



318200

LEGISLATIVE ACTION

Senate

.

House

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Floor: 2/AD/2R

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05/05/2011 06:03 PM

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Senator Bogdanoff moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

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

(15) "New business" means:

(a)1. A business or organization establishing 10 or more
new jobs to employ 10 or more full-time employees in this state,
paying an average wage for such new jobs that is above the



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14 average wage in the area, which principally engages in any one
15 or more of the following operations: ~~which~~

16 a. Manufactures, processes, compounds, fabricates, or
17 produces for sale items of tangible personal property at a fixed
18 location and which comprises an industrial or manufacturing
19 plant; or

20 b. Is a target industry business as defined in s.
21 288.106(2)(t);

22 2. A business or organization establishing 25 or more new
23 jobs to employ 25 or more full-time employees in this state, the
24 sales factor of which, as defined by s. 220.15(5), for the
25 facility with respect to which it requests an economic
26 development ad valorem tax exemption is less than 0.50 for each
27 year the exemption is claimed; or

28 3. An office space in this state owned and used by a
29 business or organization ~~corporation~~ newly domiciled in this
30 state; provided such office space houses 50 or more full-time
31 employees of such business or organization ~~corporation~~; provided
32 that such business or organization office first begins operation
33 on a site clearly separate from any other commercial or
34 industrial operation owned by the same business or organization.

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

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



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43 (16) "Expansion of an existing 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 of
48 the operations referred to in subparagraph (15) (a)1. ~~which~~
49 ~~manufactures, processes, compounds, fabricates, or produces for~~
50 ~~sale items of tangible personal property at a fixed location and~~
51 ~~which comprises an industrial or manufacturing plant; or~~

52 2. A business or organization establishing 25 or more new
53 jobs to employ 25 or more full-time employees in this state, the
54 sales factor of which, as defined by s. 220.15(5), for the
55 facility with respect to which it requests an economic
56 development ad valorem tax exemption is less than 0.50 for each
57 year the exemption is claimed; provided that such business
58 increases operations on a site located within the same county,
59 municipality, or both colocated with a commercial or industrial
60 operation owned by the same business or organization under
61 common control with the same business or organization, resulting
62 in a net increase in employment of not less than 10 percent or
63 an increase in productive output or sales of not less than 10
64 percent.

65 (b) Any business or organization located in an enterprise
66 zone or brownfield area that increases operations on a site
67 located within the same zone or area colocated with a commercial
68 or industrial operation owned by the same business or
69 organization under common control with the same business or
70 organization.

71 Section 2. Section 196.1995, Florida Statutes, is amended



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72 to read:

73 196.1995 Economic development ad valorem tax exemption.—

74 (1) The board of county commissioners of any county or the
75 governing authority of any municipality shall call a referendum
76 within its total jurisdiction to determine whether its
77 respective jurisdiction may grant economic development ad
78 valorem tax exemptions under s. 3, Art. VII of the State
79 Constitution if:

80 (a) The board of county commissioners of the county or the
81 governing authority of the municipality votes to hold such
82 referendum; ~~or~~

83 (b) The board of county commissioners of the county or the
84 governing authority of the municipality receives a petition
85 signed by 10 percent of the registered electors of its
86 respective jurisdiction, which petition calls for the holding of
87 such referendum; or

88 (c) The board of county commissioners of a charter county
89 receives a petition or initiative signed by the required
90 percentage of registered electors in accordance with the
91 procedures established in the county's charter for the enactment
92 of ordinances or for approval of amendments of the charter, if
93 less than 10 percent, which petition or initiative calls for the
94 holding of such referendum.

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

97
98 Shall the board of county commissioners of this county (or the
99 governing authority of this municipality, or both) be authorized
100 to grant, pursuant to s. 3, Art. VII of the State Constitution,



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101 property tax exemptions to new businesses and expansions of
102 existing businesses that are expected to create new, full-time
103 jobs in the county (or municipality, or both)?

104
105 Yes—For authority to grant exemptions.

106 No—Against authority to grant exemptions.

107
108 (3) The board of county commissioners or the governing
109 authority of the municipality that calls a referendum within its
110 total jurisdiction to determine whether its respective
111 jurisdiction may grant economic development ad valorem tax
112 exemptions may vote to limit the effect of the referendum to
113 authority to grant economic development tax exemptions for new
114 businesses and expansions of existing businesses located in an
115 enterprise zone or a brownfield area, as defined in s.
116 376.79(4). If an area nominated to be an enterprise zone
117 pursuant to s. 290.0055 has not yet been designated pursuant to
118 s. 290.0065, the board of county commissioners or the governing
119 authority of the municipality may call such referendum prior to
120 such designation; however, the authority to grant economic
121 development ad valorem tax exemptions does not apply until such
122 area is designated pursuant to s. 290.0065. The ballot question
123 in such referendum shall be in substantially the following form
124 and shall be used in lieu of the ballot question prescribed in
125 subsection (2):

126
127 Shall the board of county commissioners of this county (or the
128 governing authority of this municipality, or both) be authorized
129 to grant, pursuant to s. 3, Art. VII of the State Constitution,



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130 property tax exemptions for new businesses and expansions of
131 existing businesses that ~~which~~ are located in an enterprise zone
132 or a brownfield area and that are expected to create new, full-
133 time jobs in the county (or municipality, or both)?

134

135 Yes—For authority to grant exemptions.

136 No—Against authority to grant exemptions.

137

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

140 (5) Upon a majority vote in favor of such authority, the
141 board of county commissioners or the governing authority of the
142 municipality, at its discretion, by ordinance may exempt from ad
143 valorem taxation up to 100 percent of the assessed value of all
144 improvements to real property made by or for the use of a new
145 business and of all tangible personal property of such new
146 business, or up to 100 percent of the assessed value of all
147 added improvements to real property made to facilitate the
148 expansion of an existing business and of the net increase in all
149 tangible personal property acquired to facilitate such expansion
150 of an existing business, provided that the improvements to real
151 property are made or the tangible personal property is added or
152 increased on or after the day the ordinance is adopted. However,
153 if the authority to grant exemptions is approved in a referendum
154 in which the ballot question contained in subsection (3) appears
155 on the ballot, the authority of the board of county
156 commissioners or the governing authority of the municipality to
157 grant exemptions is limited solely to new businesses and
158 expansions of existing businesses that are located in an



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159 enterprise zone or brownfield area. Property acquired to replace
160 existing property shall not be considered to facilitate a
161 business expansion. The exemption applies only to taxes levied
162 by the respective unit of government granting the exemption. The
163 exemption does not apply, however, to taxes levied for the
164 payment of bonds or to taxes authorized by a vote of the
165 electors pursuant to s. 9(b) or s. 12, Art. VII of the State
166 Constitution. Any such exemption shall remain in effect for up
167 to 10 years with respect to any particular facility, regardless
168 of any change in the authority of the county or municipality to
169 grant such exemptions. The exemption shall not be prolonged or
170 extended by granting exemptions from additional taxes or by
171 virtue of any reorganization or sale of the business receiving
172 the exemption.

173 (6) With respect to a new business as defined by s.
174 196.012(15)(c), the municipality annexing the property on which
175 the business is situated may grant an economic development ad
176 valorem tax exemption under this section to that business for a
177 period that will expire upon the expiration of the exemption
178 granted by the county. If the county renews the exemption under
179 subsection (7), the municipality may also extend its exemption.
180 A municipal economic development ad valorem tax exemption
181 granted under this subsection may not extend beyond the duration
182 of the county exemption.

183 (7) The authority to grant exemptions under this section
184 expires 10 years after the date such authority was approved in
185 an election, but such authority may be renewed for subsequent
186 10-year periods if each 10-year renewal is approved in a
187 referendum called and held pursuant to this section.



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188 (8) Any person, firm, or corporation which desires an
189 economic development ad valorem tax exemption shall, in the year
190 the exemption is desired to take effect, file a written
191 application on a form prescribed by the department with the
192 board of county commissioners or the governing authority of the
193 municipality, or both. The application shall request the
194 adoption of an ordinance granting the applicant an exemption
195 pursuant to this section and shall include the following
196 information:

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

199 (b) A description of the improvements to real property for
200 which an exemption is requested and the date of commencement of
201 construction of such improvements;

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

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

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

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

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

215 (9) Before it takes action on the application, the board of
216 county commissioners or the governing authority of the



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217 municipality shall deliver a copy of the application to the
218 property appraiser of the county. After careful consideration,
219 the property appraiser shall report the following information to
220 the board of county commissioners or the governing authority of
221 the municipality:

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

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

230 (c) An estimate of the revenue which would be lost to the
231 county or municipality during the current fiscal year if the
232 exemption applied for were granted had the property for which
233 the exemption is requested otherwise been subject to taxation;
234 and

235 (d) A determination as to whether the property for which an
236 exemption is requested is to be incorporated into a new business
237 or the expansion of an existing business, as defined in s.
238 196.012(15) or (16), or into neither, which determination the
239 property appraiser shall also affix to the face of the
240 application. Upon the request of the property appraiser, the
241 department shall provide to him or her such information as it
242 may have available to assist in making such determination.

243 (10) In considering any application for an exemption under
244 this section, the board of county commissioners or the governing
245 authority of the municipality must take into account the



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246 following:

247 (a) The total number of net new jobs to be created by the
248 applicant;

249 (b) The average wage of the new jobs;

250 (c) The capital investment to be made by the applicant;

251 (d) The type of business or operation and whether it
252 qualifies as a targeted industry as may be identified from time
253 to time by the board of county commissioners or the governing
254 authority of the municipality;

255 (e) The environmental impact of the proposed business or
256 operation;

257 (f) The extent to which the applicant intends to source its
258 supplies and materials within the applicable jurisdiction; and

259 (g) Any other economic-related characteristics or criteria
260 deemed necessary by the board of county commissioners or the
261 governing authority of the municipality.

262 (11)-(10) An ordinance granting an exemption under this
263 section shall be adopted in the same manner as any other
264 ordinance of the county or municipality and shall include the
265 following:

266 (a) The name and address of the new business or expansion
267 of an existing business to which the exemption is granted;

268 (b) The total amount of revenue available to the county or
269 municipality from ad valorem tax sources for the current fiscal
270 year, the total amount of revenue lost to the county or
271 municipality for the current fiscal year by virtue of economic
272 development ad valorem tax exemptions currently in effect, and
273 the estimated revenue loss to the county or municipality for the
274 current fiscal year attributable to the exemption of the



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275 business named in the ordinance;

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

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

281 (12) Upon approval of an application for a tax exemption
282 under this section, the board of county commissioners or the
283 governing authority of the municipality and the applicant may
284 enter into a written tax exemption agreement, which may include
285 performance criteria and must be consistent with the
286 requirements of this section or other applicable laws. The
287 agreement must require the applicant to report at a specific
288 time before the expiration of the exemption the actual number of
289 new, full-time jobs created and their actual average wage. The
290 agreement may provide the board of county commissioners or the
291 governing authority of the municipality with authority to
292 revoke, in whole or in part, the exemption if the applicant
293 fails to meet the expectations and representations described in
294 subsection (8).

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

299
300 ===== T I T L E A M E N D M E N T =====

301 And the title is amended as follows:

302 Delete everything before the enacting clause
303 and insert:



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304 A bill to be entitled
305 An act relating to economic development; amending s.
306 196.012, F.S.; revising the definitions of the terms
307 "new business" and "expansion of an existing
308 business"; providing for an average wage of a new job;
309 providing eligibility for target industry businesses;
310 amending s. 196.1995, F.S.; authorizing the board of
311 county commissioners of a charter county to call and
312 hold a referendum to determine whether to grant
313 economic development ad valorem tax exemptions if in
314 receipt of a petition or initiative signed by a
315 percentage of electors as required by the county
316 charter; revising the language of ballot questions
317 relating to the authority to grant economic
318 development tax exemptions; specifying additional
319 information that must be included in a written
320 application requesting adoption of an ordinance
321 granting an economic development ad valorem tax
322 exemption; specifying factors for a board of county
323 commissioners or governing authority of a municipality
324 to consider when deciding whether to approve or reject
325 applications for economic development tax exemptions;
326 limiting the allowable duration of an economic
327 development tax exemption granted by a county or
328 municipal ordinance; authorizing written tax exemption
329 agreements consistent with this act upon approval of a
330 tax exemption application; specifying that the written
331 tax agreement must require the applicant to report
332 certain information at a specific time before



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333 expiration of the exemption; authorizing the board of
334 county commissioners or the governing authority of the
335 municipality to revoke, in whole or in part, the
336 exemption under certain circumstances; limiting
337 application of the act to certain ad valorem tax
338 exemptions granted pursuant to referenda held on or
339 after the act's effective date; providing an effective
340 date.