

1 A bill to be entitled
2 An act relating to economic development; amending s.
3 196.012, F.S.; revising the definitions of the terms "new
4 business" and "expansion of an existing business";
5 amending s. 196.1995, F.S.; authorizing the board of
6 county commissioners of a charter county to call and hold
7 a referendum to determine whether to grant economic
8 development ad valorem tax exemptions; revising the
9 language of ballot questions relating to the authority to
10 grant economic development tax exemptions; providing for
11 application of a provision limiting the calling of another
12 referendum within a certain time period; specifying
13 additional information that must be included in a written
14 application requesting adoption of an ordinance granting
15 an economic development ad valorem tax exemption;
16 specifying factors for a board of county commissioners or
17 governing authority of a municipality to consider when
18 deciding whether to approve or reject applications for
19 economic development tax exemptions; providing legislative
20 intent; limiting the allowable duration of an economic
21 development tax exemption granted by a county or municipal
22 ordinance; authorizing written tax exemption agreements
23 consistent with this act upon approval of a tax exemption
24 application; specifying that the written tax agreement
25 must require the applicant to report certain information
26 at a specific time before expiration of the exemption;
27 authorizing the board of county commissioners or the
28 governing authority of the municipality to revoke, in

29 whole or in part, the exemption under certain
 30 circumstances; providing an effective date.

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

33
 34 Section 1. Subsections (15) and (16) of section 196.012,
 35 Florida Statutes, are amended to read:

36 196.012 Definitions.—For the purpose of this chapter, the
 37 following terms are defined as follows, except where the context
 38 clearly indicates otherwise:

39 (15) "New business" means:

40 (a)~~1.~~ A business or nonprofit organization starting
 41 operations in the state that will create new, full-time jobs
 42 that the board of county commissioners or the governing
 43 authority of a municipality has determined are jobs that the
 44 board or governing authority wishes to incentivize through ad
 45 valorem tax exemptions granted in accordance with the
 46 requirements of s. 196.1995; or establishing 10 or more jobs to
 47 employ 10 or more full-time employees in this state, which
 48 manufactures, processes, compounds, fabricates, or produces for
 49 sale items of tangible personal property at a fixed location and
 50 which comprises an industrial or manufacturing plant;

51 ~~2. A business establishing 25 or more jobs to employ 25 or~~
 52 ~~more full-time employees in this state, the sales factor of~~
 53 ~~which, as defined by s. 220.15(5), for the facility with respect~~
 54 ~~to which it requests an economic development ad valorem tax~~
 55 ~~exemption is less than 0.50 for each year the exemption is~~
 56 ~~elaimed; or~~

57 ~~3. An office space in this state owned and used by a~~
 58 ~~corporation newly domiciled in this state; provided such office~~
 59 ~~space houses 50 or more full-time employees of such corporation;~~
 60 ~~provided that such business or office first begins operation on~~
 61 ~~a site clearly separate from any other commercial or industrial~~
 62 ~~operation owned by the same business.~~

63 ~~(b) Any business located in an enterprise zone or~~
 64 ~~brownfield area that first begins operation on a site clearly~~
 65 ~~separate from any other commercial or industrial operation owned~~
 66 ~~by the same business.~~

67 (b)(e) A business that is situated on property annexed
 68 into a municipality and that, at the time of the annexation, is
 69 receiving an economic development ad valorem tax exemption from
 70 the county under s. 196.1995.

71 (16) "Expansion of an existing business" means the
 72 expansion of an existing business or nonprofit organization,
 73 other than its relocation to another community, that results in
 74 a net increase of new, full-time jobs that the board or
 75 governing authority wishes to incentivize through ad valorem tax
 76 exemptions granted in accordance with the requirements of s.
 77 196.1995.

78 ~~(a)1. A business establishing 10 or more jobs to employ 10~~
 79 ~~or more full-time employees in this state, which manufactures,~~
 80 ~~processes, compounds, fabricates, or produces for sale items of~~
 81 ~~tangible personal property at a fixed location and which~~
 82 ~~comprises an industrial or manufacturing plant; or~~

83 ~~2. A business establishing 25 or more jobs to employ 25 or~~
 84 ~~more full-time employees in this state, the sales factor of~~

85 ~~which, as defined by s. 220.15(5), for the facility with respect~~
 86 ~~to which it requests an economic development ad valorem tax~~
 87 ~~exemption is less than 0.50 for each year the exemption is~~
 88 ~~claimed; provided that such business increases operations on a~~
 89 ~~site collocated with a commercial or industrial operation owned~~
 90 ~~by the same business, resulting in a net increase in employment~~
 91 ~~of not less than 10 percent or an increase in productive output~~
 92 ~~of not less than 10 percent.~~

93 ~~(b) Any business located in an enterprise zone or~~
 94 ~~brownfield area that increases operations on a site collocated~~
 95 ~~with a commercial or industrial operation owned by the same~~
 96 ~~business.~~

97 Section 2. Section 196.1995, Florida Statutes, is amended
 98 to read:

99 196.1995 Economic development ad valorem tax exemption.—

100 (1) The board of county commissioners of any county or the
 101 governing authority of any municipality shall call a referendum
 102 within its total jurisdiction to determine whether its
 103 respective jurisdiction may grant economic development ad
 104 valorem tax exemptions under s. 3, Art. VII of the State
 105 Constitution if:

106 (a) The board of county commissioners of the county or the
 107 governing authority of the municipality votes to hold such
 108 referendum; ~~or~~

109 (b) The board of county commissioners of the county or the
 110 governing authority of the municipality receives a petition
 111 signed by 10 percent of the registered electors of its
 112 respective jurisdiction, which petition calls for the holding of

113 such referendum; or

114 (c) The board of county commissioners of a charter county
 115 receives a petition or initiative signed by the required
 116 percentage of registered electors in accordance with the
 117 procedures established in the county's charter for the enactment
 118 of ordinances or for approval of amendments of the charter,
 119 including a county with a charter requiring signatures from less
 120 than 10 percent of its registered electors, which petition or
 121 initiative calls for the holding of such referendum.

122 (2) The ballot question in such referendum shall be in
 123 substantially the following form:

124
 125 Shall the board of county commissioners of this county (or the
 126 governing authority of this municipality, or both) be authorized
 127 to grant, pursuant to s. 3, Art. VII of the State Constitution,
 128 property tax exemptions to new businesses and expansions of
 129 existing businesses that are expected to create new, full-time
 130 jobs and have been evaluated as being of economic interest to
 131 the community?

132
 133 Yes—For authority to grant exemptions.

134 No—Against authority to grant exemptions.

135
 136 (3) The board of county commissioners or the governing
 137 authority of the municipality that calls a referendum within its
 138 total jurisdiction to determine whether its respective
 139 jurisdiction may grant economic development ad valorem tax
 140 exemptions may vote to limit the effect of the referendum to

141 authority to grant economic development tax exemptions for new
 142 businesses and expansions of existing businesses located in an
 143 enterprise zone or a brownfield area, as defined in s.
 144 376.79(4). If an area nominated to be an enterprise zone
 145 pursuant to s. 290.0055 has not yet been designated pursuant to
 146 s. 290.0065, the board of county commissioners or the governing
 147 authority of the municipality may call such referendum prior to
 148 such designation; however, the authority to grant economic
 149 development ad valorem tax exemptions does not apply until such
 150 area is designated pursuant to s. 290.0065. The ballot question
 151 in such referendum shall be in substantially the following form
 152 and shall be used in lieu of the ballot question prescribed in
 153 subsection (2):

154
 155 Shall the board of county commissioners of this county (or the
 156 governing authority of this municipality, or both) be authorized
 157 to grant, pursuant to s. 3, Art. VII of the State Constitution,
 158 property tax exemptions for new businesses and expansions of
 159 existing businesses that ~~which~~ are located in an enterprise zone
 160 or a brownfield area, are expected to create new, full-time
 161 jobs, and have been evaluated as being of economic interest to
 162 the community?

- 163
 164 Yes—For authority to grant exemptions.
 165 No—Against authority to grant exemptions.

166
 167 (4) A referendum pursuant to this section may be called
 168 only once in any 12-month period. If a referendum is called or

169 held on or before the effective date of any amendment to this
170 section, the board of county commissioners does not need to call
171 or hold another referendum.

172 (5) Upon a majority vote in favor of such authority, the
173 board of county commissioners or the governing authority of the
174 municipality, at its discretion, by ordinance may exempt from ad
175 valorem taxation up to 100 percent of the assessed value of all
176 improvements to real property made by or for the use of a new
177 business and of all tangible personal property of such new
178 business, or up to 100 percent of the assessed value of all
179 added improvements to real property made to facilitate the
180 expansion of an existing business and of the net increase in all
181 tangible personal property acquired to facilitate such expansion
182 of an existing business, provided that the improvements to real
183 property are made or the tangible personal property is added or
184 increased on or after the day the ordinance is adopted. However,
185 if the authority to grant exemptions is approved in a referendum
186 in which the ballot question contained in subsection (3) appears
187 on the ballot, the authority of the board of county
188 commissioners or the governing authority of the municipality to
189 grant exemptions is limited solely to new businesses and
190 expansions of existing businesses that are located in an
191 enterprise zone or brownfield area. Property acquired to replace
192 existing property shall not be considered to facilitate a
193 business expansion. The exemption applies only to taxes levied
194 by the respective unit of government granting the exemption. The
195 exemption does not apply, however, to taxes levied for the
196 payment of bonds or to taxes authorized by a vote of the

HB 287

2011

197 electors pursuant to s. 9(b) or s. 12, Art. VII of the State
198 Constitution. Any such exemption shall remain in effect for up
199 to 10 years with respect to any particular facility, regardless
200 of any change in the authority of the county or municipality to
201 grant such exemptions. The exemption shall not be prolonged or
202 extended by granting exemptions from additional taxes or by
203 virtue of any reorganization or sale of the business receiving
204 the exemption.

205 (6) With respect to a new business as defined by s.
206 196.012(15) (b) ~~(e)~~, the municipality annexing the property on
207 which the business is situated may grant an economic development
208 ad valorem tax exemption under this section to that business for
209 a period that will expire upon the expiration of the exemption
210 granted by the county. If the county renews the exemption under
211 subsection (7), the municipality may also extend its exemption.
212 A municipal economic development ad valorem tax exemption
213 granted under this subsection may not extend beyond the duration
214 of the county exemption.

215 (7) The authority to grant exemptions under this section
216 expires 10 years after the date such authority was approved in
217 an election, but such authority may be renewed for subsequent
218 10-year periods if each 10-year renewal is approved in a
219 referendum called and held pursuant to this section.

220 (8) Any person, firm, or corporation which desires an
221 economic development ad valorem tax exemption shall, in the year
222 the exemption is desired to take effect, file a written
223 application on a form prescribed by the department with the
224 board of county commissioners or the governing authority of the

225 municipality, or both. The application shall request the
 226 adoption of an ordinance granting the applicant an exemption
 227 pursuant to this section and shall include the following
 228 information:

229 (a) The name and location of the new business or the
 230 expansion of an existing business;

231 (b) A description of the improvements to real property for
 232 which an exemption is requested and the date of commencement of
 233 construction of such improvements;

234 (c) A description of the tangible personal property for
 235 which an exemption is requested and the dates when such property
 236 was or is to be purchased;

237 (d) Proof, to the satisfaction of the board of county
 238 commissioners or the governing authority of the municipality,
 239 that the applicant is a new business or an expansion of an
 240 existing business, as defined in s. 196.012(15) or (16);

241 (e) The number of jobs the applicant expects to create
 242 along with the average and median wage of the jobs and whether
 243 the jobs are full-time or part-time;

244 (f) The expected time schedule for job creation; and

245 (g) ~~(e)~~ Other information deemed necessary by the
 246 department.

247 (9) Before it takes action on the application, the board
 248 of county commissioners or the governing authority of the
 249 municipality shall deliver a copy of the application to the
 250 property appraiser of the county. After careful consideration,
 251 the property appraiser shall report the following information to
 252 the board of county commissioners or the governing authority of

253 the municipality:

254 (a) The total revenue available to the county or
 255 municipality for the current fiscal year from ad valorem tax
 256 sources, or an estimate of such revenue if the actual total
 257 revenue available cannot be determined;

258 (b) Any revenue lost to the county or municipality for the
 259 current fiscal year by virtue of exemptions previously granted
 260 under this section, or an estimate of such revenue if the actual
 261 revenue lost cannot be determined;

262 (c) An estimate of the revenue which would be lost to the
 263 county or municipality during the current fiscal year if the
 264 exemption applied for were granted had the property for which
 265 the exemption is requested otherwise been subject to taxation;
 266 and

267 (d) A determination as to whether the property for which
 268 an exemption is requested is to be incorporated into a new
 269 business or the expansion of an existing business, as defined in
 270 s. 196.012(15) or (16), or into neither, which determination the
 271 property appraiser shall also affix to the face of the
 272 application. Upon the request of the property appraiser, the
 273 department shall provide to him or her such information as it
 274 may have available to assist in making such determination.

275 (10) The board of county commissioners or the governing
 276 authority of the municipality may consider any economically
 277 related characteristics or criteria deemed necessary or
 278 appropriate when exercising its discretion whether to approve or
 279 reject an application for an exemption but, at a minimum, must
 280 consider the following:

- 281 (a) Total number of new jobs to be created by the
- 282 applicant.
- 283 (b) Average wage and median wage of the new jobs.
- 284 (c) Capital investment to be made by the applicant.
- 285 (d) Whether the business or operation qualifies as an
- 286 industry that the board of county commissioners or the governing
- 287 authority of the municipality may target.
- 288 (e) Environmental impact of the proposed business or
- 289 operation.
- 290 (f) Extent to which the applicant intends to source its
- 291 supplies and materials within the applicable jurisdiction.

292

293 The Legislature intends to vest counties and municipalities with

294 as much discretion as legally permissible to determine which new

295 jobs should be incentivized through the granting of ad valorem

296 tax exemptions under this section.

297 (11)~~(10)~~ An ordinance granting an exemption under this

298 section shall be adopted in the same manner as any other

299 ordinance of the county or municipality and shall include the

300 following:

- 301 (a) The name and address of the new business or expansion
- 302 of an existing business to which the exemption is granted;
- 303 (b) The total amount of revenue available to the county or
- 304 municipality from ad valorem tax sources for the current fiscal
- 305 year, the total amount of revenue lost to the county or
- 306 municipality for the current fiscal year by virtue of economic
- 307 development ad valorem tax exemptions currently in effect, and
- 308 the estimated revenue loss to the county or municipality for the

HB 287

2011

309 current fiscal year attributable to the exemption of the
310 business named in the ordinance;

311 (c) The period of time, not to exceed 10 years, for which
312 the exemption will remain in effect and the expiration date of
313 the exemption; and

314 (d) A finding that the business named in the ordinance
315 meets the requirements of s. 196.012(15) or (16).

316 (12) Upon approval of an application for a tax exemption
317 under this section, the board of county commissioners or the
318 governing authority of the municipality and the applicant may
319 enter into a written tax exemption agreement, which may include
320 performance criteria and must be consistent with the
321 requirements of this section or other applicable laws. The
322 agreement must require the applicant to report at a specific
323 time before the expiration of the exemption the actual number of
324 new, full-time jobs created and their actual average and median
325 wage. The agreement may provide the board of county
326 commissioners or the governing authority of the municipality
327 with authority to revoke, in whole or in part, the exemption if
328 the applicant fails to meet the expectations and representations
329 described in subsection (8).

330 Section 3. This act shall take effect July 1, 2011.