

By the Committee on Community Affairs; and Senator Bogdanoff

578-01986-11

2011506c1

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

578-01986-11

2011506c1

30 commissioners or the governing authority of the  
31 municipality to revoke, in whole or in part, the  
32 exemption under certain circumstances; providing an  
33 effective date.

34  
35 Be It Enacted by the Legislature of the State of Florida:

36  
37 Section 1. Subsections (15) and (16) of section 196.012,  
38 Florida Statutes, are amended to read:

39 196.012 Definitions.—For the purpose of this chapter, the  
40 following terms are defined as follows, except where the context  
41 clearly indicates otherwise:

42 (15) "New business" means:

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

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

578-01986-11

2011506c1

59 ~~elaimed; or~~

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

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

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

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

75 (a) The expansion of an existing business or nonprofit  
76 organization, other than its relocation to another community,  
77 which results in a net increase of new, full-time jobs for which  
78 the board or governing authority wishes to provide incentives  
79 through ad valorem tax exemptions granted pursuant to s.  
80 196.1995; or

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

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

578-01986-11

2011506c1

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

96 (b) Any business located in an enterprise zone or  
97 brownfield area that increases operations on a site colocated  
98 with a commercial or industrial operation owned by the same  
99 business.

100 Section 2. Section 196.1995, Florida Statutes, is amended  
101 to read:

102 196.1995 Economic development ad valorem tax exemption.—

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

109 (a) The board of county commissioners of the county or the  
110 governing authority of the municipality votes to hold such  
111 referendum; ~~or~~

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

578-01986-11

2011506c1

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

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

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

135  
136       .... Yes—For authority to grant exemptions.

137       .... No—Against authority to grant exemptions.

138  
139       (3) The board of county commissioners or the governing  
140 authority of the municipality that calls a referendum within its  
141 total jurisdiction to determine whether its respective  
142 jurisdiction may grant economic development ad valorem tax  
143 exemptions may vote to limit the effect of the referendum to  
144 authority to grant economic development tax exemptions for new  
145 businesses and expansions of existing businesses located in an

578-01986-11

2011506c1

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

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

166  
167 .... Yes-For authority to grant exemptions.  
168 .... No-Against authority to grant exemptions.

169  
170 (4) A referendum pursuant to this section may be called  
171 only once in any 12-month period. If a referendum is called or  
172 held on or before the effective date of any amendment to this  
173 section, the board of county commissioners does not need to call  
174 or hold another referendum.

578-01986-11

2011506c1

175 (5) Upon a majority vote in favor of such authority, the  
176 board of county commissioners or the governing authority of the  
177 municipality, at its discretion, by ordinance may exempt from ad  
178 valorem taxation up to 100 percent of the assessed value of all  
179 improvements to real property made by or for the use of a new  
180 business and of all tangible personal property of such new  
181 business, or up to 100 percent of the assessed value of all  
182 added improvements to real property made to facilitate the  
183 expansion of an existing business and of the net increase in all  
184 tangible personal property acquired to facilitate such expansion  
185 of an existing business, provided that the improvements to real  
186 property are made or the tangible personal property is added or  
187 increased on or after the day the ordinance is adopted. However,  
188 if the authority to grant exemptions is approved in a referendum  
189 in which the ballot question contained in subsection (3) appears  
190 on the ballot, the authority of the board of county  
191 commissioners or the governing authority of the municipality to  
192 grant exemptions is limited solely to new businesses and  
193 expansions of existing businesses that are located in an  
194 enterprise zone or brownfield area. Property acquired to replace  
195 existing property shall not be considered to facilitate a  
196 business expansion. The exemption applies only to taxes levied  
197 by the respective unit of government granting the exemption. The  
198 exemption does not apply, however, to taxes levied for the  
199 payment of bonds or to taxes authorized by a vote of the  
200 electors pursuant to s. 9(b) or s. 12, Art. VII of the State  
201 Constitution. Any such exemption shall remain in effect for up  
202 to 10 years with respect to any particular facility, regardless  
203 of any change in the authority of the county or municipality to

578-01986-11

2011506c1

204 grant such exemptions. The exemption shall not be prolonged or  
205 extended by granting exemptions from additional taxes or by  
206 virtue of any reorganization or sale of the business receiving  
207 the exemption.

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

218 (7) The authority to grant exemptions under this section  
219 expires 10 years after the date such authority was approved in  
220 an election, but such authority may be renewed for subsequent  
221 10-year periods if each 10-year renewal is approved in a  
222 referendum called and held pursuant to this section.

223 (8) Any person, firm, or corporation which desires an  
224 economic development ad valorem tax exemption shall, in the year  
225 the exemption is desired to take effect, file a written  
226 application on a form prescribed by the department with the  
227 board of county commissioners or the governing authority of the  
228 municipality, or both. The application shall request the  
229 adoption of an ordinance granting the applicant an exemption  
230 pursuant to this section and shall include the following  
231 information:

232 (a) The name and location of the new business or the



578-01986-11

2011506c1

233 expansion of an existing business;

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

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

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

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

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

248 (g) ~~(e)~~ Other information deemed necessary by the  
249 department.

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

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

261 (b) Any revenue lost to the county or municipality for the

578-01986-11

2011506c1

262 current fiscal year by virtue of exemptions previously granted  
263 under this section, or an estimate of such revenue if the actual  
264 revenue lost cannot be determined;

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

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

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

284 (a) Total number of new jobs to be created by the  
285 applicant.

286 (b) Average wage and median wage of the new jobs.

287 (c) Capital investment to be made by the applicant.

288 (d) Whether the business or operation qualifies as an  
289 industry that the board of county commissioners or the governing  
290 authority of the municipality may target.

578-01986-11

2011506c1

291 (e) Environmental impact of the proposed business or  
292 operation.

293 (f) Extent to which the applicant intends to source its  
294 supplies and materials within the applicable jurisdiction.

295  
296 The Legislature intends to vest counties and municipalities with  
297 as much discretion as legally permissible to determine which new  
298 jobs should be incentivized through the granting of ad valorem  
299 tax exemptions under this section.

300 (11)~~(10)~~ An ordinance granting an exemption under this  
301 section shall be adopted in the same manner as any other  
302 ordinance of the county or municipality and shall include the  
303 following:

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

306 (b) The total amount of revenue available to the county or  
307 municipality from ad valorem tax sources for the current fiscal  
308 year, the total amount of revenue lost to the county or  
309 municipality for the current fiscal year by virtue of economic  
310 development ad valorem tax exemptions currently in effect, and  
311 the estimated revenue loss to the county or municipality for the  
312 current fiscal year attributable to the exemption of the  
313 business named in the ordinance;

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

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

319 (12) Upon approval of an application for a tax exemption

578-01986-11

2011506c1

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

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