

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 668

SPONSOR: Commerce and Economic Opportunities Committee and Senator Carlton

SUBJECT: Enterprise Zones

DATE: March 28, 2001 REVISED: 04/10/01 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Joseph</u>	<u>Maclure</u>	<u>CM</u>	<u>Favorable/CS</u>
2.	<u>Cooper</u>	<u>Yeatman</u>	<u>CA</u>	<u>Favorable/1 amendment</u>
3.	_____	_____	<u>FT</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This committee substitute (CS) allows Sarasota County, or Sarasota County and the City of Sarasota jointly, to apply to the Office of Tourism, Trade, and Economic Development for designation of one enterprise zone. It also revises the existing statute relating to satellite enterprise zones, deleting the specified date by which an eligible municipality must create a satellite enterprise zone. Deletion of the December 31, 1999, date would allow the cities of Bradenton and Ft. Pierce each to create a 1.5 square mile satellite enterprise zone. The CS provides that a satellite enterprise zone may be created retroactively to December 31, 1999. In addition, it allows for businesses in a newly created satellite zone to receive retroactively a refund of certain sales taxes paid back to that date.

This CS amends s. 290.00555, F.S., and creates s. 290.00694, F.S.

II. Present Situation:

Enterprise Zone Program

Florida established one of the first enterprise zone programs in the country in 1980 to encourage economic growth and investment in distressed areas by offering tax advantages to businesses willing to make such an investment. An enterprise zone is a specific geographic area targeted for economic revitalization. Since July 1, 1995, the state has designated 34 enterprise zones.¹

In 1994, the Legislature passed significant revisions to the Enterprise Zone Program. The original program became overwhelmed with the number of zones allowed. As a result, the

¹ Information from the March 1, 2000, *Florida Enterprise Zone Program Annual Report* by the Office of Tourism, Trade, and Economic Development.

existing zones were repealed on December 31, 1994, and parameters were established for designation of new zones. Administrative responsibilities of the program were transferred from the Department of Community Affairs to the Department of Commerce. The jobs tax credit eligibility criteria were revised to require both the business and the employee to reside within an enterprise zone.

In 1995, 19 enterprise zones were designated in urban and rural communities throughout the state. Local governments were required to establish a community-based Enterprise Zone Development Agency (EZDA). In 1996, 11 new enterprise zones were authorized by the Legislature, of which 10 submitted acceptable plans and applications. Administrative duties were transferred to the newly created Office of Tourism, Trade, and Economic Development (OTTED) upon the dissolution of the Department of Commerce. In 1997, OTTED designated the City of Fort Pierce as the 30th enterprise zone.

In 1998, the 31st enterprise zone was added when the Legislature further amended the Enterprise Zone Program by authorizing a new zone to be designated within a brownfield pilot project area (Clearwater). Also in 1998, the Legislature provided that new employees who are Work and Gain Economic Self-sufficiency (WAGES) program participants or Job Training Partnership Act classroom training participants may provide a basis for employers to claim the enterprise zone job tax credit under ss. 212.096 and 220.181, F.S., regardless of whether such employees reside in the zone.

In 1999, an enterprise zone was approved for Lake Apopka (32nd). In addition, Suwannee, Columbia, and Gadsden counties submitted applications for enterprise zone designation pending approval from OTTED. The city of Bradenton and Miami-Dade County were provided an opportunity to create satellite enterprise zones.

In 2000, there were no legislative changes made to the Florida Enterprise Zone Program. OTTED approved enterprise zones in Liberty County (33rd), and Hendry County (34th) and satellite zone boundary amendments were approved in Bradenton and Miami-Dade County.

Enterprise Zone Designation Process and Criteria

Section 290.0055, F.S., provides requirements for nominating and selecting an enterprise zone and provides size limitations depending on the community population category. This section also requires that the selected area suffer from pervasive poverty, unemployment, and general distress, as described and measured under s. 290.0058, F.S.

Section 290.0058(2), F.S., specifies that pervasive poverty must be evidenced by a showing that the poverty is widespread throughout the nominated area. The poverty rate of the nominated area shall be established using the following criteria: (a) in each census geographic block group within a nominated area, the poverty rate shall not be less than 20 percent; and (b) in at least 50 percent of the census geographic block groups within the nominated area, the poverty rate shall not be less than 30 percent.

Section 290.0065, F.S., outlines the process for designating an enterprise zone. It authorizes OTTED to designate no more than a total of 20 zones to be placed in five population categories. Each application is to be ranked competitively within the appropriate category based on the

pervasive poverty, unemployment, and general distress of the area. Areas are to develop a strategic plan and be evaluated on the following key principles:

- economic opportunity, including job creation within the community and throughout the region, as well as entrepreneurial initiatives, small business expansion, and training for jobs that offer upward mobility;
- sustainable community development that advances the creation of livable and vibrant communities through comprehensive approaches that coordinate economic, physical, community, and human development;
- community-based partnerships involving the participation of all segments of the community;
- strategic vision for change that identifies how the community will be revitalized; and
- local incentives should induce economic revitalization, including job creation and small business expansion.

Section 290.0066, F.S., provides the director of OTTED with the ability to revoke the designation of an enterprise zone if the governing bodies:

- have failed to make progress in achieving the benchmarks set forth in the strategic plan; or
- have not complied substantially with the strategic plan. Failure to enact and maintain the local fiscal and regulatory incentives committed to by the governing bodies for two consecutive calendar years is to result in the automatic termination of enterprise zone designation.

Satellite Enterprise Zones

Section 290.00555, F.S., provides that before December 31, 1999, an eligible municipality may create a satellite enterprise zone not exceeding 1.5 square miles. To be eligible to create a satellite zone, the municipality must have an area that has previously received designation as an enterprise zone in the zone category for communities with a population of 20,000 but less than 50,000 persons. The satellite zone may be outside of and in addition to the previously designated zone boundaries. OTTED is required to amend the boundaries of the previously designated enterprise zone, upon receiving a resolution adopted by the municipality describing the satellite zone area.

Program Incentives and Costs

Costs of the enterprise zone program have increased as new areas have been added. The total cost of state and local incentives was \$11.2 million in fiscal year (FY) 1996-97 and \$13 million in FY 1997-98. Costs increased by \$11 million in FY 1998-99 totaling \$24 million in state and local incentives (\$5.2 million in state tax incentives approved by the Department of Revenue, and \$18.8 million in incentives provided by the local governing bodies; however, some of the local incentives provided are federal pass-through funds). In FY 1999-00 the total program cost dropped back down to \$15 million despite an increase of \$300,000 in state program spending. The drop was due to local government incentives declining \$8.7 million.

The financial incentives available to businesses located within a designated zone and the fiscal year 1999-00 incentive costs are as follows:²

- **Enterprise Zone Jobs Tax Credit (Corporate Income Tax and Sales Tax):** Businesses located in a zone are allowed a credit against their corporate income and sales taxes for 10 percent of the wages paid to new employees who have been employed for at least three months and are residents of an enterprise zone. A 15 percent enhanced credit is provided to employers if 20 percent of their employees are zone residents (s. 212.096 and s. 220.181, F.S.); \$2,058,538.
- **Enterprise Zone Property Tax Credit (Corporate Income Tax):** New or expanded businesses located in a zone are allowed a credit on their Florida Corporate Income Tax equal to 96 percent of ad valorem taxes paid on the new or improved property (the assessment rate varies by county) (s. 220.182, F.S.); \$545,409.
- **Sales Tax Refund for Building Materials Used in an Enterprise Zone:** A refund is available for sales taxes paid on the purchase of building materials used to rehabilitate real property located in a zone (s. 212.08(5)(g), F.S.); \$334,668.
- **Sales Tax Refund for Business Property Used in an Enterprise Zone:** A refund is available for sales taxes paid on the purchase of certain business property, which is used exclusively in a zone for at least three years (s. 212.08(5)(h), F.S.); \$2,188,606.
- **Sales Tax Exemption for Electrical Energy Used in an Enterprise Zone:** A 50 percent sales tax exemption is available to qualified businesses located in a zone on the purchase of electrical energy (s. 212.08(15), F.S.); \$331,614.
- **Community Contribution Tax Credit Program:** Businesses located anywhere in Florida are allowed a 50 percent credit on Florida Corporate Income Tax or Insurance Premium Tax for donations made to approved local community development projects located in an enterprise zone (or a low income housing project located anywhere) (s. 220.183 and s. 624.5105, F.S.); \$4,041,271.
- **Enterprise Zone Linked Deposit Program:** Financial institutions in certain enterprise zones are selected to receive matching funds to provide loans or lines of credit to individuals for small business startup, expansion, working capital or inventory financing. This part of the enterprise zone program was repealed on June 30, 2000 (s. 290.0075, F.S.).

III. Effect of Proposed Changes:

Section 1 amends s. 290.00694, F.S., to allow Sarasota County, or Sarasota County and the City of Sarasota jointly, to apply to OTTED for designation of one enterprise zone, notwithstanding the provisions of s. 290.0065, F.S., limiting the total number of enterprise zones designated and the number of zones within a given population category.

Section 2 amends s. 290.00555, F.S., to revise the provision related to satellite enterprise zones, deleting the specific date by which an eligible municipality must create a satellite enterprise zone. To be eligible to create a satellite zone, the municipality must have an area that has previously received designation as an enterprise zone in the zone category for communities with a population of 20,000 but less than 50,000 persons. Deletion of the December 31, 1999, date

² Office of Tourism, Trade, and Economic Development (OTTED), Executive Office of the Governor, *Florida Enterprise Zone Program: Annual Report*, March 1, 2001.

would allow the cities of Bradenton and Ft. Pierce each to create a 1.5 square mile satellite zone. The city of Bradenton applied for a satellite zone prior to December 31, 1999, and received approval to add the satellite zone to its existing enterprise zone program in 2000. The bill allows by August 1, 2001, the city of Bradenton to apply for an additional satellite zone and the city of Ft. Pierce to apply for its first satellite zone, and requires OTTED to amend the boundaries by September 1, 2001.

Section 3 provides that businesses in any newly created satellite zone created pursuant to s. 290.00555, F.S., receive retroactively a refund of certain sales taxes paid back to December 31, 1999, from the date the satellite zone is approved. The refund applies to sales taxes paid within the satellite zone and which would have been eligible for exemption or credit had the satellite zone actually been in existence. The enterprise zone sales tax components approved for refund include:

- The sales tax exemption for building materials used in an enterprise zone (s. 212.08(5)(g), F.S.);
- The sales tax exemption for business property used in an enterprise zone (s. 212.08(5)(h), F.S.);
- The enterprise zone jobs tax credit against sales tax (s. 212.096 F.S.).

The incentives described above inure to the eligible business in the form of a refund of previously paid taxes or in the form of a sales tax credit by statutory requirement.

This committee substitute takes effect upon becoming a law.

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

IV. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The Revenue Estimating Conference considers the new zone, the new satellite zone, and the retroactive repayment of sales taxes in the satellite zone to be insignificant in cost.

B. Private Sector Impact:

This committee substitute may generate positive indeterminate effects resulting from the availability to businesses of various tax incentives provided under the enterprise zone program.

C. Government Sector Impact:

This bill may result in increased costs for the Office of Tourism, Trade, and Economic Development (OTTED) in carrying out activities related to the designation of a new enterprise zone or the creation of satellite enterprise zones. In addition, the bill may result in increased costs for OTTED and the Department of Revenue (DOR) to review and approve tax incentives granted to businesses in a newly designated zone or satellite enterprise zone.

V. Technical Deficiencies:

DOR has expressed some concerns that the satellite zone provision affected by the elimination of the December 31, 1999, date has no time limitation and should sunset to prevent unintended zones from being able to claim satellite privileges. Section 3 of the committee substitute does provide an August 1, 2001, deadline for the submission to the Office of Tourism, Trade, and Economic Development of resolutions adopted to create satellite enterprise zones. If the intent of the Legislature is to have this date apply to creation of all satellite zones, it may wish to codify the date within the language of s. 290.00555, F.S.

VI. Related Issues:

None.

VII. Amendments:

#1 by Comprehensive Planning, Local and Military Affairs

This amendment adds an additional provision to expand the boundaries of Orange County's enterprise zone.