

By Senator Bennett

21-01214-10

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1 A bill to be entitled
2 An act relating to energy economic zones; amending s.
3 377.809, F.S.; authorizing specified tax credits and
4 other incentives for pilot energy economic zone
5 communities; providing requirements for the provision
6 of such incentives; providing that designated energy
7 economic zones shall be considered transportation
8 concurrency exception areas; providing requirements
9 for the calculation of land required to accommodate
10 anticipated growth for specified purposes; defining
11 the term "clean technology industries and
12 technologies"; requiring pilot communities to work
13 with certain agencies to test specified methods to
14 promote energy-efficient land use; amending s. 212.08,
15 F.S.; providing definitions; exempting specified
16 building materials used in the construction or
17 rehabilitation of energy-efficient structures from
18 certain sales, rental, use, consumption, distribution,
19 and storage taxes; exempting specified real property
20 located in an energy economic zone from certain sales,
21 rental, use, consumption, distribution, and storage
22 taxes; exempting clean technology and manufacturing
23 products used in energy economic zones from certain
24 taxes; providing an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

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28 Section 1. Subsections (5) through (8) are added to section
29 377.809, Florida Statutes, to read:

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30 377.809 Energy Economic Zone Pilot Program.—

31 (5) Based on findings of the designated energy economic
32 zone pilot communities as to incentives that may be desirable
33 pursuant to subsection (3), the state incentives in paragraphs
34 (a)-(d) may be offered by the pilot communities, by ordinance,
35 to cultivate green economic development, encourage renewable
36 electric energy generation, manufacture products that contribute
37 to energy conservation and green jobs, develop energy-efficient
38 land use patterns, and reduce greenhouse gas emissions. In order
39 for such incentives to be provided, the pilot community must
40 designate the energy economic zone by amendment to the future
41 land use map portion of the comprehensive plan and implementing
42 land development regulations and must certify to the Department
43 of Community Affairs and the Office of Tourism, Trade, and
44 Economic Development that the pilot community's developments are
45 eligible to receive the incentives.

46 (a) The jobs credit provided under s. 220.181 for
47 enterprise zones shall apply to pilot energy economic zones for
48 renewable energy manufacturers, zero-emission vehicle
49 manufacturers and assemblers, and other such industries that
50 contribute to energy conservation and the reduction of
51 greenhouse gas emissions, as approved by the governing body with
52 jurisdiction over the designated energy economic zone, which are
53 expanding production activity through increased employment.

54 (b) The property tax credit provided under s. 220.182 for
55 enterprise zones shall apply to pilot energy economic zones for
56 eligible clean technology industries and technologies, pursuant
57 to subsection (7), and as approved by the governing body with
58 jurisdiction of the energy economic zone.

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59 (c) The jobs credit against the sales tax provided under s.
60 212.096 for enterprise zones shall apply to pilot energy
61 economic zones for businesses that meet the eligibility criteria
62 set forth in s. 212.08(5)(q) and (r) and (7)(ggg).

63 (d) All other statutory reporting and accountability
64 requirements relating to the incentives under this subsection
65 shall also apply to energy economic zones.

66 (6) The following provisions apply to designated energy
67 economic zones:

68 (a) Designated energy economic zones shall be considered
69 transportation concurrency exception areas. Development within
70 and consistent with designated energy economic zones are exempt
71 from review under s. 380.06.

72 (b) Density and intensity bonuses for energy-efficient
73 developments within the designated energy economic zones shall
74 not be calculated as part of the amount of land required to
75 accommodate anticipated growth for the purposes of chapter 163.

76 (7) For purposes of energy economic zone eligibility
77 criteria for the exemptions provided in subsection (5), the term
78 "clean technology industries and technologies" includes a
79 diverse range of products, services, and processes that harness
80 renewable materials and energy sources and significantly reduce
81 the use of natural resources, greenhouse gas emissions, and
82 waste. Such products, services, and processes shall include, but
83 are not limited to:

84 (a) Clean transportation technologies such as advanced
85 battery storage, electro propulsion, fuel cells, hybrid-electric
86 and solar-powered vehicles, and stirling engines.

87 (b) Clean energy technologies such as biofuels, fuel cells,

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88 microturbines, photovoltaics, small-scale hydroelectric, wind
89 power, and energy efficiency.

90 (c) Clean materials such as biomass materials, biomimetics,
91 green buildings, green chemistry, and phytoremediation.

92 (d) Clean water industries such as biological water
93 filtration, decentralized filtration systems, small-scale
94 desalination, ultraviolet purification, and wetlands
95 restoration.

96 (8) The pilot communities shall work with water management
97 districts, the Department of Community Affairs, the Department
98 of Environmental Protection, the Department of Health, and other
99 appropriate state agencies to test sub-basin modeling and
100 management, credit systems, and use of green infrastructure
101 within the designated energy economic zones as methods to
102 promote energy-efficient land use.

103 Section 2. Paragraphs (q) and (r) are added to subsection
104 (5) of section 212.08, Florida Statutes, and paragraph (ggg) is
105 added to subsection (7) of that section, to read:

106 212.08 Sales, rental, use, consumption, distribution, and
107 storage tax; specified exemptions.—The sale at retail, the
108 rental, the use, the consumption, the distribution, and the
109 storage to be used or consumed in this state of the following
110 are hereby specifically exempt from the tax imposed by this
111 chapter.

112 (5) EXEMPTIONS; ACCOUNT OF USE.—

113 (q) Building materials used in the construction or
114 rehabilitation of energy-efficient structures of real property
115 located in an energy economic zone.—

116 1. Building materials used in the construction or

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117 rehabilitation of real property located in an energy economic
118 zone shall be exempt from taxes imposed by this chapter upon an
119 affirmative showing to the satisfaction of the department that
120 the materials have been used for energy-efficient structures
121 located in a designated energy economic zone. Except as provided
122 in subparagraph 2., this exemption inures to the owner, lessee,
123 or lessor of the real property located in an energy economic
124 zone only through a refund of previously paid taxes. To receive
125 a refund pursuant to this paragraph, the owner, lessee, or
126 lessor of the real property located in an energy economic zone
127 must file an application under oath with the governing body of
128 the local government having jurisdiction over the energy
129 economic zone where the business is located, as applicable,
130 which includes:

- 131 a. The name and address of the person claiming the refund.
132 b. An address and assessment roll parcel number of the real
133 property in an energy economic zone for which a refund of
134 previously paid taxes is being sought.
135 c. A description of the materials and energy-efficient
136 construction utilized to construct or rehabilitate an energy-
137 efficient structure.
138 d. A copy of the building permit issued for the
139 construction of the real property.
140 e. A sworn statement, under the penalty of perjury, from
141 the general contractor licensed in this state with whom the
142 applicant contracted to accomplish the energy-efficient
143 construction or rehabilitation of the real property, which
144 statement lists the building materials used, the actual cost of
145 the building materials, and the amount of sales tax paid in this

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146 state on the building materials. In the event that a general
147 contractor has not been used, the applicant shall provide this
148 information in a sworn statement, under the penalty of perjury.

149 f. The identification of the energy economic zone in which
150 the energy-efficient structure constructed or rehabilitated is
151 located.

152 g. A certification by the local building code inspector
153 that the improvements necessary to accomplish the construction
154 or rehabilitation of the real property are substantially
155 completed.

156 h. Whether the business is a small business as defined in
157 s. 288.703(1).

158 i. If applicable, the name and address of each permanent
159 employee of the business, indicating those employees who reside
160 in the energy economic zone.

161 2. This exemption inures to a city, county, other
162 governmental agency, or nonprofit community-based organization
163 through a refund of previously paid taxes if the building
164 materials used in the construction or rehabilitation of real
165 property located in an energy economic zone are paid for from
166 the funds of a community development block grant, State Housing
167 Initiatives Partnership Program, or similar grant or loan
168 program. To receive a refund pursuant to this paragraph, a city,
169 county, other governmental agency, or nonprofit community-based
170 organization must file an application that includes the same
171 information required to be provided in subparagraph 1. by an
172 owner, lessee, or lessor of rehabilitated real property. In
173 addition, the application must include a sworn statement signed
174 by the chief executive officer of the city, county, other

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175 governmental agency, or nonprofit community-based organization
176 seeking a refund which states that the building materials for
177 which a refund is sought were paid for from the funds of a
178 community development block grant, State Housing Initiatives
179 Partnership Program, or similar grant or loan program.

180 3. Within 10 working days after receipt of an application,
181 the governing body or designee of the energy economic zone shall
182 review the application to determine if it contains all the
183 information required pursuant to subparagraph 1. or subparagraph
184 2. and meets the criteria set out in this paragraph. The
185 governing body or designee shall certify all applications that
186 contain the information required pursuant to subparagraph 1. or
187 subparagraph 2. and meet the criteria set out in this paragraph
188 as eligible to receive a refund. The certification shall be in
189 writing, and a copy of the certification shall be transmitted to
190 the executive director of the Department of Revenue. The
191 applicant shall be responsible for forwarding a certified
192 application to the department within the time specified in
193 subparagraph 4.

194 4. An application for a refund pursuant to this paragraph
195 must be submitted to the department within 6 months after the
196 construction of the property is deemed to be substantially
197 completed by the local building code inspector or by September 1
198 after the rehabilitated property is first subject to assessment.

199 5. Not more than one exemption through a refund of
200 previously paid taxes for the construction of real property
201 shall be permitted for any single parcel of property unless
202 there is a change in ownership between unrelated parties, a new
203 lessor, or a new lessee, other than related parties. No refund

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204 shall be granted pursuant to this paragraph unless the amount to
205 be refunded exceeds \$500. No refund granted pursuant to this
206 paragraph shall exceed the lesser of 97 percent of the state
207 sales and use tax paid on the cost of the building materials
208 used in the construction of the real property as determined
209 pursuant to sub-subparagraph 1.e. or \$5,000, or, if no less than
210 20 percent of the employees of the business are residents of an
211 energy economic zone, excluding temporary and part-time
212 employees, the amount of refund granted pursuant to this
213 paragraph shall not exceed the lesser of 97 percent of the sales
214 tax paid on the cost of such building materials or \$10,000. A
215 refund approved by the department pursuant to this paragraph
216 shall be made within 30 days after formal approval of the
217 application, which determination shall be made within 30 days
218 after receiving the application. This subparagraph shall apply
219 retroactively to July 1, 2005.

220 6. The department shall adopt rules governing the manner
221 and form of refund applications and may establish guidelines as
222 to the requisites for an affirmative showing of qualification
223 for exemption under this paragraph.

224 7. For the purposes of the exemption provided in this
225 paragraph:

226 a. "Building materials" means tangible personal property
227 that becomes a component part of construction and improvements
228 to real property.

229 b. "Real property" has the same meaning as provided in s.
230 192.001(12).

231 c. "Energy-efficient construction" means the construction,
232 renovation, restoration, rehabilitation, or expansion of

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233 improvements to real property resulting in a structure that
234 meets Leadership in Energy and Environmental Design (LEED)
235 standards.

236 d. "Energy-efficient structures" means structures that meet
237 LEED-certified buildings standards.

238 e. "Substantially completed" has the same meaning as
239 provided in s. 192.042(1).

240 (r) Business property used in an energy economic zone.—

241 1. Business property purchased for use by businesses
242 located in an energy economic zone which is subsequently used in
243 an energy economic zone shall be exempt from the tax imposed by
244 this chapter. This exemption inures to the business only through
245 a refund of previously paid taxes. A refund shall be authorized
246 upon an affirmative showing by the taxpayer to the satisfaction
247 of the department that the requirements of this paragraph have
248 been met.

249 2. To receive a refund, the business must certify to the
250 governing body of the local government having jurisdiction over
251 the energy economic zone in which the business is located, as
252 applicable, an application that includes:

253 a. The name and address of the business claiming the
254 refund.

255 b. A specific description of the property for which a
256 refund is sought, including its serial number or other permanent
257 identification number.

258 c. The location of the property.

259 d. The sales invoice or other proof of purchase of the
260 property, showing the amount of sales tax paid, the date of
261 purchase, and the name and address of the sales tax dealer from

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262 whom the property was purchased.

263 e. Whether the business is a small business as defined by
264 s. 288.703(1).

265 f. If applicable, the name and address of each permanent
266 employee of the business, indicating those employees who reside
267 in the energy economic zone.

268 3. An application for a refund pursuant to this paragraph
269 must be submitted to the governing body having jurisdiction over
270 the energy economic zone within 6 months after the tax is due on
271 the business property that is purchased.

272 4. Within 10 working days after receipt of an application,
273 the governing body or designee shall review the application to
274 determine if it contains all the information required pursuant
275 to subparagraph 2. and meets the criteria set out in this
276 paragraph. After review, the certified application shall be
277 transmitted to the executive director of the Department of
278 Revenue.

279 5. The amount refunded on purchases of business property
280 under this paragraph shall be the lesser of 97 percent of the
281 sales tax paid on such business property or \$5,000, or, if no
282 less than 20 percent of the employees of the business are
283 residents of an energy economic zone, excluding temporary and
284 part-time employees, the amount refunded on purchases of
285 business property under this paragraph shall be the lesser of 97
286 percent of the sales tax paid on such business property or
287 \$10,000. A refund approved pursuant to this paragraph shall be
288 made within 30 days after formal approval by the department of
289 the application for the refund. No refund shall be granted under
290 this paragraph unless the amount to be refunded exceeds \$100 in

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291 sales tax paid on purchases made within a 60-day time period.

292 6. The department shall adopt rules governing the manner
293 and form of refund applications and may establish guidelines as
294 to the requisites for an affirmative showing of qualification
295 for exemption under this paragraph.

296 7. If the department determines that the business property
297 is used outside an energy economic zone within 3 years after the
298 date of purchase, the amount of taxes refunded to the business
299 purchasing such business property shall immediately be due and
300 payable to the department by the business, together with the
301 appropriate interest and penalty, computed from the date of
302 purchase, in the manner provided by this chapter.

303 Notwithstanding this subparagraph, business property used
304 exclusively in:

- 305 a. Licensed commercial fishing vessels;
306 b. Fishing guide boats; or
307 c. Ecotourism guide boats,

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309 that leave and return to a fixed location within an area
310 designated under s. 379.2353 are eligible for the exemption
311 provided under this paragraph if all requirements of this
312 paragraph are met. Such vessels and boats must be owned by a
313 business that is eligible to receive the exemption provided
314 under this paragraph. This exemption does not apply to the
315 purchase of a vessel or boat.

316 8. For the purposes of this exemption, "business property"
317 means new or used tangible personal property having a value of
318 at least \$500 used in energy economic zones by renewable energy
319 manufacturers, zero-emissions vehicle manufacturers and other

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320 such industries involved in clean technology industries and
321 technologies.

322 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
323 entity by this chapter do not inure to any transaction that is
324 otherwise taxable under this chapter when payment is made by a
325 representative or employee of the entity by any means,
326 including, but not limited to, cash, check, or credit card, even
327 when that representative or employee is subsequently reimbursed
328 by the entity. In addition, exemptions provided to any entity by
329 this subsection do not inure to any transaction that is
330 otherwise taxable under this chapter unless the entity has
331 obtained a sales tax exemption certificate from the department
332 or the entity obtains or provides other documentation as
333 required by the department. Eligible purchases or leases made
334 with such a certificate must be in strict compliance with this
335 subsection and departmental rules, and any person who makes an
336 exempt purchase with a certificate that is not in strict
337 compliance with this subsection and the rules is liable for and
338 shall pay the tax. The department may adopt rules to administer
339 this subsection.

340 (ggg) Clean technology and manufacturing products used in
341 energy economic zones, as defined in s. 377.809(7), are exempt
342 from the tax imposed by this chapter. The local governing body
343 with jurisdiction for the energy economic zone shall submit a
344 list of products to the department considered eligible pursuant
345 to this definition.

346 Section 3. This act shall take effect upon becoming a law.