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.)

Prepared By: The Professional Staff of the Committee on Finance and Tax

BILL: CS/SB 800

INTRODUCER: Finance and Tax Committee and Senator Albritton

SUBJECT: Economic Development

DATE: February 10, 2022 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Renner	McKay	CM	**Favorable**
2.	Covin	Babin	FT	**Fav/CS**
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 800 creates and modifies economic development programs operating in rural areas and federally designated opportunity zones. The bill creates the Rural Opportunity Tax Refund Program to provide tax refunds to qualified target industry businesses located in rural areas. The bill provides that qualified target industry businesses are eligible to receive a tax refund of specified taxes equal to $6,000 per created job. Additionally the bill:

- Authorizes municipalities to exempt the public service tax on purchasers of electrical energy, natural gas, or propane who the Department of Revenue determines are eligible as a qualified business in a federally designated opportunity zone;
- Creates a 50 percent sales tax exemption on the purchase of electrical energy, natural gas, or propane to qualified businesses located in an opportunity zone in a municipality that has enacted an ordinance for a municipal utility tax exemption;
- Exempts building materials used in the rehabilitation of real property located in an opportunity zone from the state sales tax if certain conditions are met;
- Reduces the required non-state match amount for the Regional Rural Development Grants Program from 25 percent to 15 percent and allows in-kind contributions to count toward this threshold;
- Removes the requirement that repaid funds from the Rural Community Development Revolving Loan Fund be matched in order to be retained to fund future loans; and
- Revises the authorized amounts and uses of grants provided from the Rural Infrastructure Fund.

The Revenue Estimating Conference has not determined the fiscal impact of the bill. Staff estimates a significant reduction to General Revenue fund receipts, trust fund revenue, and local government revenue in Fiscal Year 2022-2023 and in future years.

The bill is effective July 1, 2022.

II. Present Situation:

Florida Sales Tax

Florida levies a six percent sales and use tax on the retail sales or rentals of most tangible personal property,[1] admissions,[2] transient rentals,[3] and commercial real estate rentals.[4] In addition to the state level tax, counties are authorized to levy discretionary sales surtaxes.[5] Generally, the sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale.

Chapter 212, F.S., contains provisions authorizing the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. There are currently more than 270 exemptions, exclusions, deductions, and credits from sales and use tax,[6] including building materials used in the rehabilitation of real property located in an enterprise zone.[7]

Municipal Public Service Tax

Municipalities may levy a public service tax on the purchase of electricity, metered natural gas, liquefied petroleum gas either metered or bottled, manufactured gas either metered or bottled, and water service.[8] The tax is levied only upon purchases within the municipality and cannot exceed 10 percent of the payments received by the seller of the taxable item from the purchaser for the purchase of the service.

Qualified Target Industry Tax Refund Program

The Qualified Target Industry (QTI) Tax Refund Program was created to encourage the creation and retention of high-quality, high-wage jobs by providing state tax refunds to eligible businesses creating jobs in certain target industries.[9] Tax refunds awarded through the program are determined by the number of jobs created, the average wages paid, and the location of the eligible business. The program expired on June 30, 2020; however, existing QTI agreements will

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[1] Section 212.05(1)(a)1.a., F.S.
[2] Section 212.04(1)(b), F.S.
[3] Section 212.03(1)(a), F.S.
[4] Section 212.031(1)(c), F.S.
[5] Section 212.055, F.S.
[6] Office of Economic and Demographic Research, *Florida Tax Handbook*, 168-173 (2021), *available at* http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2021.pdf (last visited Jan. 27, 2022). *See* s. 212.08, F.S.
[7] Section 212.08(5)(g), F.S.
[8] Section 166.231(1)(a), F.S.
[9] Section 288.106(1), F.S.

continue to be in effect according to their terms.[10] For Fiscal Year 2021-2022, $20.5 million was appropriated, in part, to the QTI program.[11]

Florida Enterprise Zone Program

The Florida Enterprise Zone Program offered a variety of sales tax credits, refunds, exemptions, and corporate income tax credits to businesses within certain geographic regions to encourage economic growth and investment in distressed areas.

State incentives included a sales tax refund for building materials used in the rehabilitation of real property in an enterprise zone. The amount of the refund was the lesser of 97 percent of the sales taxes paid or $5,000, or, if 20 percent or more of the business's employees reside in an enterprise zone, the lesser of 97 percent of the sales taxes paid or $10,000.[12]

Local incentives included a municipal public service tax exemption for qualified businesses located in an enterprise zone on the purchase of electrical energy. The exemption was only available if the municipality in which the business was located had passed an ordinance to exempt the municipal utility taxes on such business.[13]

The program was administered by the DEO and sunset on December 31, 2015.

Opportunity Zone Program

The Opportunity Zone Program was created by the Federal Tax Cuts and Jobs Act of 2017[14] to encourage economic development and job creation in economically distressed communities by providing tax incentives for investors who invest new capital in businesses operating in one or more qualified opportunity zones (zones).[15] Areas qualify as zones if they have been nominated by a state, a U.S. territory, or the District of Columbia, and the nomination has been certified by the United States Department of the Treasury (U.S. Treasury).[16] Governors can nominate up to 25 percent of their state's eligible tracts to receive the designation.[17]

Investments are made in the zones through U.S. Treasury Qualified Opportunity Zone Funds and must invest over 90 percent of their assets in qualified zone properties and businesses. Zone funds attract investors through potential tax benefits. These tax benefits can accrue once unrealized capital gains from other investments are rolled in Qualified Opportunity Zone Funds. Benefits include the following:[18]

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[10] Section 288.106(9), F.S.
[11] Chapter 2021-36, Specific Appropriation 2244, s. 6, Laws of Fla.
[12] Section 212.08(5)(g), F.S.
[13] Sections 212.08(15) and 166.231(8), F.S.
[14] Tax Cuts and Jobs Act of 2017, Pub. L. No. 115-97, § 13823, 131 stat. 2054.
[15] Internal Revenue Service, *Opportunity Zones Frequently Asked Question, available at* https://www.irs.gov/credits-deductions/opportunity-zones-frequently-asked-questions#general (last visited Jan. 27, 2022).
[16] *Id.*
[17] Florida Department of Economic Opportunity, *The Opportunity Zone Program, available at* https://floridajobs.org/business-growth-and-partnerships/for-businesses-and-entrepreneurs/business-resource/opportunity-zones (last visited Jan. 27, 2022).
[18] *Id.*

- Taxes are deferred on capital gains rolled into Qualified Opportunity Zone Funds and the original tax bill through December 31, 2026, or the sale of the zone investment, whichever is earlier;
- Taxes are reduced on capital gains held in Qualified Opportunity Zone Funds for certain lengths of time, for investments held for 5 years, the cost basis for tax purposes is increased by 10 percent and for investments held for 7 years, the cost basis increases an additional 5 percent; and
- The rolled over capital gain appreciates tax-free if the investment in the Qualified Opportunity Zone is held for 10 years or longer.

Currently, Florida has 427 designated zones that are located in every county.[19]

Rural Community Development Revolving Loan Fund

The Rural Community Development Revolving Loan Fund Program is a state loan program used to finance initiatives directed toward maintaining and developing the economic base of rural communities, especially initiatives addressing employment opportunities.[20] The program provides long-term loans, loan guarantees, and loan loss reserves to local governments, or economic development organizations substantially underwritten by local governments, in counties with small populations or those located within a RAO.[21] Loan repayments are generally returned to the loan fund to be made available to other applicants, but repayments made by an applicant in a RAO may be retained by the applicant if the repayments are dedicated and matched to fund regionally based economic development organizations representing the RAO and retention of funds is approved by the DEO.[22]

Regional Rural Development Grants Program

The Regional Rural Development Grants Program is a state matching grant program established to provide funding to build the professional capacity of regional economic development organizations.[23] Grants may be used by an economic development organization to provide technical assistance to businesses within the rural counties and communities that it serves.[24]

Applications submitted to the DEO must provide proof:

- Of official commitments of support from each local government represented by the regional organization;
- That each local government has made a financial or in-kind commitment to the regional organization;
- That the private sector has made financial or in-kind commitments to the regional organization;
- That the regional organization is in existence and actively involved in economic development activities serving the region; and

[19] *Id.*
[20] Section 288.065(1), F.S.
[21] Section 288.065(2)(a), F.S.
[22] Section 288.065(2)(c), F.S
[23] Section 288.018, F.S.
[24] Section 288.018(1)(b), F.S.

- The manner in which the regional organization coordinates its efforts with those of other local and state organizations.[25]

An organization may receive up to $50,000 a year or $250,000 if located in a RAO.[26] Grants must be matched by an amount of non-state resources equal to 25 percent of the state contribution. The DEO is authorized to spend up to $750,000 each fiscal year from funds appropriated to the Rural Community Development Revolving Loan Fund to carry out this program.[27]

Rural Infrastructure Fund

The Rural Infrastructure Fund is a grant program created to facilitate the planning, preparing, and financing of infrastructure projects in rural communities.[28] The program provides access to federal and state infrastructure funding programs, including, but not limited to, those offered by the United States Departments of Agriculture and Commerce.[29] The program funds total infrastructure project grants, infrastructure feasibility grants, and preclearance review grants.

The DEO may award grants for up to 50 percent of the total infrastructure project cost.[30] Projects must be related to specific job-creation or job-retention opportunities. Additionally, projects may include improving any inadequate infrastructure that has resulted in regulatory action that prohibits economic or community growth or reducing the costs to community users of proposed infrastructure improvements that exceed such costs in comparable communities, and improving the access availability of broadband Internet service.

Eligible uses of funds include improvements to public infrastructure for industrial or commercial sites, upgrades to or development of public tourism infrastructure, and improvements to broadband Internet service and access in unserved or underserved rural communities.[31] Infrastructure can include public or public-private partnership facilities, like storm water systems, telecommunication, broadband, roads, and nature-based tourism.[32]

The infrastructure feasibility grant provides awards of up to 30 percent of the total project costs for infrastructure feasibility studies, design and engineering activities, or other infrastructure planning and preparation activities.[33] Maximum awards are dependent on the number of jobs that a business commits to create and may be up to $300,000 if the project is located in a RAO. The total project participation grant may be used in conjunction with the infrastructure feasibility grant.

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[25] Section 288.018(2), F.S.
[26] Section 288.018(1)(c), F.S.
[27] Section 288.018(4), F.S.
[28] *See* s. 288.0655, F.S.
[29] Section 288.0655(2)(b), F.S.
[30] *Id.*
[31] *Id.*
[32] Broadband Internet service must be provided in partnership with one or more dealers of communications services. Section 288.0655(2)(b), F.S.
[33] Section 288.0655(2)(c), F.S.

The preclearance review grant provides awards to help a local government participate in expedited permitting processes through technical assistance in preparing permit applications and local comprehensive plan amendments.[34] Grants may be used for surveys, feasibility studies, and other activities related to the identification and preclearance review of land use modifications. Grants are limited to $75,000 and must be matched 50 percent with local funds. However, projects in a RAO may receive up to $300,000 and must be matched 33 percent with local funds.[35]

Grant applications are reviewed and certified by the DEO in consultation with Enterprise Florida, Inc., VISIT Florida, the Department of Environmental Protection, and the Florida Fish and Wildlife Conservation Commission.[36] Reviews include an evaluation of the economic benefit of the projects and their long-term viability.

III. Effect of Proposed Changes:

Municipal Public Service Tax (Section 1)

The bill amends s. 166.231, F.S., authorizing municipalities to exempt the public service tax on purchasers of electrical energy, natural gas, or propane who the DOR determines are eligible, beginning July 1, 2023, as a qualified business in an opportunity zone. This exemption is only available if the municipality in which the business is located has passed an ordinance to exempt the municipal public service taxes on such business. The municipality must provide a copy of the ordinance to the DOR not less than 14 days before its effective date.

This provision mirrors a provision in the Enterprise Zone Program, an expired program under ch. 290, F.S.

Definitions (Section 2)

The bill amends s. 212.02, F.S., to define the term “opportunity zone” as a population census tract designated by the U.S. Treasury as a qualified opportunity zone pursuant to s. 1400Z-1(b)(1)(B) of the Internal Revenue Code and located in a rural community.[37]

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[34] Section 288.0655(2)(e), F.S. Expedited permitting is pursuant to s. 403.9739(18), F.S.

[35] Section 288.0655(2)(e), F.S.

[36] Section 288.0655(3), F.S.

[37] “Rural community” means (1) A county with a population of 75,000 or fewer; (2) A county with a population of 125,000 or fewer which is contiguous to a county with a population of 75,000 or fewer; (3) A municipality within a county described in subparagraph 1. or subparagraph 2; or (4) An unincorporated federal enterprise community or an incorporated rural city with a population of 25,000 or fewer and an employment base focused on traditional agricultural or resource-based industries, located in a county not defined as rural, which has at least three or more of the economic distress factors identified in paragraph (c) and verified by the department. *See* Section 288.0656(2)(e), F.S.

Sales Tax Exemptions (Section 3)

The bill amends s. 212.08, F.S., to exempt building materials used in the rehabilitation of real property[38] located in an opportunity zone from the state sales tax. To receive a refund, the owner, lessee, or lessor of the rehabilitated real property must file an application, including a sworn statement from the general contractor whom the applicant contracted to make the improvements on the property, with the governing body having jurisdiction over the opportunity zone where the property is located.

The applicant must also forward the application to the DOR within six months after the rehabilitation of the real property is deemed to be substantially completed by the local building code inspector, or by November 1 after the property is first subject to assessment.

Only one exemption through a refund of previously paid taxes for the rehabilitation of real property is allowed for any single parcel unless there is a change in ownership, a new lessor, or a new lessee of the real property. A refund may not be granted unless the amount exceeds $500 and does not exceed the lesser of 97 percent of the state sales or use tax paid on the cost of the building materials used or $7,500. A refund must be issued within 30 days after formal approval.

The DOR must adopt rules governing the manner and form of refund application and is authorized to establish guidelines in determining an affirmative showing of qualification for an exemption.

This provision mirrors a provision in the Enterprise Zone Program, an expired program under ch. 290, F.S.

The bill creates, beginning July 1, 2023, a 50 percent sales tax exemption on the purchase of electrical energy, natural gas, and propane to qualified businesses located in an opportunity zone in a municipality that has enacted an ordinance for a municipal utility tax exemption. The exemption is limited to five years.

An application containing certain requirements must be submitted to the DOR within six months after qualifying for the exemption. For purposes of the exemption, a "qualified business" means a business that is:

- First occupying a new structure where electrical, natural gas, or propane service, other than for construction purposes, has not been previously provided or furnished;
- Newly occupying an existing, remodeled, renovated, or rehabilitated structure where electrical, natural gas, or propane service, other than being used for remodeling, renovation, or rehabilitation of the structure, has not been provided or furnished in the three preceding billing periods; or
- Occupying a new, remodeled, rebuilt, renovated, or rehabilitated structure for which a refund has been granted for building materials used in the rehabilitation of property located in an opportunity zone.

[38] Real property means land, buildings, fixtures, and all other improvements to land. The term does not include a condominium parcel or condominium property.

If the DOR determines that the business did not meet the above criteria, the 50 percent tax sales tax exemption must be paid back to the DOR, together with the appropriate interest and penalty computed from the due date of each bill for the electrical, natural gas, or propane energy purchased as exempt.

The DOR must adopt rules governing applications and the required forms for, and issuance of, the authorized exemption, and the DOR is authorized to establish guidelines for qualifications for the exemption.

Regional Rural Development Grants Program (Section 4)

The bill amends s. 288.018, F.S., to reduce the required grant match percentage rate from 25 percent to 15 percent and to authorize in-kind contributions under the program.

Rural Community Development Revolving Loan Fund (Section 5)

The bill amends s. 288.065, F.S., to remove the requirement that repaid funds from the loan fund be matched in order to be retained to fund future loans.

Rural Infrastructure Fund (Section 6)

The bill amends s. 288.0655, F.S., to revise the purpose of the Rural Infrastructure Fund. The bill authorizes the DEO to award grants for up to 75 percent, rather than 50 percent, of the total infrastructure cost, or up to 100 percent of the total infrastructure project cost for a project that is located in a rural community[39] or a rural area of opportunity[40] and that is also located in a fiscally constrained county.[41] The bill also authorizes the DEO to award grants of up to $300,000 for infrastructure feasibility studies, design and engineering activities, or other infrastructure planning and preparation activities. The bill specifies that certain grants relating to the identification and preclearance review of land do not require local matches.

Rural Opportunity Tax Refund Program (Section 7)

The bill largely replicates, with minor changes, the QTI Tax Refund Program, and limits the program benefits to rural areas. The bill creates s. 288.066, F.S., to create the Rural Opportunity Tax Refund Program to provide state tax refunds to eligible businesses in certain target industries located in rural areas.

Definitions

The bill defines a “rural city” as having a population of 10,000 or less, or a city having less than 20,000 if a significant percentage of the residents are on public assistance or have incomes below

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[39] *Supra* Note 61.

[40] “Rural area of opportunity” means a rural community, or a region composed of rural communities, designated by the Governor, which has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact. *See* Section 288.0656(2)(d), F.S.

[41] A fiscally constrained country is any county that is entirely within a rural area of opportunity as designated by the Governor pursuant to s. 288.0656 or each county for which the value of a mill will raise no more than $5 million in revenue, based on the taxable value certified pursuant to s. 1011.62(4)(a)1.a., from the previous July 1. *See* Section 218.67(1), F.S.

the poverty level, or a significant percentage of the city's employment base is in agriculture-related jobs. "Rural communities" means a county with a population of 75,000 or less, a county with a population of 125,000 or less and is contiguous to a county having a population of 75,000 or less; or the municipality has a significant percentage of residents on public assistance, have incomes below poverty level, or a significant percentage of the employment base is in agriculture-related jobs.

The bill defines a "target industry business" as a corporate headquarters business or any business engaged in certain target industries. The term does not include a business engaged in retail industry activities; an electric utility company; phosphate or other solid minerals severance, mining, or procession operation; oil or gas exploration or production operation; or a business subject to regulation by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation. A business in office administrative services (NAICS code 5611) or business support services (NAICS code 5614) may be considered a target industry business if Enterprise Florida, Inc., and the local governing body determines that the community meets certain criteria that affect the fiscal and economic viability of the local community.

The bill defines "local financial support" as funding from public or private local sources which is paid to the Economic Development Trust Fund and which is equal to 20 percent of the annual tax refund for a qualified target industry business. A qualified target industry business may not provide, either directly or indirectly, more than 5 percent of the funding in any fiscal year. Sources of the funding may not include, either directly or indirectly, state funds appropriated from the General Revenue Fund or any state trust fund, excluding tax revenues shared with local governments. Local sources may be exempt from the local financial support requirement available to an applicant whose project is located in a brownfield, a rural city, or a rural community. An applicant exercising this exemption is not eligible for more than 80 percent of the total tax refunds allowed under the program.

The bill also provides definitions for the following terms:[42]
- "Account;"
- "Authorized local economic development agency;"
- "Average private sector wage in the area;"
- "Business;"
- "Corporate headquarters business;"
- "Expansion of an existing business;"
- "Fiscal year;"
- "Jobs;"
- "New business;"
- "Project;"
- "Qualified target industry business;" and
- "Taxable year."

[42] *See* Section 6 of the bill.

Criteria

The DEO and Enterprise, Florida, Inc., must consider the following criteria in identifying target industries:

- Future growth;
- Stability;
- High Wages;
- Market and Resource Independent;
- Industrial base diversification and strengthening; and
- Positive economic impact.

The bill provides that targeted industries will be determined by January 1 of every third year, beginning January 1, 2023, by the DEO, in consultation with Enterprise, Florida, Inc., economic development organizations, the State University System, local governments, employee and employer organizations, market analysts, and economists. The list must be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Tax Refunds

Qualified target industry businesses are eligible to receive a tax refund equal to $6,000 per created job. Tax refunds may be claimed for one or more of the following taxes paid:

- Sales and use tax;
- Corporate income taxes;
- Insurance premium taxes;
- Intangible personal property taxes;
- Ad valorem taxes;
- Certain state communication services taxes; and
- Excise taxes on documents.

A qualified target industry business may not receive a refund for any amount of credit, refund, or exemption previously granted to that business for any of the aforementioned taxes. If the DEO provides for a refund and the taxes are adjusted by the application of any credit, refund, or exemption granted to the qualified target industry business, the business must reimburse the account for the amount of that credit, refund, or exemption and notify and tender the payment to the DEO within 20 days after receiving the credit, refund, or exemption. Refunds may not be spent on the relocation of a business from one community to another unless the DEO determines that, without the relocation, the business will move out of Florida, or determines the business has a compelling economic rationale for relocation and thus, result in the creation of additional jobs. A qualified target industry business that fraudulently claims a refund:

- Is liable for repayment of the amount of the refund to the account, plus a mandatory 200 percent of the tax refund, which will be deposited into the General Revenue; and
- Commits a third degree felony.[43]

[43] A third degree felony is generally punishable by up to five years in state prison and a fine not exceeding $5,000. Sections 775.082, 775.083, and 775.084, F.S.

Application and Approval Process

A business must file an application to become a qualified target industry business with the DEO before the business moves to the state or before the business expands its existing operations in the state. The application must include:

- Certain identifying information;
- The proposed permanent location of the applicant's facility;
- A description of the type of business activity covered by the project;
- The proposed number of net new full-time Florida jobs, including average wages;
- The total number of full-time equivalent employees employed by the applicant in the state;
- The anticipated commencement date of the project;
- A description of the role the estimated tax refunds to be requested would play in the decision of the applicant locating to the state or expanding in the state;
- An estimate of the proportion of sales resulting from the project that will be made outside the state;
- An estimate of the proportion of the cost of the equipment to be used by the business in the state operations that will be purchased outside the state;
- A resolution adopted by the governing board of the local government in which the project will be located recommending the applicant be approved; and
- Any additional information requested by the DEO.

Additionally, the DEO must review and evaluate each target industry business application based on, but not limited to, the following criteria:

- Expected contributions to the state's economy, consistent with the state strategic economic development plan prepared by the DEO;
- The economic benefits of the proposed award of tax refunds;
- The amount of capital investment to be made in the state by the applicant;
- The local financial commitment and support for the project;
- The expected effect of the project on the unemployed and underemployed in the county where the project will be located;
- The expected effect of the award on the viability of the project and the probability that the project would be undertaken in this state if the tax refunds are granted to the applicant;
- Whether the business activity or project is in an industry identified by the DEO as a target industry business that contributes to the economic growth of the state and the area where the business is located, produces a higher standard of living for residents, or can be shown to make an equivalent contribution to the area's and state's economic progress; and
- A review of the business's past activities in this state or other states, including whether the business has been subjected to criminal or civil fines and penalties.

When reviewing the application, the DEO must include projections of the tax refunds the business would be eligible to receive in each fiscal year based on the creation and maintenance of net new Florida jobs.

The DEO may not provide a certification if the value of the tax refunds exceeds the available amount of authority to certify new businesses pursuant to the Economic Development Trust Fund. If local financial support is less than 20 percent of the approved tax refund, then the refund must be reduced. Projects located in a brownfield area, rural city, or rural community may exercise an option of local financial support exemption; however, the applicant will then receive no more than 80 percent of the total tax refund allowed.

The letter of certification from the DEO approving an application must specify the maximum amount of tax refund that will be available to the qualified target industry business in each fiscal year, as well as the total amount of tax refunds available to the business for all fiscal years.

The bill authorizes the DEO to issue nonbinding opinion letters to prospective applicants on the applicant's eligibility and the potential refund amounts the applicant may receive.

Annual Claim for Refund

To claim a scheduled tax refund, a qualified target industry business must apply to the DEO by January 31 of each year. The DEO may grant a 30-day extension to the filing date if the request is made in writing. The business's claim for the refund must include a copy of all receipts pertaining to the payment of taxes for the refund being sought.

The DEO is authorized to waive the requirement for proof of taxes paid in future years for a qualified target industry business that provides the DEO with proof that, in a single year, the business has paid an amount of certain state taxes which is at least equal to the total amount of tax refunds that the business may receive through completion of its project.

A tax refund will be denied unless the required local financial support has been paid into the account for that refund. Additionally, if the local financial support provided is less than 20 percent of the approved tax refund, then the tax refund must be reduced. The tax refund may not exceed an amount equal to five times the amount of the local financial support received. The qualified target industry business must provide a report listing all sources of the local financial support to the DEO when the support is paid to the account.

The DEO, with assistance from the DOR if necessary, must provide written approval or disapproval of the tax refund claim by June 30 following the scheduled date for submission of the tax refund claim. If approved, the DEO must also provide the amount of the tax refund authorized to be paid to the qualified target industry business. An extension may be granted by the DEO upon the request of the business in order to provide additional information in support of the claim. The total amount of tax refund claims approved by the DEO in any fiscal year may not exceed the amount authorized pursuant to the Economic Development Trust Fund.

After approval of the tax refund, the Chief Financial Officer must issue a warrant for the amount specified in the written order. If the order is appealed, Chief Financial Officer may not issue a refund until the conclusion of all appeals of that order.

Administration by the DEO

For any claim submitted for tax credits, the DEO is authorized to verify information with regard to employment and wage levels or the payment of the taxes to the appropriate agency or authority, including the DOR or any local government or authority.

The DEO may provide a list of qualified target industry businesses to the DOR or to any local government or authority to help monitor and audit applications. The DEO may also request the assistance of those entities to monitor jobs, wages, and the payment of taxes.

Any funds specifically appropriated for tax refunds for qualified target industry businesses may not be used by the DEO for any purpose other than the payment of tax refunds.

Economic Development Trust Fund (Section 8)

The bill amends s. 288.095, F.S., to make conforming changes.

Effective Date (Section 9)

The bill takes effect July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(b) of the Florida Constitution provides that, except upon the approval of each house of the Legislature by a two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989. However, the mandates requirements do not apply to laws having an insignificant impact,[44, 45] which is $2.3 million or less for Fiscal Year 2022-2023.[46]

The Revenue Estimating Conference determined that the prior version of the bill will reduce the authority that counties have to raise revenue from the local option sales tax by $700,000 in Fiscal Year 2022-2023.[47] Staff estimates that the current version of the bill will have a similar impact. Therefore, it appears that the mandates provisions do not apply because the impact is insignificant.

B. Public Records/Open Meetings Issues:

None.

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[44] FLA. CONST. art. VII, s. 18(d).

[45] An insignificant fiscal impact is the amount not greater than the average statewide population for the applicable fiscal year multiplied by $0.10. *See* Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Impact*, (September 2011), *available at*: http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf (last visited Jan. 27, 2022).

[46] Based on the Demographic Estimating Conference's estimated population adopted on March 3, 2021. The conference packet is *available at* http://edr.state.fl.us/Content/conferences/population/archives/210303demographic.pdf (last visited Jan. 27, 2022).

[47] The Revenue Estimating Conference, 2022 Regular Session Revenue Estimating Conference: Impact Conference Results, p. 98-99 (Dec. 10, 2021), available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2022/_pdf/Impact1210.pdf (last visited Jan. 27, 2022).

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

Laws that create or raise state taxes or fees must be passed by two-thirds vote of the membership of each house of the Legislature in a separate bill that contains no other subject.[48] The bill does not increase any taxes or fees; therefore, the increased tax or fee requirements do not apply.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not determined the fiscal impact of the bill. Staff estimates a significant reduction to General Revenue fund receipts, trust fund revenue, and local government revenue in Fiscal Year 2022-2023 and in future years.

B. Private Sector Impact:

Electrical energy, natural gas, or propane purchasers; owners, lessees, or lessors of real property who use building materials to rehabilitate property in an opportunity zone; and qualified target industry businesses in opportunity zones may realize savings through various tax refunds or exemptions.

C. Government Sector Impact:

The bill will increase the DEO's costs due to administration of the requirements, procedures and limitations for annual refund claims. The DEO would also be required to review applications, issue opinion letters and administer the rural opportunity tax refund program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

[48] *See* FLA. CONST., art. VII, s. 19.

VIII. Statutes Affected:

The bill substantially amends the following sections of the Florida Statutes: 166.231, 212.02, 212.08, 288.018, 288.065, 288.0655, and 288.095.

The bill creates section 288.066 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Finance and Tax on February 10, 2022:
The CS:

- Removes a revision to the qualification criteria and tax credit amounts for new and existing businesses under the Rural Job Tax Credit Program;
- Removes a requirement for the DEO to allocate a specified amount of funds to the Florida Job Growth Grant Fund and removes a definition for "rural area of opportunity";
- Revises the definition for "opportunity zone" to restrict the provisions of the bill to opportunity zones located in rural communities;
- Expands the bill's sales tax exemption for energy to include natural gas and propane;
- Revises the matching requirement from 25 percent to 15 percent of the state contribution for grant funds received by a regional economic development organization under Regional Rural Development Grants Program;
- Removes the requirement for certain repayments to be matched in rural areas of opportunity under Rural Community Development Revolving Loan Fund;
- Revises the purpose of the Rural Infrastructure Fund; revises the authorized amounts and uses of the grants; provides that certain grants do not require local matches; and revises the requirements for review of certain applications;
- Revises the definition of the term "taxable year" under the rural opportunity tax refund program; and
- Makes other technical and conforming changes

B. Amendments:

None.