

ENROLLED

CS/CS/HB 879, Engrossed 1

2011 Legislature

1 A bill to be entitled
2 An act relating to targeted economic development; amending
3 s. 220.191, F.S.; providing that a capital investment tax
4 credit may be carried forward for use against the
5 corporate income tax in specified years after the
6 commencement of operations of a project; amending s.
7 288.106, F.S.; redefining the term "target industry
8 business" to revise the eligibility criteria for the tax
9 refund program for target industry businesses; requiring
10 certain local governing boards to notify the Office of
11 Tourism, Trade, and Economic Development and Enterprise
12 Florida, Inc., of the average private-sector wage
13 calculation to be used for purposes of a business's wage
14 commitment under the tax refund program; authorizing a
15 reduction in the local financial support requirements for
16 qualified target industry businesses located in specified
17 counties under certain circumstances; providing for future
18 expiration; amending s. 377.809, F.S.; deleting an
19 obsolete provision; revising the date by which the
20 Department of Community Affairs must submit a report to
21 the Governor and Legislature which evaluates the success
22 of the Energy Economic Zone Pilot Program; requiring that
23 all incentives and benefits provided for enterprise zones
24 be made available to energy economic zones by a specified
25 date; assigning duties for the administration of energy
26 economic zones to the local governing bodies that have
27 jurisdiction over such zones; providing for boundaries of
28 the zones, eligibility criteria for the incentives, and

ENROLLED

CS/CS/HB 879, Engrossed 1

2011 Legislature

29 | benefits provided in the zones; specifying the incentives
30 | and benefits available in the zones; requiring that the
31 | applicable requirements for employee residency for higher
32 | refund or credit thresholds be based on employee residency
33 | in the energy economic zone or an enterprise zone;
34 | establishing priorities for funding certain projects;
35 | limiting the annual amount of such incentives; authorizing
36 | the carryforward of any unused amount of incentives for a
37 | specified period; providing for the issuance of
38 | certificates to eligible businesses; requiring the local
39 | governing body to certify to the Department of Revenue or
40 | the Office of Tourism, Trade, and Economic Development
41 | which businesses or properties are eligible for the
42 | incentives; requiring the Department of Revenue to send
43 | written instructions to eligible businesses on claiming
44 | the credit on a sales and use tax return initiated through
45 | an electronic data interchange; authorizing the Office of
46 | Tourism, Trade, and Economic Development and the
47 | Department of Revenue to adopt emergency rules; providing
48 | for renewal of the rules; amending s. 380.06, F.S.;

49 | exempting certain developments in an energy economic zone
50 | from review as a development of regional impact; providing
51 | an effective date.

52 |
53 | Be It Enacted by the Legislature of the State of Florida:

54 |
55 | Section 1. Paragraph (d) is added to subsection (2) of
56 | section 220.191, Florida Statutes, to read:

ENROLLED

CS/CS/HB 879, Engrossed 1

2011 Legislature

57 | 220.191 Capital investment tax credit.—

58 | (2)

59 | (d) If the credit granted under subparagraph (a)1. is not
 60 | fully used in any one year because of insufficient tax liability
 61 | on the part of the qualifying business, the unused amounts may
 62 | be used in any one year or years beginning with the 21st year
 63 | after the commencement of operations of the project and ending
 64 | the 30th year after the commencement of operations of the
 65 | project.

66 | Section 2. Paragraph (t) of subsection (2) and paragraph
 67 | (b) of subsection (4) of section 288.106, Florida Statutes, are
 68 | amended, present paragraph (f) of subsection (4) is redesignated
 69 | as paragraph (g), and a new paragraph (f) is added to that
 70 | subsection, to read:

71 | 288.106 Tax refund program for qualified target industry
 72 | businesses.—

73 | (2) DEFINITIONS.—As used in this section:

74 | (t) "Target industry business" means a corporate
 75 | headquarters business or any business that is engaged in one of
 76 | the target industries identified pursuant to the following
 77 | criteria developed by the office in consultation with Enterprise
 78 | Florida, Inc.:

79 | 1. Future growth.—Industry forecasts should indicate
 80 | strong expectation for future growth in both employment and
 81 | output, according to the most recent available data. Special
 82 | consideration should be given to businesses that export goods
 83 | to, or provide services in, international markets and businesses
 84 | that replace domestic and international imports of goods or

ENROLLED

CS/CS/HB 879, Engrossed 1

2011 Legislature

85 services.

86 2. Stability.—The industry should not be subject to
87 periodic layoffs, whether due to seasonality or sensitivity to
88 volatile economic variables such as weather. The industry should
89 also be relatively resistant to recession, so that the demand
90 for products of this industry is not typically subject to
91 decline during an economic downturn.

92 3. High wage.—The industry should pay relatively high
93 wages compared to statewide or area averages.

94 4. Market and resource independent.—The location of
95 industry businesses should not be dependent on Florida markets
96 or resources as indicated by industry analysis, except for
97 businesses in the renewable energy industry.

98 5. Industrial base diversification and strengthening.—The
99 industry should contribute toward expanding or diversifying the
100 state's or area's economic base, as indicated by analysis of
101 employment and output shares compared to national and regional
102 trends. Special consideration should be given to industries that
103 strengthen regional economies by adding value to basic products
104 or building regional industrial clusters as indicated by
105 industry analysis. Special consideration should also be given to
106 the development of strong industrial clusters that include
107 defense and homeland security businesses.

108 6. Positive economic impact benefits.—The industry is
109 expected to have strong positive impacts on or benefits to the
110 state or regional economies. Special consideration should be
111 given to industries that facilitate the development of the state
112 as a hub for domestic and global trade and logistics.

ENROLLED

CS/CS/HB 879, Engrossed 1

2011 Legislature

113
114 The term does not include any business engaged in retail
115 industry activities; any electrical utility company; any
116 phosphate or other solid minerals severance, mining, or
117 processing operation; any oil or gas exploration or production
118 operation; or any business subject to regulation by the Division
119 of Hotels and Restaurants of the Department of Business and
120 Professional Regulation. Any business within NAICS code 5611 or
121 5614, office administrative services and business support
122 services, respectively, may be considered a target industry
123 business only after the local governing body and Enterprise
124 Florida, Inc., make a determination that the community where the
125 business may locate has conditions affecting the fiscal and
126 economic viability of the local community or area, including but
127 not limited to, factors such as low per capita income, high
128 unemployment, high underemployment, and a lack of year-round
129 stable employment opportunities, and such conditions may be
130 improved by the location of such a business to the community. By
131 January 1 of every 3rd year, beginning January 1, 2011, the
132 office, in consultation with Enterprise Florida, Inc., economic
133 development organizations, the State University System, local
134 governments, employee and employer organizations, market
135 analysts, and economists, shall review and, as appropriate,
136 revise the list of such target industries and submit the list to
137 the Governor, the President of the Senate, and the Speaker of
138 the House of Representatives.

139 (4) APPLICATION AND APPROVAL PROCESS.—

140 (b) To qualify for review by the office, the application

ENROLLED

CS/CS/HB 879, Engrossed 1

2011 Legislature

141 of a target industry business must, at a minimum, establish the
142 following to the satisfaction of the office:

143 1.a. The jobs proposed to be created under the
144 application, pursuant to subparagraph (a)4., must pay an
145 estimated annual average wage equaling at least 115 percent of
146 the average private sector wage in the area where the business
147 is to be located or the statewide private sector average wage.
148 The governing board of the local governmental entity providing
149 the local financial support ~~county~~ where the qualified target
150 industry business is to be located shall notify the office and
151 Enterprise Florida, Inc., which calculation of the average
152 private sector wage in the area must be used as the basis for
153 the business's wage commitment. In determining the average
154 annual wage, the office shall include only new proposed jobs,
155 and wages for existing jobs shall be excluded from this
156 calculation.

157 b. The office may waive the average wage requirement at
158 the request of the local governing body recommending the project
159 and Enterprise Florida, Inc. The office may waive the wage
160 requirement for a project located in a brownfield area
161 designated under s. 376.80, in a rural city, in a rural
162 community, in an enterprise zone, or for a manufacturing project
163 at any location in the state if the jobs proposed to be created
164 pay an estimated annual average wage equaling at least 100
165 percent of the average private sector wage in the area where the
166 business is to be located, only if the merits of the individual
167 project or the specific circumstances in the community in
168 relationship to the project warrant such action. If the local

ENROLLED

CS/CS/HB 879, Engrossed 1

2011 Legislature

169 governing body and Enterprise Florida, Inc., make such a
170 recommendation, it must be transmitted in writing, and the
171 specific justification for the waiver recommendation must be
172 explained. If the office elects to waive the wage requirement,
173 the waiver must be stated in writing, and the reasons for
174 granting the waiver must be explained.

175 2. The target industry business's project must result in
176 the creation of at least 10 jobs at the project and, in the case
177 of an expansion of an existing business, must result in a net
178 increase in employment of at least 10 percent at the business.
179 At the request of the local governing body recommending the
180 project and Enterprise Florida, Inc., the office may waive this
181 requirement for a business in a rural community or enterprise
182 zone if the merits of the individual project or the specific
183 circumstances in the community in relationship to the project
184 warrant such action. If the local governing body and Enterprise
185 Florida, Inc., make such a request, the request must be
186 transmitted in writing, and the specific justification for the
187 request must be explained. If the office elects to grant the
188 request, the grant must be stated in writing, and the reason for
189 granting the request must be explained.

190 3. The business activity or product for the applicant's
191 project must be within an industry identified by the office as a
192 target industry business that contributes to the economic growth
193 of the state and the area in which the business is located, that
194 produces a higher standard of living for residents of this state
195 in the new global economy, or that can be shown to make an
196 equivalent contribution to the area's and state's economic

ENROLLED

CS/CS/HB 879, Engrossed 1

2011 Legislature

197 progress.

198 (f) Effective July 1, 2011, notwithstanding paragraph
 199 (2) (k), the office may reduce the local financial support
 200 requirements of this section by one-half for a qualified target
 201 industry business located in Bay, Escambia, Franklin, Gadsden,
 202 Gulf, Jefferson, Leon, Okaloosa, Santa Rosa, Wakulla, or Walton
 203 County, if the office determines that such reduction of the
 204 local financial support requirements is in the best interest of
 205 the state and facilitates economic development, growth, or new
 206 employment opportunities in such county. This paragraph expires
 207 June 30, 2014.

208 Section 3. Subsection (4) of section 377.809, Florida
 209 Statutes, is amended, and subsection (5) is added to that
 210 section, to read:

211 377.809 Energy Economic Zone Pilot Program.—

212 ~~(4) If the pilot project is ongoing,~~ The Department of
 213 Community Affairs, with the assistance of the Office of Tourism,
 214 Trade, and Economic Development, shall submit a report to the
 215 Governor, the President of the Senate, and the Speaker of the
 216 House of Representatives by February 15, 2015 ~~2012~~, evaluating
 217 whether the pilot program has demonstrated success. The report
 218 shall contain recommendations with regard to whether the program
 219 should be expanded for use by other local governments and
 220 whether state policies should be revised to encourage the goals
 221 of the program.

222 (5) (a) Beginning July 1, 2012, all the incentives and
 223 benefits provided for enterprise zones pursuant to state law
 224 shall be available to the energy economic zones designated

ENROLLED

CS/CS/HB 879, Engrossed 1

2011 Legislature

225 pursuant to this section on or before July 1, 2010. In order to
226 provide incentives, by March 1, 2012, each local governing body
227 that has jurisdiction over an energy economic zone must, by
228 local ordinance, establish the boundary of the energy economic
229 zone, specify applicable energy-efficiency standards, and
230 determine eligibility criteria for the application of state and
231 local incentives and benefits in the energy economic zone.
232 However, in order to receive benefits provided under s. 288.106,
233 a business must be a qualified target industry business under s.
234 288.106 for state purposes. An energy economic zone's boundary
235 may be revised by local ordinance. Such incentives and benefits
236 include those in ss. 212.08, 212.096, 220.181, 220.182, 220.183,
237 288.106, and 624.5105 and the public utility discounts provided
238 in s. 290.007(8). The exemption provided in s. 212.08(5)(c)
239 shall be for renewable energy as defined in s. 377.803. For
240 purposes of this section, any applicable requirements for
241 employee residency for higher refund or credit thresholds must
242 be based on employee residency in the energy economic zone or an
243 enterprise zone. A business in an energy economic zone may also
244 be eligible for funding under ss. 288.047 and 445.003, and a
245 transportation project in an energy economic zone shall be
246 provided priority in funding under s. 288.063. Other projects
247 shall be given priority ranking to the extent practicable for
248 grants administered under state energy programs.

249 (b) Effective July 1, 2012, the total amount of state
250 credits, refunds, and exemptions that may be provided by the
251 governing body of each energy economic zone to eligible
252 businesses for energy-economic-zone incentives pursuant to

ENROLLED

CS/CS/HB 879, Engrossed 1

2011 Legislature

253 paragraph (a) is \$300,000 per designated energy economic zone in
254 any state fiscal year. The governing body of an energy economic
255 zone shall disallow a credit or refund for which an application
256 is submitted after the zone's respective \$300,000 limit is
257 reached. If the \$300,000 incentive cap is not fully used in any
258 one state fiscal year by an energy economic zone, the unused
259 amount under the cap may be carried forward for up to 5 years.
260 The local governing body that has jurisdiction over the energy
261 economic zone is responsible for allocating the incentives, for
262 verifying that businesses receiving such incentives are eligible
263 for the incentives provided, and for ensuring that the
264 incentives provided do not exceed the cap for the state fiscal
265 year.

266 (c) Upon approving an incentive for an eligible business,
267 the governing body that has jurisdiction over the energy
268 economic zone shall provide the taxpayer with a certificate
269 indicating the name and federal identification number of the
270 eligible business, the date the incentive is provided, the name
271 of the energy economic zone, the incentive type, and the
272 incentive amount. The local governing body shall certify to the
273 Department of Revenue or the Office of Tourism, Trade, and
274 Economic Development, whichever is applicable, which businesses
275 or properties are eligible to receive any or all of the state
276 incentives according to their statutory requirements. The
277 governing body that has jurisdiction over the energy economic
278 zone shall provide a copy of the certificate to the Department
279 of Revenue and the Office of Tourism, Trade, and Economic
280 Development as notification that such incentives were approved

ENROLLED

CS/CS/HB 879, Engrossed 1

2011 Legislature

281 for the specific eligible business or property. For incentives
 282 to be claimed against the sales and use tax under chapter 212,
 283 the Department of Revenue shall send, within 14 days after
 284 receipt, written instructions to an eligible business on how to
 285 claim the credit on a sales and use tax return initiated through
 286 an electronic data interchange. Any credit against the sales and
 287 use tax shall be deducted from any sales and use tax remitted by
 288 the dealer to the Department of Revenue by electronic funds
 289 transfer and may be deducted only on a sales and use tax return
 290 initiated through an electronic data interchange. The dealer
 291 shall separately state the credit on the electronic return. The
 292 net amount of tax due and payable must be remitted by electronic
 293 funds transfer. If the credit exceeds the amount owed on the
 294 sales and use tax return, such excess amount may be carried
 295 forward for a period not to exceed 12 months after the date that
 296 the credit is initially claimed.

297 (d) If all conditions are deemed met, the Office of
 298 Tourism, Trade, and Economic Development and the Department of
 299 Revenue may adopt emergency rules pursuant to ss. 120.536(1) and
 300 120.54 to administer the provisions of this subsection. The
 301 emergency rules shall remain in effect for 6 months after the
 302 rules are adopted, and the rules may be renewed while the
 303 procedures to adopt permanent rules addressing the subject of
 304 the emergency rules are pending.

305 Section 4. Paragraph (u) is added to subsection (24) of
 306 section 380.06, Florida Statutes, to read:

307 380.06 Developments of regional impact.—

308 (24) STATUTORY EXEMPTIONS.—

ENROLLED

CS/CS/HB 879, Engrossed 1

2011 Legislature

309 (u) Any development in an energy economic zone designated
310 pursuant to s. 377.809 is exempt from this section upon approval
311 by its local governing body.

312

313 If a use is exempt from review as a development of regional
314 impact under paragraphs (a)-(s), but will be part of a larger
315 project that is subject to review as a development of regional
316 impact, the impact of the exempt use must be included in the
317 review of the larger project, unless such exempt use involves a
318 development of regional impact that includes a landowner,
319 tenant, or user that has entered into a funding agreement with
320 the Office of Tourism, Trade, and Economic Development under the
321 Innovation Incentive Program and the agreement contemplates a
322 state award of at least \$50 million.

323 Section 5. This act shall take effect July 1, 2011.