

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 573 Enterprise Zones
SPONSOR(S): Jennings and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1204

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Economic Development, Trade & Banking Committee		Carlson	Carlson
2) Finance & Tax Committee			
3) Commerce Council			
4) _____			
5) _____			

SUMMARY ANALYSIS

The bill amends various provisions of the Enterprise Zone Act of 1994 (Act) and related tax incentives, to do the following:

- Authorize enterprise zone boundary amendments approved by the Governor's Office of Tourism, Trade and Economic Development;
- Provide for recertification of existing enterprise zones;
- Reduce the amount of refunds and lowers the dollar threshold for refundable business property;
- Provide for transfer of unused enterprise zone tax credits; and
- Extend the repeal date of the Act to December 31, 2015.

The Revenue Estimating Conference has estimated the statewide fiscal impact to be (\$11.1) in 2005-06 and (\$11.1) in 2006-07.

The bill has an effective date of July 1, 2005.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Lower Taxes – The bill will provide tax incentives for businesses that relocate to or expand in an Enterprise Zone.

Empower Families – The bill will incentivize job creation by offering tax incentives to businesses that relocate to or expand in an Enterprise Zone.

B. EFFECT OF PROPOSED CHANGES:

Enterprise Zone Program

In 1980, Florida established one of the first enterprise zone programs in the country to encourage economic growth and investment in distressed areas. An enterprise zone is a specific geographic area targeted for economic revitalization.

The purpose of enterprise zones is to assist local communities, their residents, and the private sector in creating the environment to induce the investment of private resources in business enterprises located in severely distressed areas and to provide jobs for residents in the area. Under the Enterprise Zone Act of 1994 [ss.290.001-290.016, F.S.], areas of the state meeting specified criteria have been designated as enterprise zones.

According to the Office of Tourism, Trade, and Economic Development (OTTED), since July 1, 1995, the state has designated 55 enterprise zones. State and local incentives are authorized to induce businesses to invest in enterprise zone which, in turn, offers a number of tax advantages to such businesses willing to make such an investment. Based on data from OTTED, there are currently 27 rural enterprise zones statewide encompassing 1,214 square miles and 111,638 residents.

The Enterprise Zone Act expires on December 31, 2005.

State and Local Incentives Available to Businesses in Enterprise Zones

Below are incentives provided to encourage the revitalization of enterprise zones:

- Enterprise zone jobs credit provided in s. 220.181, F.S.
- Enterprise zone property tax credit provided in s. 220.182, F.S.
- Sales tax exemption for building materials used in the rehabilitation of real property in enterprise zones provided in s. 212.08(5)(g), F.S.
- Sales tax exemption for business property used in an enterprise zone provided in 212.08(5)(h), F.S.
- Sales tax exemption for electrical energy used in an enterprise zone provided in s. 212.08(15), F.S.
- Enterprise zone jobs credit against the sales tax provided in s. 212.096, F.S.
- Occupational license tax exemption in s. 205.054, F.S.
- Economic development ad valorem tax exemption in s. 196.1995, F.S.

Enterprise Zone Jobs Credit – Corporate Income Tax

Businesses located in an enterprise zone that pay Florida corporate income taxes are authorized to receive a tax credit against their corporate income tax based on the amount of wages paid to new employees who are either residents of an enterprise zone or participants in a welfare transition

program. [Section 220.181, F.S. This section expires June 30, 2005]

Enterprise Zone Property Tax Credit - Corporate Income Tax

New, expanded, or rebuilt businesses located within an enterprise zone are allowed a credit on their Florida corporate income tax based on the amount of property taxes paid. [Section 220.181, F.S. This section expires June 30, 2005]

Exemption for Building Materials Used in an Enterprise Zone – Sales Tax

A refund is available for sales taxes paid on the purchase of building materials used in the rehabilitation of real property used in an enterprise zone. The amount of the refund is 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. [Section 212.08(5)(g), F.S. This section expires December 31, 2005]

Exemption for Business Property Used in an Enterprise Zone – Sales Tax

A refund is available for sales taxes paid on the purchase of business property with a purchase price of \$5,000 or more purchased by and for use in a business located in an enterprise zone. The amount of the refund is 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. [Section 212.08(5)(h), F.S. This section expires December 31, 2005]

Exemption for Electrical Energy Used in an Enterprise Zone – Sales Tax

A sales tax exemption is available to qualified businesses located in an enterprise zone on the purchase of electrical energy. The amount of the exemption is equal to 50 percent of the sales taxes otherwise due or 100 percent of the sales taxes otherwise due if 20 percent or more of the business's employees reside in an enterprise zone. This exemption is only available if the municipality in which the business is located has passed an ordinance to exempt the municipal utility taxes on such business. [Sections 212.08(15) and 166.231(8), F.S. This exemption expires December 31, 2005]

Enterprise Zone Jobs Credit – Sales Tax

Businesses located within an enterprise zone that collect and pay Florida sales and use tax are allowed a credit against their sales tax due based on the amount of wages paid to new employees who are either residents of an enterprise zone or participants in a welfare transition program. [Section 212.096, F.S. This section expires December 31, 2005]

Occupational License Tax Exemption

By ordinance, the governing body of a municipality may exempt 50 percent of the occupational license tax for businesses located in an enterprise zone. [Section 205.054, F.S. This section expires December 31, 2005]

Economic Development Ad Valorem Tax Exemption

Up to 100 percent of the assessed value of improvements to real or tangible property of a new or expanded business located in an enterprise zone may be exempted from property taxes if the voters of a municipality authorize the governing body of the municipality to grant such exemptions. [Section 196.1995, F.S.]

Enterprise Zones and Sales Tax Exemption

An incentive for all designated enterprise zones is a sales tax for building equipment used in an enterprise zone. Currently, businesses located within any enterprise zone are eligible for a sales tax refund if the unit value of the equipment is \$5,000 or more [section 212.08(5)(h)].

According to Enterprise Florida, Inc., small businesses make up the majority of businesses located in all enterprise zones. The sales tax refund as currently structured cannot be assessed by the majority of businesses considering locating to or expanding in an enterprise zone.

Enterprise Zone Designation Process and Criteria

Section 290.0055, F.S., prescribes the local procedures for the nomination of an enterprise zone. The governing bodies or body of a county and/or a municipality must adopt a resolution which:

1. Finds that an area exists in such a county or municipality, or in both the county and one or more municipalities, which chronically exhibit extreme and unacceptable levels of poverty, unemployment, and economic disinvestment;
2. Determines that the rehabilitation, conservation, or redevelopment of the area is necessary in the interest of the public health, safety, and welfare of the residents of the county or municipality, or the county and one or more municipalities; and
3. Determines that the revitalization of the area can occur only if the private sector can be induced to invest its own resources in productive enterprises that build or rebuild the economic viability of the area.

The governing body or bodies of a nominated area must also create an enterprise zone development agency and create and adopt an enterprise zone strategic plan prior to the submission of an application to OTTED.

The enterprise zone development agency created is responsible for assisting with the development and implementation of the enterprise zone strategic plan. The enterprise zone strategic plan is the community's plan for revitalizing the nominated area and contains commitments to enact and maintain local fiscal and regulatory incentives if the nominated area receives an enterprise zone designation.

Determination of Poverty, Unemployment, and General Distress

OTTED may designate the nominated area as an enterprise zone if the selected area suffers from pervasive poverty, unemployment, and general distress. To determine whether an area suffers from pervasive poverty, census data must show that the poverty rate for each census block within the nominated area is at least 20 percent. The poverty rate must also exceed 30 percent in at least 50 percent of the census geographic block groups within the nominated area.

If a census block group within a nominated area has no population, it is considered to have a 20-percent poverty rate. Unemployment is evidenced by data indicating that the unemployment rate is equal to or greater than the state's unemployment rate or by evidence indicating severe economic conditions for the area. General distress is evidenced by such factors as a high crime rate, abandoned structures, and deteriorated infrastructure or substantial population decline.

Amendments of Enterprise Zone Boundaries

Section 290.00675, F.S., authorizes OTTED to amend the boundaries of an area designated as an enterprise zone in a community having a population of at least 235,000 persons but no less than 245,000 persons as long as the area so designated does not increase the overall size of the enterprise

zone by greater than 25 acres and the increased area is contiguous to the existing enterprise zone. The amendment must meet the local nominating requirements of s. 290.0055, F.S.

OTTED may also amend the boundary of an enterprise zone in a community having a population of 50,000 but less than 60,000 so long as the area does not increase the overall size of the zone by greater than 400 acres and the increased area is contiguous to the existing zone. An amendment must meet the local nominating requirements of s. 290.0055, F.S.

Sections 290.00676 and 290.00679, F.S., provided authority for amendments to rural enterprise zone boundaries, but local enterprise zone development agencies had to apply by the end of 2003 for such amendments. There is no current provision allowing boundary amendments to rural enterprise zones.

Proposed Changes

Enterprise Zone Boundary Amendments

The bill authorizes OTTED to approve a request to amend an enterprise zone boundary created or recertified after September 1, 2005, subject to the following requirements:

- The amendment does not increase the overall size of the zone beyond 20 square miles;
- The amendment meets the requirements for demonstration of pervasive poverty, unemployment and general distress;
- The local enterprise zone development agency makes the request and provides OTTED with sufficient information to enable it to evaluate compliance with the Act and to provide a justification of the amendment;
- OTTED must act on the request within 30 days.

Recertification of Existing Enterprise Zones

The bill also allows enterprise zones existing as of December 31, 2004 to request recertification to OTTED and requires all reasonable requests to be approved. A recertification request must include;

- A description of the progress made in the zone measured against the zone strategic plan;
- A statement of the goals for the following calendar year, including number of new jobs, housing starts and infrastructure projects and new capital investment; and
- A narrative description of the zone with address ranges.

Enterprise Zone Business Property Tax Exemption

The bill revises the amount of tax refunded on purchases of business property to the lesser of 97 percent of the sales tax paid or \$500 (changing it from \$5,000). In cases where no less than 20 percent of the employees of the business are residents of the enterprise zone, the amount refunded is the lesser of 97 percent of the sales taxes paid or \$1,000 (changing it from \$10,000). This change will result in the reduction of the amount of the refund in cases where the amount of taxes paid is over \$500 or \$1,000, respectively.

The bill also redefines the exclusion of business property eligible for the exemption to property valued at under \$500 per unit (changing it from \$5,000). This will allow purchasers of units of equipment values at \$500 or more to avail themselves of the tax exemption.

Transfer of Unused Tax Credits

The bill authorizes the transfer of any unused tax credit in whole or in units or no less than 25 percent of the remaining credit to another entity. The acquiring entity must use the credit in compliance with ss.

212.096 and 212.181. Transferred credits may not be transferred a second time but may succeed to a surviving or acquiring entity under the same terms as provided for the original transfer.

Repeal of Enterprise Zone Act

The bill extends the date of repeal of the Act to December 31, 2015 (from 2005).

C. SECTION DIRECTORY:

Section 1. Creates unnumbered section of law authorizing the Office of Tourism, Trade and Economic Development to approve enterprise zone boundary changes and providing for recertification of existing zones.

Section 2. Amends s. 212.08, F.S., relating to the enterprise zone business property tax exemption, changing the exemption amount and threshold.

Section 3. Amends s. 290.007, F.S., relating to state incentives for enterprise zones, to allow the transfer of unused credits.

Section 4. Amends s. 290.016, F.S., to extend the Enterprise Zone Act until December 31, 2015.

Section 5. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference has estimated the following impact on state government revenues:

FY 2005-06 (annualized) (\$9.5 million)	FY 2005-06 (\$5.3)	FY 2006-07 (\$9.5)
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2. Expenditures:

The bill does not appear to have an impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has estimated the following impact on state government revenues:

FY 2005-06 (annualized) (\$1.6 million)	FY 2005-06 (\$.9)	FY 2006-07 (\$1.6)
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2. Expenditures:

The bill does not appear to affect local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See Fiscal Comments.

D. FISCAL COMMENTS:

The bill will have a total fiscal impact as follows:

FY 2005-06 (annualized) (\$11.1 million)	FY 2005-06 (\$6.2)	FY 2006-07 (\$11.1)
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III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not reduce the percentage of state tax shared with municipalities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill sponsor did not intend to limit the amount of tax refunds allowed under s. 212.08(5)(h), F.S. by reducing the refund amount to \$500 and \$1,000. This appears to have been a drafting error.

Sections 1, 2 (except for the apparent drafting error) and 4 of the bill are identical to similar provisions in HB 1725 (PCB EDTB 05-05).

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.