

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 595 Revitalizing Municipalities  
**SPONSOR(S):** Community & Military Affairs Subcommittee; Nuñez and others  
**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Community & Military Affairs Subcommittee	13 Y, 2 N, As CS	Duncan	Hoagland
2) Finance & Tax Committee		Flieger	Langston
3) Economic Affairs Committee			

### SUMMARY ANALYSIS

The Florida Legislature has created or authorized the creation of several programs and mechanisms to encourage businesses to operate in and provide jobs in distressed areas; and to assist local governments in financing infrastructure and capital projects that will result in revitalizing business and residential communities and creating jobs.

The bill creates the Municipal Revitalization Act ("the Act") in ch. 290, F.S., relating to urban redevelopment. The Act allows municipalities with a specified population that are located within an enterprise zone to designate a sales tax tax increment financing ("TIF") area to support the development of a retail development project by resolution. It also allows the governing bodies of the enterprise zone where the sales tax TIF area is located to receive from the state a portion of an annual increase in sales tax collections in the area.

The bill amends the provisions relating to the distribution formula under the Municipal Revenue Sharing Program, to require distributions to municipalities that have a sales tax increment redevelopment district prior to the final adjustment. The distributions must be made to the appropriate governing body for distribution.

The bill requires the Department of Revenue to determine monthly, the specific amount payable to each eligible designated redevelopment agency and the aggregate amount of sales tax revenue that is required for distribution, and transfer that amount from the General Revenue Fund to the Revenue Sharing Trust Fund for Municipalities.

The Revenue Estimating Conference has estimated that this bill will have no impact on General Revenue or state trust funds in FY 2012-13, but the General Revenue impact will grow to a recurring annual -\$61.1 million as TIF areas come on line. The state trust fund impact will eventually be a recurring -\$1.0 million. Local government revenues will increase under the bill, but as with the state impacts will be zero in FY 2012-13. As TIF areas come on line the local government revenue gains are estimated to reach \$56.9 million annually.

The bill provides an effective date of July 1, 2012.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Present Situation**

Redevelopment of distressed urban communities is primarily a local government responsibility. Local governments use the state's redevelopment programs in conjunction with other federal and local programs to help package deals for revitalizing distressed urban communities. While Florida's programs do not directly provide a large amount of funds, they are viewed as being useful in helping leverage other funding support and in demonstrating government commitment to revitalization. Florida's programs also are viewed as being useful in helping local governments get community and private sector buy-in on revitalization projects.<sup>1</sup>

The Florida Legislature has created or authorized the creation of several programs and mechanisms to encourage businesses to operate in and provide jobs in distressed areas; and to assist local governments in financing infrastructure and capital projects that will result in revitalizing business and residential communities and creating jobs.

#### **The Florida Enterprise Zone Program**

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>2</sup> The program is scheduled to be repealed on December 31, 2015.<sup>3</sup>

The Department of Economic Opportunity 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.

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:<sup>4</sup>

- Assisting in the development, implementation and annual review of the zone and updating the strategic plan or measurable goals;
- 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.

An enterprise zone development plan (or strategic plan) must accompany an application. At a minimum this plan must:<sup>5</sup>

- Describe the community's goal in revitalizing the area;

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<sup>1</sup>Florida Legislature, Office of Program Policy Analysis and Government Accountability, Locals Find Urban Revitalization Programs Useful; More Centralized Program Information Would Be Helpful, Report No. 05-32, at 1(May 2005), available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/0532rpt.pdf>.

<sup>2</sup> Florida Department of Economic Opportunity, Division of Community Development, Florida Enterprise Zone Program, *Enterprise Zones: Square Miles and Population*, email (Revitalizing Municipalities) sent to House Community & Military Affairs Subcommittee staff on January 12, 2012.

<sup>3</sup> Section 290.016, F.S.

<sup>4</sup> Section 290.0056, F.S.

<sup>5</sup> Section 290.0057, F.S.

- 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

State Incentives - Florida's enterprise zones qualify for various incentives from corporate income tax and sales and use tax liabilities.<sup>6</sup>

Available **state sales tax incentives** for enterprise zones include:

- Building Materials Used in the Rehabilitation of Real Property Located in an Enterprise Zone:<sup>7</sup>  
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. If 20 percent or more of the permanent, full time employees of the business are residents of an enterprise zone the refund will be no more than the lesser of \$10,000 or 97 percent of the tax paid per parcel.
- Business Property Used in Enterprise Zones:<sup>8</sup>  
Provides a refund for sales taxes paid on the purchase of certain equipment (tangible personal property such as office equipment, warehouse equipment, and some industrial machinery and equipment), up to \$5,000 or 97 percent of the sales tax paid. If 20 percent or more of the permanent, full time employees of the business are residents of an enterprise zone the refund will be no more than the lesser of 97 percent of the sales tax paid on the business property or \$10,000. The property must be used exclusively in the enterprise zone for at least three years.
- Enterprise Zone Jobs Credit against Sales Tax (Rural):<sup>9</sup>  
For businesses located within a rural enterprise zone, this incentive provides a sales and use tax credit for 30 percent of the actual monthly wages paid to new employees who live within a rural county. If more than 20 percent of the employees are residents of an enterprise zone, the credit is 45 percent of the actual monthly wages paid.
- Enterprise Zone Jobs Credit against Sales Tax (Urban):<sup>10</sup>  
For businesses located within an enterprise zone, this incentive provides a sales and use tax credit for 20 percent of the actual monthly wages paid to new employees who live within the enterprise zone. If more than 20 percent of the employees are residents of an enterprise zone, the credit is 30 percent of the actual monthly wages paid.

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<sup>6</sup> Section 290.007, F.S.

<sup>7</sup> Section 212.08(5)(g), F.S.

<sup>8</sup> Section 212.08(5)(h), F.S.

<sup>9</sup> Section 212.096(2), F.S.

<sup>10</sup> See s. 212.096, F.S.

- Community Contribution Tax Credit:<sup>11</sup>  
Provides 50 percent sales tax refund for donations made to local community development projects.
- Electrical Energy Used in an Enterprise Zone:<sup>12</sup>  
Provides 50 percent sales tax exemption to qualified businesses located within an enterprise zone on the purchase of electrical energy. The exemption is only available if the municipality in which the business is located has passed an ordinance to exempt qualified enterprise zone businesses from 50 percent of the municipal utility tax.

Available **state corporate income tax incentives** for enterprise zones include:

- Enterprise Zone Jobs Credit against Corporate Income Tax (Urban and Rural):<sup>13</sup>  
Provides a sales and use tax credit to qualified businesses located in an enterprise zone for 20 percent of the actual monthly wages paid to new employees who live within the enterprise zone. The percentage of the actual monthly wages paid could be greater than 20% under certain circumstances or if the business is located in a rural enterprise zone.
- Enterprise Zone Property Tax Credit:<sup>14</sup>  
Provides a credit against Florida corporate income tax equal to 96 percent of ad valorem taxes paid on the new or improved property.
- Community Contribution Tax Credit:<sup>15</sup>  
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.

Local Incentives - In addition to state incentives, some local governments offer the following local incentives as part of the Enterprise Zone Development Plan:<sup>16</sup>

- Reduction of occupational license fees.
- Ad valorem tax exemption on improved property.
- Local option economic development property tax exemption.
- Utility tax abatement.
- Façade/Commercial Rehabilitation Grants or Loans.
- Local funds for capital projects.
- Reduced building permit fees or land development fees.
- Reduction of specific local government regulations in the area.

Approximately \$20.0 million worth of local incentives were provided between October 2009 and September 2010. This amount represents an increase of approximately \$8.4 million more than the previous reporting period.<sup>17</sup>

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<sup>11</sup> Section 212.08(5)(p), F.S.

<sup>12</sup> Section 212.08(15), F.S.

<sup>13</sup> Section 220.181, F.S.

<sup>14</sup> Section 220.182, F.S.

<sup>15</sup> Sections 220.183, F.S. *See also* s. 624.5105, F.S.

<sup>16</sup> Executive Office of the Governor, Office of Tourism, Trade & Economic Development, *Florida Enterprise Zone Annual Report, October 1, 2009 – September 30, 2010*, at 15 (March 2011), available at <http://www.floridaenterprisezones.com/Zones/Org1/uploads/2011EZAnnualReport.pdf> (last visited December 19, 2011). *See s.* 290.0135, F.S.

<sup>17</sup> *Id.*

## Square Miles and Population of Enterprise Zones

An area nominated by a county or municipality, or a county and one or more municipalities together, for designation as an enterprise zone is eligible for designation if it meets the following criteria:<sup>18</sup>

- The selected area does not exceed 20 square miles. The selected area must have a continuous boundary, or consist of not more than three noncontiguous parcels.
- The selected area does not exceed the following mileage limitation:
  - For communities having a total population of 150,000 persons or more, or for a rural enterprise zone, the selected area shall not exceed 20 square miles.
  - For communities having a total population of 50,000 persons or more but less than 150,000 persons, the selected area shall not exceed 10 square miles.
  - For communities having a total population of 20,000 persons or more but less than 50,000 persons, the selected area shall not exceed 5 square miles.
  - For communities having a total population of 7,500 persons or more but less than 20,000 persons, the selected area shall not exceed 3 square miles.
  - For communities having a total population of less than 7,500 persons, the selected area shall not exceed 3 square miles.
- The selected area suffers from pervasive poverty, unemployment, and general distress.
- To the greatest extent possible, the boundary of an area nominated must coincide with the boundaries of census geographic block groups.

### **Other Tax Credits Against the Sales and Use Tax include the following:<sup>19</sup>**

- Credit for contributions to eligible nonprofit scholarship-funding organizations.<sup>20</sup>

The amount taken against this credit from July 2011 – November 2011 was approximately \$1.4 million.
- Entertainment Industry Financial Incentive Program<sup>21</sup>

The amount taken against this credit from July 2011 – November 2011 was approximately \$5 million.
- Rural and Urban High Crime Area Credit. (Currently, this credit against the sales and use tax has not been taken by an entity.)

### **Revenue Sources Available to Fund Local Infrastructure<sup>22</sup>**

#### *Impact Fees<sup>23</sup>*

- Charges imposed by local governments against new development to provide for capital facilities' costs made necessary by population growth.
- The majority of county and municipal government-imposed impact fees generate revenues to fund physical environment and transportation infrastructure.
- Revenue collections have decreased significantly in recent years due to the housing bust and local governments' efforts to freeze, reduce, or repeal impact fees in light of economic conditions.

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<sup>18</sup> Section 290.0055, F.S.

<sup>19</sup> Florida Legislature, Office of Economic and Demographic Research, Email to House Community & Military Affairs staff, January 19, 2012.

<sup>20</sup> Section 212.1831, F.S.

<sup>21</sup> Section 288.1254, F.S.

<sup>22</sup> Florida Legislature, Office of Economic and Demographic Research, Economic Development Financial Reference Manual, at 5-8, (January 11, 2012), available at <http://edr.state.fl.us/Content/presentations/local-government/2012economicdevelopmentfinancialreferencemanual.pdf>.

<sup>23</sup> *Id.* at 5.

### *Special Assessments*<sup>24</sup>

- Charges imposed by local governments against property to fund the construction and maintenance of capital facilities and certain services.
- The majority of county and municipal government-imposed special assessments generate revenues to fund local services rather than capital facilities.
- Although still trending positive, revenue collections have slowed to recent years.

### *Local Discretionary Sales Surtaxes*<sup>25</sup>

- Eight separate levies that can be imposed by county governments or school districts to fund a variety of local infrastructure, public health, or public safety needs depending on the particular levy. The total tax rate varies by county from 1.5 percent to 3.5 percent.
- Proceeds from the following surtaxes generate revenues to fund physical environment and transportation infrastructure:
  - Charter County and Regional Transportation System Surtax
  - Local Government Infrastructure Surtax
  - Small County Surtax
  - School Capital Outlay Surtax
- As a sole method of authorization for several different surtaxes, voter approval in a countywide referendum may limit increased utilization of this funding.

### *Local Option Fuel Taxes*<sup>26</sup>

- Three separate levies, totaling a maximum of 12 cents per gallon on motor fuel (i.e., gasoline), that can be imposed by county governments to fund transportation infrastructure needs.<sup>27</sup>

## **Revenue Sources Available to Fund Local Economic Development Efforts<sup>28</sup>**

### *Convention Development Taxes*<sup>29</sup>

- Three county governments (Duval, Miami-Dade, and Volusia) are eligible to levy a tax on transient rental transactions. The maximum tax rates are either 2 or 3 percent depending on the particular levy.
- Generally, the tax proceeds may be used for capital construction of convention centers and other tourist-related facilities as well as tourism promotion. However, the authorized uses vary by levy.

### *Local Business Tax*<sup>30</sup>

- County and municipal governments are eligible to levy the tax for the privilege of engaging in or managing any business, profession, or occupation within their respective jurisdictions.
- Although the tax proceeds are considered general revenue for the county or municipality, county business tax revenues may be used for overseeing and implementing a comprehensive economic development strategy.<sup>31</sup>

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<sup>24</sup> *Id.* at 6.

<sup>25</sup> *Id.* at 7. See s. 212.055, F.S.

<sup>26</sup> *Id.* at 8.

<sup>27</sup> See ss. 336.021, 336.025, F.S.

<sup>28</sup> *Supra* note 18 at 9-11.

<sup>29</sup> *Id.* at 9. See ss. 212.0305(4)(a) and 212.0305(4)(c)-(e), F.S.

<sup>30</sup> *Id.* at 10. See ch. 205, F.S. Legislation has been filed for consideration during the 2012 session (SB 760, HB 1063, HB 4025, which would repeal the local business tax effective July 1, 2012. Florida Legislature, House of Representatives, *available at*, <http://myfloridahouse.gov/>.

<sup>31</sup> *Id.* at 10. See s. 205.033(7), F.S.

## Local Option Tourist Development Tax<sup>32</sup>

- Eligible county government may impose up to five separate taxes on transient rental transactions. The ordinance levying and imposing the tax must be approved in a referendum election by a majority of the electors voting in such election.<sup>33</sup>
- Generally, the tax proceeds may be used for capital construction of tourist-related facilities, tourist promotion, and beach and shoreline maintenance. However, the authorized uses vary by levy.

## Economic Development Incentives Report - Annual Survey of Local Governments

In 2010,<sup>34</sup> the Legislature required local governments that have granted economic incentives in excess of \$25,000 during the local fiscal year to report to the Legislative Committee on Intergovernmental Relations or its successor,<sup>35</sup> annually by January 15, the economic incentives given to businesses during the local fiscal year. Municipalities having annual revenues less than \$250,000 are exempt from this requirement.

According to the Office of Economic and Demographic Research (EDR), 38 counties and 36 municipalities completed the survey for local FY 2009-10.<sup>36</sup> The survey results are as follows:

- Reporting counties issued \$84.4 million in incentives for economic development. (\$29.6 million in direct incentives<sup>37</sup> to 125 businesses; \$40.5 million in indirect incentives<sup>38</sup> to 62 businesses; \$12.7 million in fee or tax based incentives to 111 businesses; and \$1.5 million in below market leases/deeds.)
- Reporting municipalities issued \$60.7 million in incentives for economic development. (\$9.0 million in direct incentives to 71 businesses; \$1.5 million in indirect incentives to 29 businesses; \$36.8 million in fee or tax based incentives to 185 businesses; and \$13.3 million in below market leases/deeds to 45 businesses.)
- Indirect incentives given to local government entities or organizations supporting and promoting business investment or development in the amount of \$40.5 million were the most popular incentive issued by counties.
- Municipalities issued the most incentives in the form of fee and tax credits in the amount of \$36.8 million.

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<sup>32</sup> *Id* at 11.

<sup>33</sup> Section 212.0104(3), F.S.

<sup>34</sup> Sections 1 and 2, ch. 2010-147, L.O.F., codified at ss. 125.045(5) and 166.021(8)(e), F.S.

<sup>35</sup> The Legislative Committee on Intergovernmental Relations was not funded in FY 2010-11 and the committee ceased operations on June 30, 2010. Several of the committee's work products regarding local government finance have been continued by the Office of Economic and Demographic Research (EDR). Florida Legislature, Online Sunshine, available at [http://www.leg.state.fl.us/cgi-bin/View\\_Page.pl?Directory=committees/joint/lcir/&File=index\\_css.html&Tab=committees](http://www.leg.state.fl.us/cgi-bin/View_Page.pl?Directory=committees/joint/lcir/&File=index_css.html&Tab=committees) (last visited January 13, 2012). EDR is a research arm of the Legislature principally concerned with forecasting economic and social trends that affect policy making, revenues, and appropriations. Florida Legislature, Office of Economic and Demographic Research, available at <http://edr.state.fl.us/Content/index.cfm>.

<sup>36</sup> See Florida Legislature, Office of Economic and Demographic Research. Economic Development Incentives, available at <http://edr.state.fl.us/Content/local-government/economic-development-incentives/index.cfm> (last visited January 13, 2012).

<sup>37</sup> "Direct incentives" are monetary assistance provided to a business from the county or municipality or through an organization authorized by the county or municipality. Such incentives include, but are not limited to, grants, loans, equity investments, loan insurance and guarantees, and training subsidies. Sections 125.045(5)(a)1 and 166.021(8)(e) 1.a., F.S.

<sup>38</sup> "Indirect incentives" are in the form of grants and loans provided to businesses and community organizations that provide support to businesses or promote business investment or development. Sections 125.045(5)(a)2. and 166.021(8)(e)1.b., F.S.

## Municipal Revenue Sharing Program<sup>39</sup>

The Revenue Sharing Act of 1972 was enacted to ensure a minimum level of revenue parity across units of local government. The Act also created the Revenue Sharing Trust Fund for Municipalities. The percentage of each revenue source transferred into the trust fund is as follows:

- 1.3409 percent of sales and use tax collections which represents 71.86 percent of total program funding.<sup>40</sup>
- One-cent municipal fuel tax on motor fuel, which represents 28.11 percent of total program funding.<sup>41</sup>
- 12.5 percent of the state alternative fuel user decal fee collections, which represent 0.03 percent of total program funding.<sup>42</sup>

An allocation formula serves as the basis for the distribution of these revenues to each municipality that meets strict eligibility requirements. Municipalities must use the funds derived from the one-cent municipal fuel tax for transportation-related expenditures. Additionally, there are statutory limitations on the use of the funds as a pledge for bonded indebtedness.

### Effect of Proposed Changes:

#### Municipal Revitalization Act (Act)

The bill creates the Municipal Revitalization Act in chapter 290, F.S., relating to urban redevelopment.

#### Legislative Intent

The bill provides that the Legislature intends to foster the revitalization of counties and municipalities and support job-creating retail development projects within enterprise zones by authorizing the governing bodies of counties and municipalities to designate sales tax TIF areas within enterprise zones, subject to the review and approval by the DEO.

The Legislature also finds that by authorizing the receipt of an annual increase in sales tax collections within a sales tax TIF area resulting from a retail development project, the Legislature intends to provide financing for public improvements that will foster job growth for the residents of economically distressed areas and enhance the base of retailers operating within an enterprise zone and serving local residents and international visitors.

#### Definitions

The bill creates the following definitions:

- “Base year” means the amount of sales taxes that would have been produced by the tax levied upon all eligible sales and use transactions pursuant to chapter 212, F.S., before the construction of a retail development project.
- “Bond” means any bonds, notes, or other instruments issued by the governing body and secured by tax increment revenues or other securities authorized in ch. 290, F.S.
- “Compliance period” means the 3-year period after the establishment of the base for a sales tax TIF area during which the minimum job requirement for a retail development project must be satisfied.

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<sup>39</sup> The information relating to the Municipal Revenue Sharing Program was obtained from the 2011 Local Government Financial Information Handbook. See Florida Legislature, Office of Economic and Demographic Research, 2011 LOCAL GOVERNMENT FINANCIAL INFORMATION HANDBOOK, at 79-90 (Oct. 2011) available at <http://edr.state.fl.us/Content/local-government/reports/lgfih11.pdf> (last visited January 11, 2012).

<sup>40</sup> *Id.* citing s. 212.20(6)(d)5., F.S.

<sup>41</sup> *Id.* citing s. 206.605(1), F.S.

<sup>42</sup> *Id.* citing s. 206.879(1), F.S.



- “Retail development project” means the establishment of a retail facility, under common ownership or control, consisting of more than 300,000 square feet of new or rehabilitated retail space within an enterprise zone engaged in direct onsite retail sales to consumers. A retail development project must create at least 500 jobs within the compliance period and generate more than \$1 million annually in additional taxes and fees collected pursuant to the Revenue Sharing Trust Fund for Municipalities. A retail project may include restaurants, grocery and specialty food stores, art galleries, and businesses engaged in sales of home furnishings, apparel, and general merchandise goods serving both local customers and tourists.

A retail development project must exclude liquor stores; adult entertainment nightclubs; and adult book stores. Additionally, the relocation of a retail business to the retail development project from another location within an enterprise zone, unless the relocation involves a significant expansion of the size of the business or results in a total increase in taxable sales of not less than 50 percent within the county in which the business relocates.

- “Retail development project developer” means any person or entity sponsoring a retail development project within an enterprise zone.
- “Sales tax increment area” means a geographic area within an enterprise zone that includes a retail development project, designated by a governing body to receive tax increment revenues or bond proceeds to underwrite the public improvements authorized by the Act.
- “Tax increment revenues” means the portion of available sales tax revenue calculated under the Act.

### **Enterprise Zone Development Agency (EZDA)**

The bill provides that the EZDA is required to review, process, and certify applications for state enterprise zone tax incentives authorized under the Municipal Revitalization Act.

Should the local governing body designate a sales tax TIF area, the governing body or the EZDA are granted the following additional powers for the purpose of financing public improvements that will foster job growth and enhance the base of retailers within an enterprise zone, unless prohibited by an ordinance:

- Enter into cooperative contracts and agreements with a county, municipality, or governmental agency for services and assistance within the sales tax TIF area.
- Expend tax increment revenues to acquire, own, convey, construct, maintain, improve, and manage property and facilities and grant and acquire licenses, easements, and options with respect to such property within the sales tax TIF area.
- Expend tax increment revenues to complete public improvements within the sales tax TIF area, including, but not limited to, the:
  - Construction of streetscape improvements;
  - Installation of landscaping enhancements within the public right-of-way.
  - Construction of street lighting system
  - Installation of water and sewer mains.
  - Construction of on-street and off-street public parking facilities.
- Enter into a retail development agreement with a retail project developer to underwrite public improvements or services listed above.

The designation of a sales tax TIF area is included as a state incentive available under the Enterprise Zone Program.

### **Designation of a Sales Tax TIF Area**

The bill authorizes, by resolution and after a public hearing, a sales tax TIF area to support the development of a retail development project within municipalities with populations of 300,000 residents and a designated enterprise zone, or all of the governing bodies in the case of a county and one or

more municipalities having designated an enterprise zone if the county has a population of 1,200,000 residents. As of April 2011, three municipalities had a population over 300,000 and have designated one or more enterprise zones.<sup>43</sup>

- Jacksonville: 822,038
- Tampa: 337,368
- Miami: 406,385

As of April 2011, four counties have a population over 1,200,000 residents and have designated one or more enterprise zones:<sup>44</sup>

- Broward County: 1,753,162
- Hillsborough County: 1,238,951
- Miami-Dade County: 2,516,515
- Palm Beach County: 1,325,758

The resolution creating the sales tax TIF area, at a minimum, must:

- Include findings that the designation of the sales tax TIF area:
  - Is essential to furthering a retail development project.
  - Will provide needed retail amenities within the enterprise zone.
  - Will result in the development of a retail development project that will create no fewer than 500 new jobs within the compliance period and not less than \$1 million in sales tax increment revenue annually.
  - Will enhance the health and general welfare of the residents of an enterprise zone within the sponsoring municipality or county.
- Establish the geographic boundaries of the sales tax TIF area within which the governing body may expend tax increment revenues.
- Establish the term of life of the sales tax TIF area, which term may not extend more than 40 years after the date the sales tax TIF area is approved by the DEO.
- Establish the base year for determination of the sales tax receipts collected pursuant to the Revenue Sharing Trust Fund for Municipalities, less the amount calculated as the tax increment revenue contribution under the Act to the governing body.

The bill provides that no more than two sales tax TIF areas may be designated in any one eligible municipality and no more than four sales tax TIF areas may be designated in any eligible county. If an eligible municipality is located in an eligible county, any sales tax TIF area designated by a municipality counts against the maximum number of sales tax TIF areas permitted within an eligible county. A sales tax TIF area may not be located within a one-quarter mile of any other designated sales tax TIF area and may not exceed 5 square miles in total land mass.

The following areas are prohibited from designation as a sales tax TIF area:

- Areas designated or to be designated as an urban infill and redevelopment area.<sup>45</sup>
- Areas designated or to be designated as a community redevelopment area.<sup>46</sup>

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<sup>43</sup> Florida Legislature, Office of Economic and Demographic Research, Population and Demographic Data, *Florida Population Estimates – Municipalities: 1979-2011*, available at [http://edr.state.fl.us/Content/population-demographics/data/FLmupops\\_2011.xls](http://edr.state.fl.us/Content/population-demographics/data/FLmupops_2011.xls) (last visited January 13, 2012). NOTE: Two municipalities have populations close to 250,000: Orlando – 241,978 and St. Petersburg – 246,293. *Id.*

<sup>44</sup> Florida Legislature, Office of Economic and Demographic Research, Population and Demographic Data, *Florida Population Estimates for Counties and Municipalities: April 1, 2011*, available at [http://edr.state.fl.us/Content/population-demographics/data/2011\\_Pop\\_Estimates.pdf](http://edr.state.fl.us/Content/population-demographics/data/2011_Pop_Estimates.pdf) (last visited January 29, 2012).

<sup>45</sup> See part II, ch. 163, F.S.

- Any facility financed or partially financed with bonds whose debt is serviced with bonds under the "Local Option Tourist Development Act."<sup>47</sup>
- Any facility conducting gaming activities authorized pursuant to the state law regulating the Gaming Compact between the Seminole Tribe of Florida and the State of Florida, the Florida Pari-mutuel Wagering Act, Slot Machine Gaming, or Gambling.<sup>48</sup>

The prohibition also extends to any facilities authorized to conduct gaming activities after the effective date of the Act.

For counties that have adopted a home rule charter, the powers conferred by the Municipal Revitalization Act (Act) may not be exercised within the boundaries of a municipality within those counties unless the governing body of the municipality expresses its consent by resolution. A resolution consenting to the powers conferred upon counties by the Act must specifically enumerate the powers to be exercised by the county within the boundaries of the municipality. Any power not specifically enumerated in the resolution of consent must be exercised exclusively by the municipality within its boundaries.

For counties that have adopted a home rule charter,<sup>49</sup> the powers conferred by the (Act) must be exercised exclusively by the governing body of the county. However, the governing body of the county may, in its discretion, by resolution delegate the powers to the governing body of a municipality located in the county. The resolution must specifically enumerate the powers delegated to the municipality. Any power not specified in the resolution remains a power of the county's governing board. This provision applies to the Miami-Dade County as its home rule charter was approved by its voters and adopted in 1957. Thus, Miami-Dade County would have the authority to delegate the powers conferred by the Act to a municipality located in the county. It appears that while the City of Miami may be authorized to designate a sales tax TIF area, the municipality would still need to seek authorization from Miami-Dade County as it is a municipality in a county with an adopted home rule charter.

Before the governing body adopts any resolution designating sales tax TIF area or authorizes the issuance of bonds the governing bond must provide public notice<sup>50</sup> of such action.

#### Department of Economic Opportunity

A copy of the resolution adopted by the governing body designating the sales tax TIF area must be transmitted to the DEO for review. The DEO must determine whether the designation of the sales tax TIF area complies with requirements of ch. 290, F.S., and determine whether the designation:

- Captures taxable spending, either in whole or in significant part, that would not otherwise occur in the community rather than redistributing current spending.
- Supports and enhances the tourism industry.
- Supports a retail development project that will create at least 500 jobs within the compliance period and generate more than \$1 million annually in additional taxes and fees collected.

If the DEO determines that the designation by the governing body complies with the requirements of the Act, the DEO must notify the local governing body in writing. Upon receipt of the notification, the local governing body must remit a copy of the resolution establishing the sales tax TIF area, along with the DEO's notice of determination, to the Department of Revenue.

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<sup>46</sup> See part III, ch. 163, F.S.

<sup>47</sup> See s. 125.0104, F.S.

<sup>48</sup> Part II, ch. 285, F.S.; ch. 550, F.S.; ch. 551, F.S.; and ch. 849, F.S.

<sup>49</sup> Section 6(e) of Art. VIII of the State Constitution provides that ss. 9, 10, 11 and 24 of Art. VIII of the Constitution of 1885, as amended, remain in full force and effect as to each county affected, until a county expressly adopts a charter or home rule plan pursuant to that article. Sections 9, 10, 11 and 24 refer to Duval, Monroe, Dade and Hillsborough counties, respectively.

<sup>50</sup> See s. 125.66(2), F.S., and s. 166.041(3)(a), F.S.

## Retail Development Project Agreement

A retail development project developer proposing to use tax increment revenues to expend sales tax increment revenues on behalf of the governing body or EZDA may enter into a retail development project agreement with the governing body of the sales tax TIF area. The agreement must establish:

- The goals and objectives of the retail development project.
- Requirements for leasing retail space within the retail development project, which will advance the governing body's or EZDA's goals and objectives.
- The terms and conditions pursuant to which tax increment revenues or bond proceeds will be advanced to pay for costs incurred in the sales tax TIF area.
- Goals for hiring enterprise zone residents for the new jobs created by the retail development project.
- Matters required in connection with the issuance of bonds to support the retail development project and matters the governing body designating the sales tax TIF area may determine to be necessary and appropriate.

The retail project development agreement must be approved by resolution of the governing body following a public hearing advertised in a newspaper of general circulation not less than 10 days before the date of the required public hearing. The retail development agreement must be transmitted to DEO for review and determination that the agreement complies with ch. 290, F.S.

### Issuance of Bonds

If authorized or approved by resolution of the governing body that designated the sales tax TIF area, after a public hearing, tax increment revenues may be used to support the issuance of sales tax increment revenue bonds to finance the authorized public improvements, including, but not limited to, the payment of principal and interest upon any advances for surveys and plans or preliminary loans.

Sales tax increment revenues may not be committed for any projects identified following the 10th year after the base year. Any sales tax increment revenue bonds or other obligations issued to finance the undertaking of any eligible activity under the Municipalities Revitalization Act must mature by the end of the 40th fiscal year after the fiscal year in which sales tax increment revenues are first deposited into the sales tax TIF area trust fund or at the expiration of any agreement between the governing body and the retail project developer for which bonds are issued to underwrite eligible public improvements, whichever is later.

Sales tax increment revenue bonds do not constitute a debt, liability, or obligation of the public body or the state or any political subdivision, but are payable solely from the revenues generated. The bonds are to be issued for an essential public and governmental purpose, and the interest and income from the bonds are exempt from all taxes, except the corporate income tax in ch. 220, F.S.

These bonds may be sold either at a public or private sale and for such price as the designated governing body may determine will effectuate the purposes of the Act. In any suit, action, or proceeding involving the validity or enforceability of these bonds, any bond that recites in substance that it has been issued by the governing body in connection with the sales tax increment district for an authorized purpose is conclusively presumed to have been issued for that purpose. Further, any project financed by the bond is also conclusively presumed to have been planned and carried out in accordance with the intended purposes.

### **Municipal Revenue Sharing Program**

The bill amends the provisions relating to the distribution formula under the Municipal Revenue Sharing Program, to require distributions to municipalities that have a sales tax TIF area prior to the final adjustment. The distributions must be made to the appropriate governing body eligible for distribution.

When the amount of the sales tax revenues shared with the local governments is increased, or when additional local government discretionary sales tax is authorized, the state becomes further restricted in the use of these funds for state priorities. This is especially true when these funds are bonded.

### Distribution Percentage

The governing body of a sales tax TIF area is eligible for a percentage distribution from the Revenue Sharing Trust Fund for Municipalities in the amount of the increased state sales tax collections realized during any month by the municipality over the same monthly period of the base year as follows:

- 85% of the increased monthly collections of \$85,000 or less.
- 75% of the increased monthly collections greater than \$85,000, but \$425,000 or less.
- 50% of the increased monthly collections of \$425,000, but \$675,000 or less.
- 25% of the increased monthly collections of \$675,000, but \$1 million or less.
- 0% of the increased monthly collections of more than \$1 million.

Percentage distributions to each governing body are contingent upon the following:

- A contribution by the local governing body equal to not less than 30 percent of the percent of the distributions of sales tax revenues provided to the governing body. The matching contribution may be provided in one of the following forms:
  - A cash deposit by the governing body to the revenue account established for the purpose of the Act;
  - A commitment within the governing body's capital plan to underwrite any project within the sales tax TIF area; or
  - Approval of an economic development ad valorem tax exemption<sup>51</sup> by the governing body.
- Total private investment in a retail development project equal to an amount not less than three times the state contribution.
- Annual transmittal of an employment certificate by the retail development project developer to the DEO and the Department of Revenue attesting to the total number of full-time and part-time jobs created by the retail development project.

The retail development project developer must continue to provide an employment certificate until the end of the compliance period or transmittal of an employee certificate indicating that the retail development project has created the required minimum number of jobs, whichever occurs first. For the purposes of determining whether the job requirement has been met, two part-time jobs are counted as the equivalent of one full-time job.

If the retail development project fails to create the required minimum number of jobs by the end of the compliance period, future percentage distributions to the governing body must be reduced by the number of actual jobs created as a percentage of the minimum required jobs.

Each governing body receiving a percentage distribution is required to establish a separate redevelopment trust fund for each designated sales tax TIF area. Funds allocated to and deposited in the fund may only be used to underwrite any eligible public improvements approved by the enterprise zone governing body.

### Department of Revenue

The bill requires the Department of Revenue to determine monthly, the specific amount payable to each eligible governing body and the aggregate amount of sales tax revenue that is required for distribution, and transfer that amount from the General Revenue Fund to the Revenue Sharing Trust Fund for Municipalities. All amounts transferred must be distributed as created in this bill.

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<sup>51</sup> See ss. 196.1995 and 196.1996, F.S.

**B. SECTION DIRECTORY:**

**Section 1** amends s. 212.20., F.S., relating to the amount of funds required to be distributed monthly to the Revenue Sharing Trust Fund for Municipalities.

**Section 2** amends s. 218.23, F.S., relating to the formula required for revenue sharing with units of local government.

**Section 3** amends s. 290.004, F.S., providing definitions

**Section 4** amends s. 290.0056, F.S., providing authority to expend sales tax increment revenues

**Section 5** amends 290.007, F.S., adding the sales tax TIF area program to a list of incentives

**Section 6** creates 290.01351, F.S., identifying the Municipal Revitalization Act

**Section 7** creates s. 290.0136, F.S., authorizing governing bodies to create sales tax TIF areas

**Section 8** creates s. 290.0137, F.S., providing procedures to designate sales tax TIF areas

**Section 9** creates s. 290.0138, F.S., providing a calculation for distributions of sales tax increment revenue

**Section 10** creates s. 290.0139, F.S., requiring a retail development project agreement within sales tax TIF areas

**Section 11** creates s. 290.01391, F.S., authorizing a governing body to issue sales tax increment financing bonds

**Section 12** provides an effective date of July 1, 2012.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

The Revenue Estimating Conference has estimated that this bill will have no impact on General Revenue or state trust funds in FY 2012-13, but the General Revenue impact will grow to a recurring annual -\$61.1 million as TIF areas come on line. The state trust fund impact will eventually be a recurring -\$1.0 million.

2. Expenditures:

Unknown. The Department of Revenue may have to create a new administrative process for determining past and future revenue collections in the TIF areas. See DRAFTING ISSUES OR OTHER COMMENTS below.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

Local government revenues will increase under the bill, but as with the state impacts will be zero in FY 2012-13. As TIF areas come on line the local government revenue gains are estimated to reach \$56.9 million annually.

2. Expenditures:

The revenue gains to local governments are to be spent on various improvements in the TIF areas, as provided in the act.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent that public improvements financed by the incremental increases in sales tax collections occur in a designated sales tax TIF area, businesses located in such areas will benefit.

D. FISCAL COMMENTS:

Incremental increases in sales tax collections in a sales tax TIF area that are shared with the state shall be transferred from the General Revenue Fund to the Revenue Sharing Trust Fund for Municipalities for distribution to eligible local governing bodies as provided in the bill. Should this bill become law, as the amount of the sales tax revenues shared with the local governments is increased the state becomes further restricted in the use of these funds for state priorities.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or to take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Department of Revenue (DOR) Comments:<sup>52</sup>

“Florida businesses may currently file and pay sales and use tax using a single tax return for each location or by filing one tax return for each county in which the business is located. Businesses with locations in multiple counties may use a consolidated tax return, reporting tax collections for each county in which the business operates. The Department does not collect tax information at the boundary level lower than a county (such as a city or within enterprise zone boundaries). Based on the current sales tax reporting system, the Department does not collect the tax information necessary to calculate the “increased sales tax collections” within a municipality as proposed in the bill and is unable to make a proposed distribution to the sales tax increment redevelopment zone agency.” DOR further states that these issues cannot be resolved through rulemaking.

The bill requires the annual transmittal of an “employment certificate” by the retail development project developer to the DEO and the Department of Revenue attesting to the total number of full-time and

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<sup>52</sup> Florida Department of Revenue, *2012 Bill Analysis, HB 595, Revitalizing Municipalities*, at 4, (Dec. 6, 2011) on file with the House Community & Military Affairs Subcommittee.

part-time jobs created by the retail development project. However, the bill does not define “employment certificate.”

Lines 627-628 refer to “sales tax increment district.” The correct term is “sales tax TIF area.”

#### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 25, 2012, the House Community & Military Affairs Subcommittee adopted a strike everything after the enacting clause amendment. The amendment significantly modifies the bill as originally filed and includes the following:

- Creates the “Municipal Revitalization Act.”
- Defines terms applicable to the “Municipal Revitalization Act.”
- Authorizes by resolution and after a public hearing, a sales tax TIF area to support the development of a retail development project within municipalities with populations of 300,000 residents and that are located within a designated enterprise zone, or at least 1,200,000 in the case of a county and one or more municipalities having been designated an enterprise zone.
- Limits the use of tax increment revenues to finance public improvements within the sales tax TIF area in support of a retail development project.
- Requires the Enterprise Zone Development Agency to review, process, and certify applications for state enterprise zone tax incentives authorized under the Municipal Revitalization Act.
- Grants additional powers to the EZDA to carry out the provisions of the Municipal Revitalization Act.
- Requires the resolution creating the sales tax TIF area to establish specific findings.
- Requires a retail development project to create at least 500 jobs within the compliance period and generate more than \$1 million annually in additional taxes and fees collected.
- Prohibits certain areas from designation as a sales tax TIF area.
- Modifies the percentage distribution that the governing body of a sales tax TIF area is eligible to receive from the Revenue Sharing Trust Fund for Municipalities.
- Provides that a retail development project developer proposing to use tax increment revenues to expend sales tax increment revenues on behalf of the governing body or EZDA may enter into a retail development project agreement with the governing body of the sales tax TIF area.
- Establishes the elements of the retail development project agreement.
- Requires a contribution by the local governing body equal to not less than 30 percent of the percent of the distributions of sales tax revenues provided to the governing body. The matching contribution may be provided in one of three forms as provided in the bill.

The analysis has been updated to reflect the amendment adopted by the subcommittee.