

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Commerce and Tourism Committee

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BILL: SB 294

INTRODUCER: Senator Bennett

SUBJECT: Enterprise Zone/Charlotte County

DATE: January 12, 2012

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Tell	Hrdlicka	CM	<b>Pre-meeting</b>
2.			CA	
3.			BC	
4.				
5.				
6.				

**I. Summary:**

Florida has 62 enterprise zones, which are designed to encourage economic development and restoration in blighted or economically depressed communities. A combination of state and local business incentives is intended to encourage economic activity in these zones.

SB 294 creates an opportunity for Charlotte County to apply for and receive an enterprise zone designation. Charlotte County officials are considering locating the proposed enterprise zone in the unincorporated midsection of the county, in an area of up to 20 square miles in size.

Charlotte County is directed to file its enterprise zone application to the Department of Economic Opportunity (DEO) by December 31, 2012. The application must comply with the nominating procedure in s. 290.0055, F.S. DEO has the discretion to designate an enterprise zone for Charlotte County, and if that happens, must establish the enterprise zone's effective date.

SB 294 creates s. 290.00729, F.S.

## II. Present Situation:

### Enterprise zones in Florida

The Florida Enterprise Zone Program was created in 1982 to encourage economic development in economically distressed areas of the state by providing incentives and inducing private investment. Currently, Florida has 62 enterprise zones.<sup>1</sup>

The Department of Economic Opportunity (DEO) reported that 7,559 new businesses moved into or were created in state enterprise zones between October 1, 2009, and September 30, 2010 – more than double the number the previous fiscal year.<sup>2</sup> However, fewer jobs were created – 6,784 last fiscal year, compared to 9,073 in the prior period.<sup>3</sup> More than \$67 million in state and nearly \$20 million in local-government financial incentives were approved during FY 09-10, \$30 million more than in the prior period.<sup>4</sup>

Over the last 5 years (FY 05-06 through FY 09-10), some 21,682 new businesses have moved into or were created in enterprise zones and 49,403 new jobs have been created.<sup>5</sup>

### *Designation process*

Sections 290.001-290.016, F.S., authorize the creation of enterprise zones and establish criteria and goals for the program. Prior to submitting an application for an enterprise zone, a local government body must determine that an area:<sup>6</sup>

- Has chronic extreme and unacceptable levels of poverty, unemployment, physical deterioration, and economic disinvestment;
- Needs rehabilitation or redevelopment for the public health, safety, and welfare of the residents in the county or municipality; and
- Can be revitalized through the inducement of the private sector.

DEO is responsible for approving applications for enterprise zones, and also approves changes in enterprise zone boundaries when authorized by the Florida Legislature. As part of the application process for an enterprise zone, the county or municipality in which the designation will be located also is responsible for creating an Enterprise Zone Development Agency and an enterprise zone development plan.

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<sup>1</sup> Ch. 2011-76, L.O.F., created the potential for three additional enterprise zones: in Martin County, in the City of Palm Bay, and in Lake County. DEO has since approved each community's application. These new enterprise zones became effective on January 1, 2012.

<sup>2</sup> Enterprise Florida, Inc., *Florida Enterprise Zone Program Annual Report, October 1, 2009 - September 30, 2010*, 1 (Mar. 1, 2011), available at <http://floridaenterprisezones.com/Zones/Org1/uploads/2011EZAnnualReport.pdf> (last visited Jan. 12, 2012).

<sup>3</sup> Id.

<sup>4</sup> Id.

<sup>5</sup> Information compiled by committee staff from the Enterprise Florida's previous enterprise zone annual reports.

<sup>6</sup> Section 290.0055, F.S.

As outlined in s. 290.0056, F.S., an Enterprise Zone Development Agency is required to have a board of commissioners of at least eight, and no more than 13, members. The agency has the following powers and responsibilities:

- Assisting in the development, implementation, and annual review of the zone and updating the strategic plan or measurable goals;
- Identifying to the local government the financial needs of, and local resources or assistance available to, eligible businesses in the zone;
- Identifying ways to remove regulatory burdens;
- Promoting the incentives to residents and businesses;
- Recommending boundary changes;
- Working with nonprofit development organizations; and
- Ensuring the enterprise zone coordinator receives annual training and works with Enterprise Florida, Inc.

Pursuant to s. 290.0057, F.S., an enterprise zone development plan (or strategic plan) must accompany an application. At a minimum this plan must:

- Describe the community's goal in revitalizing the area;
- Describe how the community's social and human resources, transportation, housing, community development, public safety, and education and environmental concerns will be addressed in a coordinated fashion;
- Identify key community goals and barriers;
- Outline how the community is a full partner in the process of developing and implementing this plan;
- Describe the commitment from the local governing body in enacting and maintaining local fiscal and regulatory incentives;
- Identify the amount of local and private resources available and the private/public partnerships;
- Indicate how local, state, and federal resources will all be utilized;
- Identify funding requested under any state or federal program to support the proposed development; and
- Identify baselines, methods, and benchmarks for measuring success of the plan.

#### ***Available incentives***

Florida's enterprise zones qualify for various incentives from corporate income tax and sales and use tax liabilities.<sup>7</sup> As noted above, DEO reported that \$67.6 million in state incentives were approved by the Department of Revenue (DOR), between October 1, 2009, and September 30, 2010, for all state enterprise zones. During that same time period, \$19.9 million in incentives were provided by local governing bodies, half of the FY 07-08 total. Examples of local incentives include: utility tax abatement, reduction of occupational license fees, reduced building permit fees or land development fees, and local funds for capital projects.<sup>8</sup>

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<sup>7</sup> Section 290.007, F.S.

<sup>8</sup> Enterprise Florida, Inc., *supra*, note 2 at 3.

Available state sales tax incentives for enterprise zones include:

- Building Materials Used in the Rehabilitation of Real Property Located in an Enterprise Zone: Provides a refund for sales taxes paid on the purchase of certain building materials, up to \$5,000 or 97 percent of the tax paid.<sup>9</sup>
- Business Equipment Used in Enterprise Zones: Provides a refund for sales taxes paid on the purchase of certain equipment, up to \$5,000 or 97 percent of the tax paid.<sup>10</sup>
- Rural Enterprise Zone Jobs Credit against Sales Tax: Provides a sales and use tax credit for 30 or 45 percent of wages paid to new employees who live within a rural county.<sup>11</sup>
- Urban Enterprise Zone Jobs Credit against Sales Tax: Provides a sales and use tax credit for 20 or 30 percent of wages paid to new employees who live within the enterprise zone.<sup>12</sup>
- Business Property Used in an Enterprise Zone: Provides a refund for sales taxes paid on the purchase of certain business property, up to \$5,000 or 97 percent of the tax paid per parcel of property, which is used exclusively in an enterprise zone for at least 3 years.<sup>13</sup>
- Community Contribution Tax Credit: Provides 50 percent sales tax refund for donations made to local community development projects.<sup>14</sup>
- Electrical Energy Used in an Enterprise Zone: Provides 50 percent sales tax exemption to qualified businesses located within an enterprise zone on the purchase of electrical energy.<sup>15</sup>

Available state corporate income tax incentives for enterprise zones include:

- Rural Enterprise Zone Jobs Credit against Corporate Income Tax: Provides a corporate income tax credit for 30 or 45 percent of wages paid to new employees who live within a rural county.<sup>16</sup>
- Urban Enterprise Zone Jobs Credit against Corporate Income Tax: Provides a corporate income tax credit for 20 or 30 percent of wages paid to new employees who live within the enterprise zone.<sup>17</sup>
- Enterprise Zone Property Tax Credit: Provides a credit against Florida corporate income tax equal to 96 percent of ad valorem taxes paid on the new or improved property.<sup>18</sup>
- Community Contribution Tax Credit: Provides a 50-percent credit on Florida corporate income tax or insurance premium tax, or a sales tax refund, for donations made to local community development projects.<sup>19</sup>

<sup>9</sup> Section 9 of ch. 2010-147, L.O.F., removed the eligibility of condominium parcels or property, as defined in s. 718.103, F.S., for the sales tax exemption for building materials, pursuant to s. 212.08(5)(g), F.S.

<sup>10</sup> Section 212.08(5)(h), F.S.

<sup>11</sup> Section 212.096, F.S.

<sup>12</sup> Id.

<sup>13</sup> *Supra*, note 10.

<sup>14</sup> Section 212.08(5)(p), F.S.

<sup>15</sup> Section 212.08(15), F.S.

<sup>16</sup> Section 220.181, F.S.

<sup>17</sup> Id.

<sup>18</sup> Section 220.182, F.S.

<sup>19</sup> See ss. 220.183 and 624.5105, F.S.

### **5-Year Summary of State Incentives offered in the Enterprise Zone Program**<sup>20</sup>

<b>CATEGORY</b>	<b>FY 09-10</b>	<b>FY 08-09</b>	<b>FY 07-08</b>	<b>FY 06-07</b>	<b>FY 05-06</b>
Jobs Tax Credit (SUT)	\$5,683,252	\$5,227,245	\$5,732,605	\$6,087,843	\$6,777,250
Jobs Tax Credit (CIT )	\$4,348,031	\$5,072,555	\$5,507,311	\$5,919,236	\$4,253,621
Property Tax Credit (CIT)	\$1,384,668	\$1, 910,708	\$2,184,036	\$2,291,961	\$1,267,999
Building Materials (SUT Refund)	\$54,012,915	\$30,994,860	\$25,665,025	\$18,855,129	\$7,415,711
Business Equipment (SUT Refund)	\$1,035,562	\$1,139,066	\$1,269,955	\$1,771,396	\$2,940,864
Electrical Energy (SUT exempt)	\$1,138,054	\$1,007,007	\$606	\$793,179	\$778,090
Total Value of State Incentives	\$67,602,482	\$45,351,441	\$40,359,538	\$35,718,744	\$23,433,535
# of EZs	59	56	56	56	55

The total state incentives awarded over the last 5 years is \$212.5 million. Of that amount, nearly \$137 million, about 64 percent, has been in the form of refunds of sales and use tax on building materials used in enterprise zones.

#### ***Program evaluations***

In the 29 years since enacted by the Legislature, the Florida Enterprise Zone Program has undergone numerous changes, many of them the result of two “sunset reviews” of the overall program, in 1994 and in 2005. A number of Senate and House interim project reports and program evaluations by the Office of Program Policy Analysis and Government Accountability (OPPAGA) and the Florida Auditor General have been written on the program.

The most recent program evaluation was prepared by OPPAGA last fall and published in January 2011.<sup>21</sup> Among OPPAGA’s findings were:

- The most-used incentive, over the last 5 years, has been the sales and use tax refund on building materials because of claims from condominium developers.
- Applicants in 10 enterprise zones received 84 percent of the incentives, with applicants in Miami-Dade’s enterprise zone receiving 55 percent of the total amount.
- Based on OPPAGA’s review of the incentive applications over the last five years, there is a low participation rate among eligible businesses for the incentives. For example, only 402 businesses have taken advantage of the jobs tax credits, and they hired a total of 8,086 employees who lived within the zones.

<sup>20</sup> *Supra*, note 2 at 3.

<sup>21</sup> Office of Program Policy Analysis and Gov’t Accountability, Florida Legislature, *Few Businesses Take Advantage of Enterprise Zone Benefits; the Legislature Could Consider Several Options to Modify the Program*, Report No. 11-01, (Jan. 1, 2011), available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1101rpt.pdf> (last visited Jan. 12, 2012).

- DOR does not have consistent procedures for reviewing, validating, processing, and reporting the different tax credit and tax refund incentives. OPPAGA concluded that these inconsistencies may frustrate eligible businesses interested in applying for the incentives, prevents local zone coordinators and DEO from obtaining the most accurate information about program incentives taken, and makes it more difficult for OPPAGA and the Legislature to fully evaluate the incentives.

#### Charlotte County's enterprise zone proposal<sup>22</sup>

Charlotte County officials are pursuing an enterprise zone designation for up to 20 square miles in the county's mid-section, specifically in the Parkside and Murdock Village areas. The 850-acre Parkside, which previously was designated as a community redevelopment district, is envisioned as a "medical arts village" anchored by two existing hospitals that will include medical-related businesses, retailers, residential development, and recreational green space. Murdock Village, comprising about 1,200 acres, includes about 870 acres purchased by the county. Murdock Village is envisioned as a multi-purpose area, including an "entertainment park," a youth baseball facility, and a research technology business park.

### **III. Effect of Proposed Changes:**

Section 1 creates s. 290.00729, F.S., to allow Charlotte County to seek designation of an enterprise zone, of up to 20 square miles in area, within its boundary. Charlotte County has until December 31, 2012, to file its application with DEO. The application must meet the requirements of s. 290.0055, F.S., which establishes some of the criteria and details the process by which a local government seeks an enterprise zone designation.

The section also specifies that notwithstanding s. 290.0065, F.S., limiting the number of enterprise zones in Florida, DEO may designate one enterprise zone for Charlotte County. DEO also is directed to set the initial effective date for the new enterprise zone.

Section 2 provides that this act shall take effect July 1, 2012.

### **IV. Constitutional Issues:**

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

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<sup>22</sup> Information provided by Debrah Forester, redevelopment manager for the Charlotte County Economic Development Office, in a Jan. 10, 2012, telephone conversation, and from information on the office's website, <http://www.floridasinnovationcoast.com> (last visited Jan. 12, 2012).

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

The Revenue Estimating Conference met on November 3, 2011, and determined that the passage of SB 294 would result in:

- A recurring negative fiscal impact of \$200,000 to general revenue sales tax collections;
- A recurring insignificant negative fiscal impact to general revenue corporate income tax collections;
- A recurring insignificant negative fiscal impact to state trust funds; and
- A recurring insignificant negative fiscal impact to local governments.<sup>23</sup>

**B. Private Sector Impact:**

Indeterminate. However, the positive economic impact could be significant to the businesses that locate or already are within the enterprise zone, because of their potential tax savings. Job-seekers also could benefit from employment opportunities afforded them by businesses within the new zone. Finally, consumers could benefit because of the greater diversity of businesses and entertainment options within the enterprise zone.

**C. Government Sector Impact:**

Indeterminate, but likely minimal. Other than the initial review of Charlotte County's application and decision whether to approve or reject it, the workload on DEO staff likely will be insignificant.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

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<sup>23</sup> Office of Economic and Demographic Research, The Florida Legislature, *Revenue Estimating Conference for 2012 Regular Session – Enterprise Zone – Charlotte County, HB 201/SB 294* (Nov.3, 2011), available at <http://edr.state.fl.us/content/conferences/revenueimpact/archives/2012/pdf/page45-47.pdf> (last visited Jan. 12, 2012).

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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