

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 providing for an average wage of a new job; providing
6 eligibility for target industry businesses; amending s.
7 196.1995, F.S.; authorizing the board of county
8 commissioners of a charter county to call and hold a
9 referendum to determine whether to grant economic
10 development ad valorem tax exemptions if in receipt of a
11 petition or initiative signed by a percentage of electors
12 as required by the county charter; revising the language
13 of ballot questions relating to the authority to grant
14 economic development tax exemptions; specifying additional
15 information that must be included in a written application
16 requesting adoption of an ordinance granting an economic
17 development ad valorem tax exemption; specifying factors
18 for a board of county commissioners or governing authority
19 of a municipality to consider when deciding whether to
20 approve or reject applications for economic development
21 tax exemptions; limiting the allowable duration of an
22 economic development tax exemption granted by a county or
23 municipal ordinance; authorizing written tax exemption
24 agreements consistent with this act upon approval of a tax
25 exemption application; specifying that the written tax
26 agreement must require the applicant to report certain
27 information at a specific time before expiration of the
28 exemption; authorizing the board of county commissioners

29 | or the governing authority of the municipality to revoke,
 30 | in whole or in part, the exemption under certain
 31 | circumstances; limiting application of the act to certain
 32 | ad valorem tax exemptions granted pursuant to referenda
 33 | held on or after the act's effective date; providing an
 34 | effective date.

35 |
 36 | Be It Enacted by the Legislature of the State of Florida:
 37 |

38 | Section 1. Subsections (15) and (16) of section 196.012,
 39 | Florida Statutes, are amended to read:

40 | 196.012 Definitions.—For the purpose of this chapter, the
 41 | following terms are defined as follows, except where the context
 42 | clearly indicates otherwise:

43 | (15) "New business" means:

44 | (a)1. A business or organization establishing 10 or more
 45 | new jobs to employ 10 or more full-time employees in this state,
 46 | paying an average wage for such new jobs that is above the
 47 | average wage in the area, which principally engages in any one
 48 | or more of the following operations: ~~which~~

49 | a. Manufactures, processes, compounds, fabricates, or
 50 | produces for sale items of tangible personal property at a fixed
 51 | location and which comprises an industrial or manufacturing
 52 | plant; or

53 | b. Is a target industry business as defined in s.
 54 | 288.106(2)(t);

55 | 2. A business or organization establishing 25 or more new
 56 | jobs to employ 25 or more full-time employees in this state, the

57 sales factor of which, as defined by s. 220.15(5), for the
 58 facility with respect to which it requests an economic
 59 development ad valorem tax exemption is less than 0.50 for each
 60 year the exemption is claimed; or

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

68 (b) Any business or organization located in an enterprise
 69 zone or brownfield area that first begins operation on a site
 70 clearly separate from any other commercial or industrial
 71 operation owned by the same business or organization.

72 (c) A business or organization that is situated on
 73 property annexed into a municipality and that, at the time of
 74 the annexation, is receiving an economic development ad valorem
 75 tax exemption from the county under s. 196.1995.

76 (16) "Expansion of an existing business" means:

77 (a)1. A business or organization establishing 10 or more
 78 new jobs to employ 10 or more full-time employees in this state,
 79 paying an average wage for such new jobs that is above the
 80 average wage in the area, which principally engages in any of
 81 the operations referred to in subparagraph (15) (a)1. which
 82 ~~manufactures, processes, compounds, fabricates, or produces for~~
 83 ~~sale items of tangible personal property at a fixed location and~~
 84 ~~which comprises an industrial or manufacturing plant; or~~

85 2. A business or organization establishing 25 or more new
86 jobs to employ 25 or more full-time employees in this state, the
87 sales factor of which, as defined by s. 220.15(5), for the
88 facility with respect to which it requests an economic
89 development ad valorem tax exemption is less than 0.50 for each
90 year the exemption is claimed; provided that such business
91 increases operations on a site located within the same county,
92 municipality, or both colocated with a commercial or industrial
93 operation owned by the same business or organization under
94 common control with the same business or organization, resulting
95 in a net increase in employment of not less than 10 percent or
96 an increase in productive output or sales of not less than 10
97 percent.

98 (b) Any business or organization located in an enterprise
99 zone or brownfield area that increases operations on a site
100 located within the same zone or area colocated with a commercial
101 or industrial operation owned by the same business or
102 organization under common control with the same business or
103 organization.

104 Section 2. Section 196.1995, Florida Statutes, is amended
105 to read:

106 196.1995 Economic development ad valorem tax exemption.—

107 (1) The board of county commissioners of any county or the
108 governing authority of any municipality shall call a referendum
109 within its total jurisdiction to determine whether its
110 respective jurisdiction may grant economic development ad
111 valorem tax exemptions under s. 3, Art. VII of the State
112 Constitution if:

113 (a) The board of county commissioners of the county or the
 114 governing authority of the municipality votes to hold such
 115 referendum; ~~or~~

116 (b) The board of county commissioners of the county or the
 117 governing authority of the municipality receives a petition
 118 signed by 10 percent of the registered electors of its
 119 respective jurisdiction, which petition calls for the holding of
 120 such referendum; or

121 (c) The board of county commissioners of a charter county
 122 receives a petition or initiative signed by the required
 123 percentage of registered electors in accordance with the
 124 procedures established in the county's charter for the enactment
 125 of ordinances or for approval of amendments of the charter, if
 126 less than 10 percent, which petition or initiative calls for the
 127 holding of such referendum.

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

130
 131 Shall the board of county commissioners of this county (or the
 132 governing authority of this municipality, or both) be authorized
 133 to grant, pursuant to s. 3, Art. VII of the State Constitution,
 134 property tax exemptions to new businesses and expansions of
 135 existing businesses that are expected to create new, full-time
 136 jobs in the county (or municipality, or both)?

- 137
 138 Yes—For authority to grant exemptions.
 139 No—Against authority to grant exemptions.

140

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

159
 160 Shall the board of county commissioners of this county (or the
 161 governing authority of this municipality, or both) be authorized
 162 to grant, pursuant to s. 3, Art. VII of the State Constitution,
 163 property tax exemptions for new businesses and expansions of
 164 existing businesses that ~~which~~ are located in an enterprise zone
 165 or a brownfield area and that are expected to create new, full-
 166 time jobs in the county (or municipality, or both)?

167
 168Yes-For authority to grant exemptions.

169 ...No-Against authority to grant exemptions.

170

171 (4) A referendum pursuant to this section may be called
172 only once in any 12-month period.

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

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

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

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

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

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

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

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

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

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

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

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

246 (g) ~~(e)~~ Other information deemed necessary or appropriate
 247 by the department, county, or municipality.

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

253 the board of county commissioners or the governing authority of
 254 the municipality:

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

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

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

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

276 (10) In considering any application for an exemption under
 277 this section, the board of county commissioners or the governing
 278 authority of the municipality must take into account the
 279 following:

280 (a) The total number of net new jobs to be created by the

281 applicant;
282 (b) The average wage of the new jobs;
283 (c) The capital investment to be made by the applicant;
284 (d) The type of business or operation and whether it
285 qualifies as a targeted industry as may be identified from time
286 to time by the board of county commissioners or the governing
287 authority of the municipality;
288 (e) The environmental impact of the proposed business or
289 operation;
290 (f) The extent to which the applicant intends to source
291 its supplies and materials within the applicable jurisdiction;
292 and
293 (g) Any other economic-related characteristics or criteria
294 deemed necessary by the board of county commissioners or the
295 governing authority of the municipality.
296 ~~(11)-(10)~~ An ordinance granting an exemption under this
297 section shall be adopted in the same manner as any other
298 ordinance of the county or municipality and shall include the
299 following:
300 (a) The name and address of the new business or expansion
301 of an existing business to which the exemption is granted;
302 (b) The total amount of revenue available to the county or
303 municipality from ad valorem tax sources for the current fiscal
304 year, the total amount of revenue lost to the county or
305 municipality for the current fiscal year by virtue of economic
306 development ad valorem tax exemptions currently in effect, and
307 the estimated revenue loss to the county or municipality for the
308 current fiscal year attributable to the exemption of the

309 business named in the ordinance;

310 (c) The period of time for which the exemption will remain
311 in effect and the expiration date of the exemption, which may be
312 any period of time up to 10 years; and

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

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

329 Section 3. This act shall take effect July 1, 2011, and
330 shall apply only to exemptions from ad valorem taxation granted
331 pursuant to referenda held on or after July 1, 2011, under the
332 provisions of s. 196.1995(1), Florida Statutes.