

By Senator Simpson

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1 A bill to be entitled
2 An act relating to enterprise zones; amending s.
3 212.08, F.S.; revising an exception to the definition
4 of the term "recovery property"; amending s. 212.096,
5 F.S.; renaming the enterprise zone jobs credit as the
6 enterprise zone job stimulus credit; conforming
7 definitions to changes made by the act; providing
8 additional legislative intent; authorizing the
9 enterprise zone job stimulus credit against the sales
10 tax to be applied to new employees hired; revising
11 criteria for claiming the credit; deleting the minimum
12 threshold requirement for full-time jobs required to
13 claim the credit; specifying an additional criterion
14 for nonapplication of the credit to eligible
15 businesses; amending s. 220.02, F.S.; conforming
16 terminology to changes made by the act; amending s.
17 220.03, F.S.; conforming definitions to changes made
18 by the act; amending s. 220.181, F.S.; renaming the
19 enterprise zone jobs credit as the enterprise zone job
20 stimulus credit; authorizing the enterprise zone job
21 stimulus credit against the corporate income tax to be
22 applied to new employees hired; revising criteria for
23 claiming the credit; deleting the minimum threshold
24 requirement for full-time jobs required to claim the
25 credit; amending s. 290.00677, F.S.; conforming
26 provisions to changes made by the act; amending s.
27 290.007, F.S.; conforming terminology to changes made
28 by the act; providing an effective date.
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30 Be It Enacted by the Legislature of the State of Florida:

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32 Section 1. Paragraph (h) of subsection (5) of section
33 212.08, Florida Statutes, is amended to read:

34 212.08 Sales, rental, use, consumption, distribution, and
35 storage tax; specified exemptions.—The sale at retail, the
36 rental, the use, the consumption, the distribution, and the
37 storage to be used or consumed in this state of the following
38 are hereby specifically exempt from the tax imposed by this
39 chapter.

40 (5) EXEMPTIONS; ACCOUNT OF USE.—

41 (h) *Business property used in an enterprise zone.*—

42 1. Business property purchased for use by businesses
43 located in an enterprise zone which is subsequently used in an
44 enterprise zone shall be exempt from the tax imposed by this
45 chapter. This exemption inures to the business only through a
46 refund of previously paid taxes. A refund shall be authorized
47 upon an affirmative showing by the taxpayer to the satisfaction
48 of the department that the requirements of this paragraph have
49 been met.

50 2. To receive a refund, the business must file under oath
51 with the governing body or enterprise zone development agency
52 having jurisdiction over the enterprise zone where the business
53 is located, as applicable, an application which includes:

54 a. The name and address of the business claiming the
55 refund.

56 b. The identifying number assigned pursuant to s. 290.0065
57 to the enterprise zone in which the business is located.

58 c. A specific description of the property for which a

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59 refund is sought, including its serial number or other permanent
60 identification number.

61 d. The location of the property.

62 e. The sales invoice or other proof of purchase of the
63 property, showing the amount of sales tax paid, the date of
64 purchase, and the name and address of the sales tax dealer from
65 whom the property was purchased.

66 f. Whether the business is a small business as defined by
67 s. 288.703.

68 g. If applicable, the name and address of each permanent
69 employee of the business, including, for each employee who is a
70 resident of an enterprise zone, the identifying number assigned
71 pursuant to s. 290.0065 to the enterprise zone in which the
72 employee resides.

73 3. Within 10 working days after receipt of an application,
74 the governing body or enterprise zone development agency shall
75 review the application to determine if it contains all the
76 information required pursuant to subparagraph 2. and meets the
77 criteria set out in this paragraph. The governing body or agency
78 shall certify all applications that contain the information
79 required pursuant to subparagraph 2. and meet the criteria set
80 out in this paragraph as eligible to receive a refund. If
81 applicable, the governing body or agency shall also certify if
82 20 percent of the employees of the business are residents of an
83 enterprise zone, excluding temporary and part-time employees.
84 The certification shall be in writing, and a copy of the
85 certification shall be transmitted to the executive director of
86 the Department of Revenue. The business shall be responsible for
87 forwarding a certified application to the department within the

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88 time specified in subparagraph 4.

89 4. An application for a refund pursuant to this paragraph
90 must be submitted to the department within 6 months after the
91 tax is due on the business property that is purchased.

92 5. The amount refunded on purchases of business property
93 under this paragraph shall be the lesser of 97 percent of the
94 sales tax paid on such business property or \$5,000, or, if no
95 less than 20 percent of the employees of the business are
96 residents of an enterprise zone, excluding temporary and part-
97 time employees, the amount refunded on purchases of business
98 property under this paragraph shall be the lesser of 97 percent
99 of the sales tax paid on such business property or \$10,000. A
100 refund approved pursuant to this paragraph shall be made within
101 30 days after formal approval by the department of the
102 application for the refund. A refund may not be granted under
103 this paragraph unless the amount to be refunded exceeds \$100 in
104 sales tax paid on purchases made within a 60-day time period.

105 6. The department shall adopt rules governing the manner
106 and form of refund applications and may establish guidelines as
107 to the requisites for an affirmative showing of qualification
108 for exemption under this paragraph.

109 7. If the department determines that the business property
110 is used outside an enterprise zone within 3 years from the date
111 of purchase, the amount of taxes refunded to the business
112 purchasing such business property shall immediately be due and
113 payable to the department by the business, together with the
114 appropriate interest and penalty, computed from the date of
115 purchase, in the manner provided by this chapter.

116 Notwithstanding this subparagraph, business property used

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117 exclusively in:

- 118 a. Licensed commercial fishing vessels,
119 b. Fishing guide boats, or
120 c. Ecotourism guide boats

121

122 that leave and return to a fixed location within an area
123 designated under s. 379.2353, Florida Statutes 2010, are
124 eligible for the exemption provided under this paragraph if all
125 requirements of this paragraph are met. Such vessels and boats
126 must be owned by a business that is eligible to receive the
127 exemption provided under this paragraph. This exemption does not
128 apply to the purchase of a vessel or boat.

129 8. The department shall deduct an amount equal to 10
130 percent of each refund granted under this paragraph from the
131 amount transferred into the Local Government Half-cent Sales Tax
132 Clearing Trust Fund pursuant to s. 212.20 for the county area in
133 which the business property is located and shall transfer that
134 amount to the General Revenue Fund.

135 9. For the purposes of this exemption, "business property"
136 means new or used property defined as "recovery property" in s.
137 168(c) of the Internal Revenue Code of 1954, as amended, except:

- 138 a. Property classified as 3-year property under s.
139 168(c)(2)(A) of the Internal Revenue Code of 1954, as amended;
140 b. Industrial machinery and equipment as defined in sub-
141 subparagraph (b)6.a. and eligible for exemption under paragraph
142 (b);
143 c. Building materials as defined in sub-subparagraph
144 (g)8.a.; and
145 d. Business property having a sales price of under \$2,500

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146 ~~\$5,000~~ per unit.

147 10. This paragraph expires on the date specified in s.
148 290.016 for the expiration of the Florida Enterprise Zone Act.

149 Section 2. Paragraphs (a), (c), and (e) of subsection (1),
150 subsection (2), paragraphs (e), (f), (g), (h), and (i) of
151 subsection (3), and subsection (9) of section 212.096, Florida
152 Statutes, are amended, and paragraph (c) is added to subsection
153 (6) of that section, to read:

154 212.096 Sales, rental, storage, use tax; enterprise zone
155 job stimulus jobs credit against sales tax.—

156 (1) For the purposes of the credit provided in this
157 section:

158 (a) "Eligible business" means any sole proprietorship,
159 firm, partnership, corporation, bank, savings association,
160 estate, trust, business trust, receiver, syndicate, or other
161 group or combination, or successor business, located in an
162 enterprise zone. ~~The business must demonstrate to the department~~
163 ~~that, on the date of application, the total number of full-time~~
164 ~~jobs defined under paragraph (d) is greater than the total was~~
165 ~~12 months prior to that date.~~ An eligible business does not
166 include any business which has claimed the credit permitted
167 under s. 220.181 for any new business employee first beginning
168 employment with the business after July 1, 2013 ~~1995~~.

169 (c) "New employee" means a person residing in an enterprise
170 zone or a participant in the welfare transition program who
171 begins employment with an eligible business after July 1, 2013
172 ~~1995~~, and who has not been previously employed full time within
173 the preceding 12 months by the eligible business, or a successor
174 eligible business, claiming the credit allowed by this section.

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175 ~~(e) "New job has been created" means that, on the date of~~
176 ~~application, the total number of full-time jobs is greater than~~
177 ~~the total was 12 months prior to that date, as demonstrated to~~
178 ~~the department by a business located in the enterprise zone.~~

179
180 A person shall be deemed to be employed if the person performs
181 duties in connection with the operations of the business on a
182 regular, full-time basis, provided the person is performing such
183 duties for an average of at least 36 hours per week each month.
184 The person must be performing such duties at a business site
185 located in the enterprise zone.

186 (2) (a) It is the intent of the Legislature to encourage the
187 provision of meaningful employment opportunities that will
188 improve the quality of life of those employed and to encourage
189 economic expansion of enterprise zones in the state. Upon an
190 affirmative showing by an eligible business to the satisfaction
191 of the department that the requirements of this section have
192 been met, the business shall be allowed a credit against the tax
193 remitted under this chapter.

194 (b) The credit shall be computed as 20 percent of the
195 actual monthly wages paid in this state to each new employee
196 hired ~~when a new job has been created~~, unless the business is
197 located within a rural enterprise zone as defined in pursuant to
198 s. 290.004, in which case the credit shall be 30 percent of the
199 actual monthly wages paid. If no less than 20 percent of the
200 employees of the business are residents of an enterprise zone,
201 excluding temporary and part-time employees, the credit shall be
202 computed as 30 percent of the actual monthly wages paid in this
203 state to each new employee hired ~~when a new job has been~~

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204 ~~created~~, unless the business is located within a rural
205 enterprise zone, in which case the credit shall be 45 percent of
206 the actual monthly wages paid. If the new employee hired ~~when a~~
207 ~~new job is created~~ is a participant in the welfare transition
208 program, the following credit shall be a percent of the actual
209 monthly wages paid: 40 percent for \$4 above the hourly federal
210 minimum wage rate; 41 percent for \$5 above the hourly federal
211 minimum wage rate; 42 percent for \$6 above the hourly federal
212 minimum wage rate; 43 percent for \$7 above the hourly federal
213 minimum wage rate; and 44 percent for \$8 above the hourly
214 federal minimum wage rate. For purposes of this paragraph,
215 monthly wages shall be computed as one-twelfth of the expected
216 annual wages paid to such employee. The amount paid as wages to
217 a new employee is the compensation paid to such employee that is
218 subject to reemployment assistance tax. The credit shall be
219 allowed for up to 24 consecutive months, beginning with the
220 first tax return due pursuant to s. 212.11 after approval by the
221 department.

222 (3) In order to claim this credit, an eligible business
223 must file under oath with the governing body or enterprise zone
224 development agency having jurisdiction over the enterprise zone
225 where the business is located, as applicable, a statement which
226 includes:

227 ~~(e) Demonstration to the department that, on the date of~~
228 ~~application, the total number of full-time jobs defined under~~
229 ~~paragraph (1) (d) is greater than the total was 12 months prior~~
230 ~~to that date.~~

231 (e) ~~(f)~~ The identifying number assigned pursuant to s.
232 290.0065 to the enterprise zone in which the business is

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233 located.

234 (f)~~(g)~~ Whether the business is a small business as defined
235 by s. 288.703(6).

236 (g)~~(h)~~ Within 10 working days after receipt of an
237 application, the governing body or enterprise zone development
238 agency shall review the application to determine if it contains
239 all the information required pursuant to this subsection and
240 meets the criteria set out in this section. The governing body
241 or agency shall certify all applications that contain the
242 information required pursuant to this subsection and meet the
243 criteria set out in this section as eligible to receive a
244 credit. If applicable, the governing body or agency shall also
245 certify if 20 percent of the employees of the business are
246 residents of an enterprise zone, excluding temporary and part-
247 time employees. The certification shall be in writing, and a
248 copy of the certification shall be transmitted to the executive
249 director of the Department of Revenue. The business shall be
250 responsible for forwarding a certified application to the
251 department within the time specified in paragraph (h) ~~(i)~~.

252 (h)~~(i)~~ All applications for a credit pursuant to this
253 section must be submitted to the department within 6 months
254 after the new employee is hired, except applications for credit
255 for leased employees. Applications for credit for leased
256 employees must be submitted to the department within 7 months
257 after the employee is leased.

258 (6) The credit provided in this section does not apply:

259 (c) For any eligible business that terminates employees for
260 the sole purpose of claiming the credit.

261 (9) Any business which has claimed this credit shall not be

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262 allowed any credit under the provisions of s. 220.181 for any
263 new employee beginning employment after July 1, 2013 ~~1995~~.

264 Section 3. Paragraph (a) of subsection (6) of section
265 220.02, Florida Statutes, is amended to read:

266 220.02 Legislative intent.—

267 (6) (a) It is the intent of the Legislature that the
268 enterprise zone job stimulus ~~jobs~~ credit provided by s. 220.181
269 be applicable only to those businesses located in an enterprise
270 zone. It is further the intent of the Legislature to provide an
271 incentive for the increased provision of employment
272 opportunities leading to the improvement of the quality of life
273 of those employed and the positive expansion of the economy of
274 the state as well as the economy of present enterprise zones.

275 Section 4. Paragraphs (q), (ee) and (ff) of subsection (1)
276 of section 220.03, Florida Statutes, are amended to read:

277 220.03 Definitions.—

278 (1) SPECIFIC TERMS.—When used in this code, and when not
279 otherwise distinctly expressed or manifestly incompatible with
280 the intent thereof, the following terms shall have the following
281 meanings:

282 (q) "New employee," for the purposes of the enterprise zone
283 job stimulus ~~jobs~~ credit, means a person residing in an
284 enterprise zone or a participant in the welfare transition
285 program who is employed at a business located in an enterprise
286 zone who begins employment in the operations of the business
287 after July 1, 2013 ~~1995~~, and who has not been previously
288 employed full time within the preceding 12 months by the
289 business or a successor business claiming the credit pursuant to
290 s. 220.181. A person shall be deemed to be employed by such a

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291 business if the person performs duties in connection with the
292 operations of the business on a full-time basis, provided she or
293 he is performing such duties for an average of at least 36 hours
294 per week each month. The person must be performing such duties
295 at a business site located in an enterprise zone. This paragraph
296 expires on the date specified in s. 290.016 for the expiration
297 of the Florida Enterprise Zone Act.

298 ~~(ee) "New job has been created" means that, on the date of~~
299 ~~application, the total number of full-time jobs is greater than~~
300 ~~the total was 12 months prior to that date, as demonstrated to~~
301 ~~the department by a business located in the enterprise zone.~~

302 (ee) ~~(ff)~~ "Job" means a full-time position, as consistent
303 with terms used by the Department of Economic Opportunity and
304 the United States Department of Labor for purposes of
305 reemployment assistance tax administration and employment
306 estimation resulting directly from business operations in this
307 state. The term may not include a temporary construction job
308 involved with the construction of facilities or any job that has
309 previously been included in any application for tax credits
310 under s. 212.096. The term also includes employment of an
311 employee leased from an employee leasing company licensed under
312 chapter 468 if the employee has been continuously leased to the
313 employer for an average of at least 36 hours per week for more
314 than 6 months.

315 Section 5. Paragraphs (a) and (b) of subsection (1) and
316 subsections (2), (7), and (9) of section 220.181, Florida
317 Statutes, are amended to read:

318 220.181 Enterprise zone job stimulus jobs ~~jobs~~ credit.—

319 (1) (a) There shall be allowed a credit against the tax

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320 imposed by this chapter to any business located in an enterprise
321 zone that employs one or more new employees ~~which demonstrates~~
322 ~~to the department that, on the date of application, the total~~
323 ~~number of full-time jobs is greater than the total was 12 months~~
324 ~~before that date.~~ The credit shall be computed as 20 percent of
325 the actual monthly wages paid in this state to each new employee
326 hired ~~when a new job has been created, as defined under s.~~
327 ~~220.03(1)(ee),~~ unless the business is located in a rural
328 enterprise zone as defined in, ~~pursuant to~~ s. 290.004, in which
329 case the credit shall be 30 percent of the actual monthly wages
330 paid. If no less than 20 percent of the employees of the
331 business are residents of an enterprise zone, excluding
332 temporary and part-time employees, the credit shall be computed
333 as 30 percent of the actual monthly wages paid in this state to
334 each new employee hired ~~when a new job has been created,~~ unless
335 the business is located in a rural enterprise zone, in which
336 case the credit shall be 45 percent of the actual monthly wages
337 paid, for a period of up to 24 consecutive months. If the new
338 employee hired ~~when a new job is created~~ is a participant in the
339 welfare transition program, the following credit shall be a
340 percent of the actual monthly wages paid: 40 percent for \$4
341 above the hourly federal minimum wage rate; 41 percent for \$5
342 above the hourly federal minimum wage rate; 42 percent for \$6
343 above the hourly federal minimum wage rate; 43 percent for \$7
344 above the hourly federal minimum wage rate; and 44 percent for
345 \$8 above the hourly federal minimum wage rate.

346 (b) This credit applies only with respect to wages subject
347 to reemployment assistance tax. The credit provided in this
348 section does not apply:

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- 349 1. For any employee who is an owner, partner, or majority
350 stockholder of an eligible business.
- 351 2. For any new employee who is employed for any period less
352 than 3 months.
- 353 3. For any eligible business that terminates employees for
354 the sole purpose of claiming the credit.
- 355 (2) When filing for an enterprise zone job stimulus ~~jobs~~
356 credit, a business must file under oath with the governing body
357 or enterprise zone development agency having jurisdiction over
358 the enterprise zone where the business is located, as
359 applicable, a statement which includes:
- 360 (a) For each new employee for whom this credit is claimed,
361 the employee's name and place of residence during the taxable
362 year, including the identifying number assigned pursuant to s.
363 290.0065 to the enterprise zone in which the new employee
364 resides if the new employee is a person residing in an
365 enterprise zone, and, if applicable, documentation that the
366 employee is a welfare transition program participant.
- 367 (b) If applicable, the name and address of each permanent
368 employee of the business, including, for each employee who is a
369 resident of an enterprise zone, the identifying number assigned
370 pursuant to s. 290.0065 to the enterprise zone in which the
371 employee resides.
- 372 (c) The name and address of the business.
- 373 (d) The identifying number assigned pursuant to s. 290.0065
374 to the enterprise zone in which the eligible business is
375 located.
- 376 (e) The salary or hourly wages paid to each new employee
377 claimed.

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378 ~~(f) Demonstration to the department that, on the date of~~
379 ~~application, the total number of full-time jobs is greater than~~
380 ~~the total was 12 months prior to that date.~~

381 (f)~~(g)~~ Whether the business is a small business as defined
382 by s. 288.703.

383 (7) Any business which has claimed this credit shall not be
384 allowed any credit under the provision of s. 212.096 for any new
385 employee beginning employment after July 1, 2013 ~~1995~~. The
386 provisions of this subsection shall not apply when a corporation
387 converts to an S corporation for purposes of compliance with the
388 Internal Revenue Code of 1986, as amended; however, no
389 corporation shall be allowed the benefit of this credit and the
390 credit under s. 212.096 either for the same new employee or for
391 the same taxable year. In addition, such a corporation shall not
392 be allowed any credit under s. 212.096 until it has filed notice
393 of its intent to change its status for tax purposes and until
394 its final return under this chapter for the taxable year prior
395 to such change has been filed.

396 (9) This section, except paragraph (1)(c) and subsection
397 (8), expires on the date specified in s. 290.016 for the
398 expiration of the Florida Enterprise Zone Act, and a business
399 may not begin claiming the enterprise zone job stimulus jobs
400 credit after that date; however, the expiration of this section
401 does not affect the operation of any credit for which a business
402 has qualified under this section before that date, or any
403 carryforward of unused credit amounts as provided in paragraph
404 (1)(c).

405 Section 6. Section 290.00677, Florida Statutes, is amended
406 to read:

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407 290.00677 Rural enterprise zones; special qualifications.-

408 (1) Notwithstanding the enterprise zone residency
409 requirements set out in s. 212.096(1)(c), eligible businesses as
410 defined in s. 212.096(1)(a) located in rural enterprise zones as
411 defined in s. 290.004 may receive the basic minimum credit
412 provided under s. 212.096 for ~~creating a new job and~~ hiring a
413 person residing within the jurisdiction of a rural community as
414 defined in s. 288.106(2). All other provisions of s. 212.096,
415 including, but not limited to, those relating to the award of
416 enhanced credits, apply to such businesses.

417 (2) Notwithstanding the enterprise zone residency
418 requirements set out in s. 220.03(1)(q), businesses as defined
419 in s. 220.03(1)(c) located in rural enterprise zones as defined
420 in s. 290.004 may receive the basic minimum credit provided
421 under s. 220.181 for ~~creating a new job and~~ hiring a person
422 residing within the jurisdiction of a rural community as defined
423 in s. 288.106(2). All other provisions of s. 220.181, including,
424 but not limited to, those relating to the award of enhanced
425 credits, apply to such businesses.

426 Section 7. Subsections (1) and (7) of section 290.007,
427 Florida Statutes, are amended to read:

428 290.007 State incentives available in enterprise zones.—The
429 following incentives are provided by the state to encourage the
430 revitalization of enterprise zones:

431 (1) The enterprise zone job stimulus ~~jobs~~ credit provided
432 in s. 220.181.

433 (7) The enterprise zone job stimulus ~~jobs~~ credit against
434 the sales tax provided in s. 212.096.

435 Section 8. This act shall take effect July 1, 2013.