	53	51	51	47

DOR has documented that 77 percent of the FY 2006-2007 building materials refunds and 89.9 percent of the FY 2007-2008 building materials refunds were for condominium projects. For the first 6 months of FY 2009-2009, about \$23.2 million in claims for building materials tax refunds have been filed, and 95 percent of them, or \$22 million worth, are from condominiums.

Martin County's plans

The county hopes the enterprise zone incentives will assist existing businesses in the designated area to expand and will encourage new businesses to move in, thus creating jobs for the impoverished community.

III. Effect of Proposed Changes:

Section 1 creates s. 290.00725, F.S., to allow Martin County to seek designation of an enterprise zone, of up to 10 square miles, within the primary urban service boundary near Indiantown. The enterprise zone shall not include nearby property owned by Florida Power & Light, two parcels designated as estate residential, and the Timer Powers Recreational Area. Also, residential condominium projects will not be eligible for the incentives, unless this restriction is prohibited by state law.

⁷ Information compiled from several editions of the annual Florida Enterprise Zone Program annual report.

The county has until December 31, 2009, to file its application with OTTED. The application must meet the requirements of s. 290.0055, F.S., which establishes some of the criteria and details the process by which a local government seeks an enterprise zone designation. The section also specifies that notwithstanding s. 290.0065, F.S., limiting the number of enterprise zones in Florida, OTTED may designate one enterprise zone for Martin County. OTTED also is directed to set the initial effective date for the new enterprise zone.

Section 2 provides that this act shall take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference (REC) on February 13, 2009, adopted by consensus a negative fiscal impact of \$200,000 in cash in FY 2009-2010 on the state and a recurring negative fiscal impact of \$500,000 in 3 subsequent fiscal years. Eighty percent of the tax loss is estimated to be in state sales tax revenues and 20 percent in state corporate income tax revenues.

The fiscal impact to local governments was determined by the REC to be insignificant.

B. Private Sector Impact:

Indeterminate. However, the positive economic impact could be significant to the businesses that locate or already are within the enterprise zone, because of their various tax savings. The general public also could benefit as consumers who shop at new or improved businesses within the enterprise zone. Also, job-seekers could benefit from opportunities afforded them by businesses within the new zone

C. Government Sector Impact:

Indeterminate. Other than the initial review of the county's application, and decision whether to approve or reject it, the workload on OTTED staff should not be significant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
