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CS/CS/HB 287

2011 Legislature

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

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb0287-03-er

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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

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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~~

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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:

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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

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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  
 168 ....Yes-For authority to grant exemptions.

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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

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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



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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

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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

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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

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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.