

By Senator Wise

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1 A bill to be entitled
2 An act relating to enterprise zone economic stimulus;
3 amending s. 212.08, F.S.; revising an exception to the
4 definition of the term "recovery property"; amending
5 s. 212.096, F.S.; renaming the enterprise zone jobs
6 credit as the enterprise zone job stimulus credit;
7 conforming definitions to changes made by the act;
8 providing additional legislative intent; authorizing
9 the enterprise zone job stimulus credit against the
10 sales tax to be applied to new employees hired;
11 revising criteria for claiming the credit; deleting
12 the minimum threshold requirement for full-time jobs
13 required to claim the credit; specifying an additional
14 criterion for nonapplication of the credit to eligible
15 businesses; amending s. 220.02, F.S.; conforming
16 terminology to changes made by the act; amending s.
17 220.03, F.S.; conforming definitions to changes made
18 by the act; amending s. 220.181, F.S.; renaming the
19 enterprise zone jobs credit as the enterprise zone job
20 stimulus credit; authorizing the enterprise zone job
21 stimulus credit against the corporate income tax to be
22 applied to new employees hired; revising criteria for
23 claiming the credit; deleting the minimum threshold
24 requirement for full-time jobs required to claim the
25 credit; amending s. 290.00677, F.S., relating to rural
26 enterprise zones; conforming provisions to changes
27 made by the act; amending s. 290.007, F.S.; conforming
28 terminology to changes made by the act; providing an
29 effective date.

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31 Be It Enacted by the Legislature of the State of Florida:

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33 Section 1. Paragraph (h) of subsection (5) of section
34 212.08, Florida Statutes, is amended to read:

35 212.08 Sales, rental, use, consumption, distribution, and
36 storage tax; specified exemptions.—The sale at retail, the
37 rental, the use, the consumption, the distribution, and the
38 storage to be used or consumed in this state of the following
39 are hereby specifically exempt from the tax imposed by this
40 chapter.

41 (5) EXEMPTIONS; ACCOUNT OF USE.—

42 (h) *Business property used in an enterprise zone.*—

43 1. Business property purchased for use by businesses
44 located in an enterprise zone which is subsequently used in an
45 enterprise zone shall be exempt from the tax imposed by this
46 chapter. This exemption inures to the business only through a
47 refund of previously paid taxes. A refund shall be authorized
48 upon an affirmative showing by the taxpayer to the satisfaction
49 of the department that the requirements of this paragraph have
50 been met.

51 2. To receive a refund, the business must file under oath
52 with the governing body or enterprise zone development agency
53 having jurisdiction over the enterprise zone where the business
54 is located, as applicable, an application which includes:

55 a. The name and address of the business claiming the
56 refund.

57 b. The identifying number assigned pursuant to s. 290.0065
58 to the enterprise zone in which the business is located.

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59 c. A specific description of the property for which a
60 refund is sought, including its serial number or other permanent
61 identification number.

62 d. The location of the property.

63 e. The sales invoice or other proof of purchase of the
64 property, showing the amount of sales tax paid, the date of
65 purchase, and the name and address of the sales tax dealer from
66 whom the property was purchased.

67 f. Whether the business is a small business as defined by
68 s. 288.703(1).

69 g. If applicable, the name and address of each permanent
70 employee of the business, including, for each employee who is a
71 resident of an enterprise zone, the identifying number assigned
72 pursuant to s. 290.0065 to the enterprise zone in which the
73 employee resides.

74 3. Within 10 working days after receipt of an application,
75 the governing body or enterprise zone development agency shall
76 review the application to determine if it contains all the
77 information required pursuant to subparagraph 2. and meets the
78 criteria set out in this paragraph. The governing body or agency
79 shall certify all applications that contain the information
80 required pursuant to subparagraph 2. and meet the criteria set
81 out in this paragraph as eligible to receive a refund. If
82 applicable, the governing body or agency shall also certify if
83 20 percent of the employees of the business are residents of an
84 enterprise zone, excluding temporary and part-time employees.
85 The certification shall be in writing, and a copy of the
86 certification shall be transmitted to the executive director of
87 the Department of Revenue. The business shall be responsible for

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88 forwarding a certified application to the department within the
89 time specified in subparagraph 4.

90 4. An application for a refund pursuant to this paragraph
91 must be submitted to the department within 6 months after the
92 tax is due on the business property that is purchased.

93 5. The amount refunded on purchases of business property
94 under this paragraph shall be the lesser of 97 percent of the
95 sales tax paid on such business property or \$5,000, or, if no
96 less than 20 percent of the employees of the business are
97 residents of an enterprise zone, excluding temporary and part-
98 time employees, the amount refunded on purchases of business
99 property under this paragraph shall be the lesser of 97 percent
100 of the sales tax paid on such business property or \$10,000. A
101 refund approved pursuant to this paragraph shall be made within
102 30 days of formal approval by the department of the application
103 for the refund. No refund shall be granted under this paragraph
104 unless the amount to be refunded exceeds \$100 in sales tax paid
105 on purchases made within a 60-day time period.

106 6. The department shall adopt rules governing the manner
107 and form of refund applications and may establish guidelines as
108 to the requisites for an affirmative showing of qualification
109 for exemption under this paragraph.

110 7. If the department determines that the business property
111 is used outside an enterprise zone within 3 years from the date
112 of purchase, the amount of taxes refunded to the business
113 purchasing such business property shall immediately be due and
114 payable to the department by the business, together with the
115 appropriate interest and penalty, computed from the date of
116 purchase, in the manner provided by this chapter.

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117 Notwithstanding this subparagraph, business property used
118 exclusively in:

- 119 a. Licensed commercial fishing vessels,
- 120 b. Fishing guide boats, or
- 121 c. Ecotourism guide boats

122

123 that leave and return to a fixed location within an area
124 designated under s. 379.2353 are eligible for the exemption
125 provided under this paragraph if all requirements of this
126 paragraph are met. Such vessels and boats must be owned by a
127 business that is eligible to receive the exemption provided
128 under this paragraph. This exemption does not apply to the
129 purchase of a vessel or boat.

130 8. The department shall deduct an amount equal to 10
131 percent of each refund granted under the provisions of this
132 paragraph from the amount transferred into the Local Government
133 Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20
134 for the county area in which the business property is located
135 and shall transfer that amount to the General Revenue Fund.

136 9. For the purposes of this exemption, "business property"
137 means new or used property defined as "recovery property" in s.
138 168(c) of the Internal Revenue Code of 1954, as amended, except:

- 139 a. Property classified as 3-year property under s.
140 168(c) (2) (A) of the Internal Revenue Code of 1954, as amended;
- 141 b. Industrial machinery and equipment as defined in sub-
142 subparagraph (b)6.a. and eligible for exemption under paragraph
143 (b);
- 144 c. Building materials as defined in sub-subparagraph
145 (g)8.a.; and

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146 d. Business property having a sales price of under \$500
147 ~~\$5,000~~ per unit.

148 10. This paragraph expires on the date specified in s.
149 290.016 for the expiration of the Florida Enterprise Zone Act.

150 Section 2. Paragraphs (a), (c), and (e) of subsection (1),
151 subsection (2), paragraphs (e) through (i) of subsection (3),
152 and subsection (9) of section 212.096, Florida Statutes, are
153 amended, and paragraph (c) is added to subsection (6) of that
154 section, to read:

155 212.096 Sales, rental, storage, use tax; enterprise zone
156 job stimulus jobs credit against sales tax.—

157 (1) For the purposes of the credit provided in this
158 section:

159 (a) "Eligible business" means any sole proprietorship,
160 firm, partnership, corporation, bank, savings association,
161 estate, trust, business trust, receiver, syndicate, or other
162 group or combination, or successor business, located in an
163 enterprise zone. ~~The business must demonstrate to the department~~
164 ~~that, on the date of application, the total number of full-time~~
165 ~~jobs defined under paragraph (d) is greater than the total was~~
166 ~~12 months prior to that date.~~ An eligible business does not
167 include any business which has claimed the credit permitted
168 under s. 220.181 for any new business employee first beginning
169 employment with the business after July 1, 2010 ~~1995~~.

170 (c) "New employee" means a person residing in an enterprise
171 zone or a participant in the welfare transition program who
172 begins employment with an eligible business after July 1, 2010
173 ~~1995~~, and who has not been previously employed full time within
174 the preceding 12 months by the eligible business, or a successor

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175 eligible business, claiming the credit allowed by this section.

176 ~~(c) "New job has been created" means that, on the date of~~
177 ~~application, the total number of full-time jobs is greater than~~
178 ~~the total was 12 months prior to that date, as demonstrated to~~
179 ~~the department by a business located in the enterprise zone.~~

180
181 A person shall be deemed to be employed if the person performs
182 duties in connection with the operations of the business on a
183 regular, full-time basis, provided the person is performing such
184 duties for an average of at least 36 hours per week each month.
185 The person must be performing such duties at a business site
186 located in the enterprise zone.

187 (2) (a) It is the legislative intent to encourage the
188 provision of meaningful employment opportunities that will
189 improve the quality of life of those employed and to encourage
190 economic expansion of enterprise zones and the state. Upon an
191 affirmative showing by an eligible business to the satisfaction
192 of the department that the requirements of this section have
193 been met, the business shall be allowed a credit against the tax
194 remitted under this chapter.

195 (b) The credit shall be computed as 20 percent of the
196 actual monthly wages paid in this state to each new employee
197 hired ~~when a new job has been created~~, unless the business is
198 located within a rural enterprise zone pursuant to s.
199 290.004(6), in which case the credit shall be 30 percent of the
200 actual monthly wages paid. If no less than 20 percent of the
201 employees of the business are residents of an enterprise zone,
202 excluding temporary and part-time employees, the credit shall be
203 computed as 30 percent of the actual monthly wages paid in this

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204 state to each new employee hired ~~when a new job has been~~
205 ~~created~~, unless the business is located within a rural
206 enterprise zone, in which case the credit shall be 45 percent of
207 the actual monthly wages paid. If the new employee hired ~~when a~~
208 ~~new job is created~~ is a participant in the welfare transition
209 program, the following credit shall be a percent of the actual
210 monthly wages paid: 40 percent for \$4 above the hourly federal
211 minimum wage rate; 41 percent for \$5 above the hourly federal
212 minimum wage rate; 42 percent for \$6 above the hourly federal
213 minimum wage rate; 43 percent for \$7 above the hourly federal
214 minimum wage rate; and 44 percent for \$8 above the hourly
215 federal minimum wage rate. For purposes of this paragraph,
216 monthly wages shall be computed as one-twelfth of the expected
217 annual wages paid to such employee. The amount paid as wages to
218 a new employee is the compensation paid to such employee that is
219 subject to unemployment tax. The credit shall be allowed for up
220 to 24 consecutive months, beginning with the first tax return
221 due pursuant to s. 212.11 after approval by the department.

222 (3) In order to claim this credit, an eligible business
223 must file under oath with the governing body or enterprise zone
224 development agency having jurisdiction over the enterprise zone
225 where the business is located, as applicable, a statement which
226 includes:

227 ~~(e) Demonstration to the department that, on the date of~~
228 ~~application, the total number of full-time jobs defined under~~
229 ~~paragraph (1) (d) is greater than the total was 12 months prior~~
230 ~~to that date.~~

231 (e) ~~(f)~~ The identifying number assigned pursuant to s.
232 290.0065 to the enterprise zone in which the business is

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233 located.

234 ~~(f)-(g)~~ Whether the business is a small business as defined
235 by s. 288.703(1).

236 ~~(g)-(h)~~ Within 10 working days after receipt of an
237 application, the governing body or enterprise zone development
238 agency shall review the application to determine if it contains
239 all the information required pursuant to this subsection and
240 meets the criteria set out in this section. The governing body
241 or agency shall certify all applications that contain the
242 information required pursuant to this subsection and meet the
243 criteria set out in this section as eligible to receive a
244 credit. If applicable, the governing body or agency shall also
245 certify if 20 percent of the employees of the business are
246 residents of an enterprise zone, excluding temporary and part-
247 time employees. The certification shall be in writing, and a
248 copy of the certification shall be transmitted to the executive
249 director of the Department of Revenue. The business shall be
250 responsible for forwarding a certified application to the
251 department within the time specified in paragraph ~~(h)~~ ~~(i)~~.

252 ~~(h)-(i)~~ All applications for a credit pursuant to this
253 section must be submitted to the department within 6 months
254 after the new employee is hired, except applications for credit
255 for leased employees. Applications for credit for leased
256 employees must be submitted to the department within 7 months
257 after the employee is leased.

258 (6) The credit provided in this section does not apply:

259 (c) For any eligible business that terminates employees for
260 the sole purpose of claiming the credit.

261 (9) Any business which has claimed this credit shall not be

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262 allowed any credit under the provisions of s. 220.181 for any
263 new employee beginning employment after July 1, 2010 ~~1995~~.

264 Section 3. Paragraph (a) of subsection (6) of section
265 220.02, Florida Statutes, is amended to read:

266 220.02 Legislative intent.—

267 (6) (a) It is the intent of the Legislature that the
268 enterprise zone job stimulus ~~jobs~~ credit provided by s. 220.181
269 be applicable only to those businesses located in an enterprise
270 zone. It is further the intent of the Legislature to provide an
271 incentive for the increased provision of employment
272 opportunities leading to the improvement of the quality of life
273 of those employed and the positive expansion of the economy of
274 the state as well as the economy of present enterprise zones.

275 Section 4. Paragraphs (q) and (ee) of subsection (1) of
276 section 220.03, Florida Statutes, are amended to read:

277 220.03 Definitions.—

278 (1) SPECIFIC TERMS.—When used in this code, and when not
279 otherwise distinctly expressed or manifestly incompatible with
280 the intent thereof, the following terms shall have the following
281 meanings:

282 (q) "New employee," for the purposes of the enterprise zone
283 job stimulus ~~jobs~~ credit, means a person residing in an
284 enterprise zone or a participant in the welfare transition
285 program who is employed at a business located in an enterprise
286 zone who begins employment in the operations of the business
287 after July 1, 2010 ~~1995~~, and who has not been previously
288 employed full time within the preceding 12 months by the
289 business or a successor business claiming the credit pursuant to
290 s. 220.181. A person shall be deemed to be employed by such a

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291 business if the person performs duties in connection with the
292 operations of the business on a full-time basis, provided she or
293 he is performing such duties for an average of at least 36 hours
294 per week each month. The person must be performing such duties
295 at a business site located in an enterprise zone. This paragraph
296 expires on the date specified in s. 290.016 for the expiration
297 of the Florida Enterprise Zone Act.

298 ~~(ee) "New job has been created" means that, on the date of~~
299 ~~application, the total number of full-time jobs is greater than~~
300 ~~the total was 12 months prior to that date, as demonstrated to~~
301 ~~the department by a business located in the enterprise zone.~~

302 Section 5. Paragraphs (a) and (b) of subsection (1) and
303 subsections (2), (7), and (9) of section 220.181, Florida
304 Statutes, are amended to read:

305 220.181 Enterprise zone job stimulus jobs credit.—

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

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

333 (b) This credit applies only with respect to wages subject
334 to unemployment tax. The credit provided in this section does
335 not apply:

336 1. For any employee who is an owner, partner, or majority
337 stockholder of an eligible business.

338 2. For any new employee who is employed for any period less
339 than 3 months.

340 3. For any eligible business that terminates employees for
341 the sole purpose of claiming the credit.

342 (2) When filing for an enterprise zone job stimulus jobs
343 credit, a business must file under oath with the governing body
344 or enterprise zone development agency having jurisdiction over
345 the enterprise zone where the business is located, as
346 applicable, a statement which includes:

347 (a) For each new employee for whom this credit is claimed,
348 the employee's name and place of residence during the taxable

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349 year, including the identifying number assigned pursuant to s.
350 290.0065 to the enterprise zone in which the new employee
351 resides if the new employee is a person residing in an
352 enterprise zone, and, if applicable, documentation that the
353 employee is a welfare transition program participant.

354 (b) If applicable, the name and address of each permanent
355 employee of the business, including, for each employee who is a
356 resident of an enterprise zone, the identifying number assigned
357 pursuant to s. 290.0065 to the enterprise zone in which the
358 employee resides.

359 (c) The name and address of the business.

360 (d) The identifying number assigned pursuant to s. 290.0065
361 to the enterprise zone in which the eligible business is
362 located.

363 (e) The salary or hourly wages paid to each new employee
364 claimed.

365 ~~(f) Demonstration to the department that, on the date of~~
366 ~~application, the total number of full-time jobs is greater than~~
367 ~~the total was 12 months prior to that date.~~

368 (f) ~~(g)~~ Whether the business is a small business as defined
369 by s. 288.703(1).

370 (7) Any business which has claimed this credit shall not be
371 allowed any credit under the provision of s. 212.096 for any new
372 employee beginning employment after July 1, 2010 ~~1995~~. The
373 provisions of this subsection shall not apply when a corporation
374 converts to an S corporation for purposes of compliance with the
375 Internal Revenue Code of 1986, as amended; however, no
376 corporation shall be allowed the benefit of this credit and the
377 credit under s. 212.096 either for the same new employee or for

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378 the same taxable year. In addition, such a corporation shall not
379 be allowed any credit under s. 212.096 until it has filed notice
380 of its intent to change its status for tax purposes and until
381 its final return under this chapter for the taxable year prior
382 to such change has been filed.

383 (9) This section, except paragraph (1)(c) and subsection
384 (8), expires on the date specified in s. 290.016 for the
385 expiration of the Florida Enterprise Zone Act, and a business
386 may not begin claiming the enterprise zone job stimulus jobs ~~jobs~~
387 credit after that date; however, the expiration of this section
388 does not affect the operation of any credit for which a business
389 has qualified under this section before that date, or any
390 carryforward of unused credit amounts as provided in paragraph
391 (1)(c).

392 Section 6. Section 290.00677, Florida Statutes, is amended
393 to read:

394 290.00677 Rural enterprise zones; special qualifications.—

395 (1) Notwithstanding the enterprise zone residency
396 requirements set out in s. 212.096(1)(c), eligible businesses as
397 defined by s. 212.096(1)(a), located in rural enterprise zones
398 as defined by s. 290.004, may receive the basic minimum credit
399 provided under s. 212.096 for ~~creating a new job and~~ hiring a
400 person residing within the jurisdiction of a rural county, as
401 defined by s. 288.106(1)(r). All other provisions of s. 212.096,
402 including, but not limited to, those relating to the award of
403 enhanced credits, apply to such businesses.

404 (2) Notwithstanding the enterprise zone residency
405 requirements set out in s. 220.03(1)(q), businesses as defined
406 by s. 220.03(1)(c), located in rural enterprise zones as defined

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407 in s. 290.004, may receive the basic minimum credit provided
408 under s. 220.181 for ~~creating a new job and~~ hiring a person
409 residing within the jurisdiction of a rural county, as defined
410 by s. 288.106(1)(r). All other provisions of s. 220.181,
411 including, but not limited to, those relating to the award of
412 enhanced credits apply to such businesses.

413 Section 7. Subsections (1) and (7) of section 290.007,
414 Florida Statutes, are amended to read:

415 290.007 State incentives available in enterprise zones.—The
416 following incentives are provided by the state to encourage the
417 revitalization of enterprise zones:

418 (1) The enterprise zone job stimulus ~~jobs~~ credit provided
419 in s. 220.181.

420 (7) The enterprise zone job stimulus ~~jobs~~ credit against
421 the sales tax provided in s. 212.096.

422 Section 8. This act shall take effect July 1, 2010.