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: SB 800

INTRODUCER: Senator Albritton

SUBJECT: Economic Development

DATE: February 8, 2022 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Renner	McKay	CM	**Favorable**
2.	Covin	Babin	FT	**Pre-meeting**
3.			AP	

I. Summary:

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 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 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;
- Revises the Rural Job Tax Credit Program by removing the requirement that newly eligible businesses have a minimum of 10 qualified employees on the date of application in order to receive a tax credit, and revises the tax credit amounts and qualification criteria for employees of new and existing eligible business; and
- Requires the Department of Economic Opportunity to allocate an amount equal to 10 percent of the funds in the Florida Job Growth Grant Fund to projects within rural areas of opportunity for the first quarter of each fiscal year.

The Revenue Estimating Conference estimates that the bill will:

- Reduce General Revenue Fund receipts by $4.0 million dollars in Fiscal Year 2022-2023, and by $15.7 million in future years.
- Reduce trust fund revenue by $0.9 million in Fiscal Year 2022-2023, and by $3.5 million in future years.

- Reduce local government revenues by $4.6 million in Fiscal Year 2022-2023, and by $18.2 million in future years.[1]

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,[2] admissions,[3] transient rentals,[4] and commercial real estate rentals.[5] In addition to the state level tax, counties are authorized to levy discretionary sales surtaxes.[6] 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,[7] including building materials used in the rehabilitation of real property located in an enterprise zone.[8]

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.[9] 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.

Rural Job Tax Credit Program

The Rural Job Tax Credit Program offers an incentive for eligible businesses located within one of 36 designated qualified rural areas to create new jobs.[10] The tax credits are provided to encourage meaningful employment opportunities that will improve the quality of life of those employed and to encourage economic expansion of new and existing businesses in rural areas of

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[1] 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).

[2] Section 212.05(1)(a)1.a., F.S.

[3] Section 212.04(1)(b), F.S.

[4] Section 212.03(1)(a), F.S.

[5] Section 212.031(1)(c), F.S.

[6] Section 212.055, F.S.

[7] 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.

[8] Section 212.08(5)(g), F.S.

[9] Section 166.231(1)(a), F.S.

[10] Sections 212.098 and 220.1895, F.S.

Florida.[11] The tax credit ranges from $1,000 to $1,500 per qualified employee[12] and can be taken against either the corporate income tax or the sales and use tax.[13] The credit can only be taken against one of these two taxes.

An "eligible business" means a sole proprietorship, firm, partnership, or corporation that is located in a qualified county and is predominantly[14] engaged in, or is headquarters for a business predominantly engaged in activities classified within the following standard industrial classifications (SIC):[15]

SIC	Description
01-09	Agriculture, forestry, and fishing
20-39	Manufacturing
70	Hotels and other lodging places
422	Public warehousing and storage
781	Motion picture production and allied services
7391	Research and development
7992	Public golf courses
7996	Amusement parks
	A targeted industry eligible for the qualified target industry business tax refund[16]

A "qualified area" is defined as:[17]

- Any area that is contained within a rural area of critical economic concern;
- A county that has a population of fewer than 75,000 persons; or
- A county that has a population of 125,000 or less and is contiguous to a county that has a population of less than 75,000.

Every third year the Department of Economic Opportunity (DEO) is required to rank and tier the state's counties according to the following factors:[18]

- Highest unemployment rate for the most recent 36-month period;
- Lowest per capita income for the most recent 36-month period;
- Highest percentage of residents whose incomes are below the poverty level, based upon the most recent data available; and

[11] Chapter 97-50, s. 2, Laws of Fla.
[12] Sections 212.098(2) and 212.098(4), F.S.
[13] Section 212.098(11), F.S.
[14] "Predominantly" means that more than 50 percent of the business's gross receipts from all sources is generated by those activities usually provided for consideration by firms in the specified standard industrial classification. Section 212.098(1)(a), F.S.
[15] Section 212.098(1)(a), F.S. The Standard Industrial Classification (SIC) was replaced by the North American Industry Classification System (NAICS) in 1997. NAICS is the standard used by federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy. *See* U.S. Census Bureau, *North American Industry Classification System*, *available at* https://www.census.gov/naics/ (last visited Jan. 27, 2022).
[16] *See* s. 288.106, F.S.
[17] Section 212.098(1)(c), F.S.
[18] *Id.*

- Average weekly manufacturing wage, based upon the most recent data available.

A new eligible business may apply for a tax credit once at any time during its first year of operation. A new eligible business in a qualified area that has at least 10 qualified employees on the date of application may receive a $1,000 tax credit for each such employee.[19]

An existing eligible business may apply for a tax credit at any time it is entitled to such credit. An existing eligible business with *fewer than 50 employees* in a qualified area that on the date of application has at least 20 percent more qualified employees than it had one year prior to its date of application may receive a $1,000 tax credit for each such additional employee. An existing eligible business that has *more than 50 employees* in a qualified area that, on the date of application, has at least 10 more qualified employees than it had one year prior to its date of application may receive a $1,000 tax credit for each additional employee. An existing eligible business that received a tax credit when it was a new eligible business must wait 12 months before it can apply for a tax credit as an existing eligible business.[20]

For any new or existing eligible business receiving a tax credit, an additional $500 credit must be provided for any qualified employee who is a welfare transition program participant. The employee must be employed on the application date and have been employed less than one year. This credit is in addition to other credits under the rural job tax credit.[21]

The maximum credit amount that may be approved during any calendar year is $5 million. The Department of Revenue (DOR), in conjunction with the DEO, must notify the governing bodies in areas designated as qualified counties when the $5 million maximum amount has been reached. Applications must be considered for approval in the order in which they are received without regard to whether the tax credit is for a new or existing business.[22] A business may not receive more than $500,000 of tax credits during any one calendar year.[23]

Florida Job Growth Grant Fund

The Florida Job Growth Grant Fund (fund) was created in 2017[24] to promote economic opportunity by improving public infrastructure and enhancing workforce training.[25] The fund is housed within the DEO and may not be used for the exclusive benefit of any single company, corporation, or business entity.[26]

The DEO and Enterprise Florida, Inc., a nonprofit corporation acting as the state's economic development organization, may identify projects, solicit proposals, and make funding recommendations to the Governor.[27] The Governor is authorized to approve:[28]

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[19] Section 212.098(2), F.S.
[20] Section 212.098(3), F.S.
[21] Section 212.098(4), F.S.
[22] Section 212.098(6)(c), F.S.
[23] Section 212.098(6)(d), F.S.
[24] Chapter 2017-233, s. 15, Laws of Fla.
[25] Section 288.101(1), F.S.
[26] *Id.*
[27] Section 288.101(2), F.S.
[28] Section 288.101(2)(a)-(c), F.S.

- State or local public infrastructure projects[29] to promote economic recovery in specific regions of the state, economic diversification, or economic enhancement in a targeted industry;
- Infrastructure[30] funding to accelerate the rehabilitation of the Herbert Hoover Dike; and
- Workforce training grants to support programs at state colleges and state technical centers that provide participants with transferable, sustainable workforce skills applicable to more than a single employer, and for equipment associated with these programs.

During the 2021-2022 fiscal year, the fund was appropriated $50 million,[31] and nine infrastructure projects and three workforce training projects were approved.[32]

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.[33] 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 continue to be in effect according to their terms.[34] For Fiscal Year 2021-2022, $20.5 million was appropriated, in part, to the QTI program.[35]

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.[36]

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

[29] Section 288.101(3)(b), F.S., defines "public infrastructure" as infrastructure that is owned by the public, and is for public use or predominantly benefits the public.
[30] Section 288.101(3)(a), F.S., defines "infrastructure" as any fixed capital expenditure or fixed capital costs associated with the construction, reconstruction, or improvement of facilities that have a life expectancy of five or more years and any land acquisition, land improvement, design, and engineering costs related to it.
[31] Chapter 2021-36, s. 152, Laws of Fla.
[32] Department of Economic Opportunity, *Florida Job Growth Grant Fund Awarded Proposals, 2021-2022*, http://www.floridajobs.org/jobgrowth/awarded-proposals (last visited Jan. 27, 2022).
[33] Section 288.106(1), F.S.
[34] Section 288.106(9), F.S.
[35] Chapter 2021-36, Specific Appropriation 2244, s. 6, Laws of Fla.
[36] Section 212.08(5)(g), F.S.

available if the municipality in which the business was located had passed an ordinance to exempt the municipal utility taxes on such business.[37]

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[38] 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).[39] 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).[40] Governors can nominate up to 25 percent of their state's eligible tracts to receive the designation.[41]

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:[42]

- 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.[43]

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[37] Sections 212.08(15) and 166.231(8), F.S.
[38] Tax Cuts and Jobs Act of 2017, Pub. L. No. 115-97, § 13823, 131 stat. 2054.
[39] 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).
[40] *Id.*
[41] 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).
[42] *Id.*
[43] *Id.*

III. Effect of Proposed Changes:

Rural Opportunity Tax Refund Program (section 5)

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., creating 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 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:[44]

- "Account;"
- "Authorized local economic development agency;"
- "Average private sector wage in the area;"
- "Business;"

[44] *See* Section 5 of the bill.

- "Corporate headquarters business;"
- "Expansion of an existing business;"
- "Fiscal year;"
- "Jobs;"
- "New business;"
- "Project;"
- "Qualified target industry business;" and
- "Taxable year."

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.[45]

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.

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[45] 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.

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.

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 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., defining 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.

Sales Tax Exemptions (section 3)

The bill amends s. 212.08, F.S., exempting building materials used in the rehabilitation of real property[46] 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.

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

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 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 service, other than for construction purposes, has not been previously provided or furnished;
- Newly occupying an existing, remodeled, renovated, or rehabilitated structure where electrical 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.

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 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.

Rural Job Tax Credit Program (section 4)

The bill amends s. 212.098, F.S., removing the requirement that newly eligible businesses have a minimum of 10 qualified employees on the date of application in order to receive a tax credit under the Rural Job Tax Credit Program. Additionally, the bill increases the tax credit from $1,000 to $2,500 for each employee.

For existing eligible businesses with fewer than 50 employees on the date of application, the bill provides the business increase the number of employees from the previous year by a minimum of 10 percent, rather than 20 percent. Additionally, the bill increases the tax credit from $1,000 to $2,000 for each additional employee.

For existing eligible businesses with over 50 employees on the date of application, the bill provides the business increase the number of employees by five, rather than 10 employees. Additionally, the bill increases the tax credit from $1,000 to $1,500 for each additional employee.

Economic Development Trust Fund (section 6)

The bill amends s. 288.095, F.S., making conforming changes.

Florida Job Growth Grant Fund (section 7)

The bill amends s. 288.101, F.S., requiring the DEO to allocate an amount equal to 10 percent of the funds in the Florida Job Growth Grant Fund to projects within rural areas of opportunity for the first quarter of each fiscal year.

Effective Date (section 8)

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,[47, 48] which is $2.3 million or less for Fiscal Year 2022-2023.[49]

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

[48] 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).

[49] 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).

The Revenue Estimating Conference determined that 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.[50] Therefore, it appears that the mandates provisions do not apply because the impact is insignificant.

B. Public Records/Open Meetings Issues:

None.

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.[51] 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 estimates that the bill will reduce General Revenue Fund receipts by $4.0 million, trust fund revenues by $0.9 million, and local government revenues by $4.6 million in Fiscal Year 2022-2023.[52] By Fiscal Year 2026-2027, the bill will reduce General Revenue Fund receipts by $15.7 million, trust fund revenues by $3.5 million, and local government revenues by $18.2 million.

B. Private Sector Impact:

Electrical energy 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.

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[50] 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).

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

[52] 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. 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.

VIII. Statutes Affected:

The bill substantially amends the following sections of the Florida Statutes: 166.231, 212.02, 212.08, 212.098, 288.095, and 288.101.

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.)

None.

B. Amendments:

None.