

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 or a designated urban high-crime area.

Empower Families – The bill will incentivize job creation by offering tax incentives to businesses that relocate to or expand in an Enterprise Zone or a designated urban high-crime area.

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.

Urban High-Crime Job Tax Credit Program

The Urban High-Crime Job Tax Credit program was created in ch. 97-50, L.O.F. The program provides job tax credits for businesses engaged in agriculture, forestry, fishing, manufacturing, public warehousing and storage, hotels and other lodging places, and research and development, public golf courses and amusement parks, if such businesses are located in specific high crime areas and based on the number of employees the businesses hire.

The program requires OTTED to rank areas into tiers along the following criteria:

1. Highest arrest rates within the geographic area for violent crime and for such other crimes as drug sale, drug possession, prostitution, vandalism, and civil disturbances;
2. Highest reported crime volume and rate of specific property crimes such as business and residential burglary, motor vehicle theft, and vandalism;
3. Highest percentage of reported index crimes that are violent in nature;
4. Highest overall index crime volume for the area; and
5. Highest overall index crime rate for the geographic area.

The program classifies high crime areas as “tiers” with tier-one areas ranked 1 to 5 representing the highest crime areas; tier-two areas being ranked as 6 to 10; and tier-three ranked 11 to 15.

New eligible businesses in tier-one areas which have at least 10 qualified employees on the date of application for a credit receive a \$1,500 tax credit for each employee. Qualified businesses in tier-two that have at least 20 qualified employees on the date of application receive a \$1,000 tax credit for each employee. Qualified businesses in tier-three that have at least 30 qualified employees on the date of application receive a \$500 tax credit per employee. New eligible businesses may also qualify for an addition credit of \$500 per qualified employee that is a welfare transition participant.

An existing eligible business in a tier-one area which on the date of application for a credit has at least 5 more qualified employees than it had one year prior to the date of application receives \$1,500 for each additional employee. An existing eligible business in a tier-two area which on the date of application for a credit has at least 10 more qualified employees than it had one year prior to the date of application receives \$1,000 for each additional employee. An existing eligible business in a tier-three area which on the date of application for a credit has at least 15 more qualified employees than it had one year prior to the date of application receives \$500 for each additional employee.

The governing body of the area to be nominated is required to apply to OTTED for approval.

The program limits the size and population of high crime areas as follows:

- No area may exceed 20 square miles;
- For communities that have a population of 150,000 or more, the selected area must not exceed 20 square miles;

- For communities with populations of 50,000 to 149,999, the selected area must not exceed 10 square miles;
- For communities with populations of 20,000 to 49,999, the selected area must not exceed 5 square miles; and
- For communities having a population of less than 20,000, the selected area must not exceed 3 square miles.

The maximum credit amount that may be approved in one year is \$5 million, of which \$1 million is reserved for tier-one areas.

A total of \$12,430,000 in tax credits have been approved for 12 of the 13 Urban High-Crime Job Tax Credit Areas since 1999.¹ The thirteenth area, Ocala, has not been approved for any credits to date. The total credits approved by area are broken down as follows:

Ft. Lauderdale	\$127,000
Pompano Beach	\$178,000
Miami-Dade (1308)	\$1,523,500
Miami-Dade (1310)	\$749,000
Miami-Dade (1315)	\$122,000
Jacksonville	\$763,500
Tampa	\$39,000
Tallahassee	\$63,000
Orlando	\$7,111,500
Palm Beach	\$1,162,500
St. Petersburg	\$189,000
Lakeland	\$402,000

Proposed Changes

Urban High-Crime Job Tax Credit Program

The bill renames the Urban High-Crime Job Tax Credit Program the “Designated Urban Job Tax Credit Program” and conforms the name change throughout.

The bill includes target industry businesses eligible for a target industry tax refund under s. 288.106 F.S., as businesses eligible to participate in the job tax credit program.

The bill defines a “designated urban job tax credit area” to mean that area selected by OTTED based on a ranking of areas nominated according to the highest level of distress experienced in specific categories and requires OTTED to designate the 30 highest distress areas as eligible participants under the program. The bill repeals the current prioritized criteria and tiers. The bill also defines a “designated urban job tax credit area” to include an area designated as a federal Empowerment Zone pursuant to the Community Tax Relief Act of 2000.

The bill defines a “central business district” to mean an area comprised of at least 80 percent commercial and governmental buildings and properties that are characterized by a high concentration of retail businesses, service businesses, offices, theaters, and hotels and is located in a Department of Transportation urban service area.

The bill defines “urban” to mean a densely populated nonrural area located within an urban county that consists of a cluster of one or more census blocks, each of which has a population density of at least 400 people per square mile, or an area defined as urban by the most recent United States Census.

¹ Source: Office of Tourism, Trade and Economic Development data. Summary on file with Economic Development, Trade and Banking Committee.

The bill flattens the tax credits available to eligible businesses, providing only for a credit of \$1,000 (as opposed to \$500 to \$1,500 depending on the tier classification). The bill also provides for a \$1,000 tax credit for businesses existing in a designated urban job tax credit area that have at least 5 more qualified employees than they had one year prior to their date of application.

The bill revises the eligibility criteria for an area to be designated as a urban job tax credit area and requires the governing body of the entity including the area to demonstrate to OTTED the following:

Income characteristics:

- Forty percent of area residents are earning wages on an annual basis that are equal to or less than the annual wage of a person who is earning minimum wage; or
- More than 20 percent of residents or families live below the federal standard of poverty for individuals or a family of four;

Education Characteristics:

- The area has a high school dropout rate higher than the county average; or
- Has a high school graduation rate lower than the state average;

Workforce and Employment Characteristics:

- The area has an unemployment rate at least three percentage points higher than the state's unemployment rate;
- More than 50 percent of families subject to welfare-to-work transition time limit are either within 6 months of the limit or are receiving cash assistance under a period of hardship extension to the time limit; or
- The area is identified as a labor surplus area;

Crime Characteristics:

- The area has an arrest rate higher than the state's average rate for such crimes as drug sale, drug possession, prostitution, vandalism, and civil disturbances;
- The area ranks in the top 30 percent of zip codes with reported crimes that are violent in nature;

Residential and Commercial Property-Related Characteristics:

- Fifty percent or more of area residents rent; or
- Property values are within the lower 50 percent of the county's assessed property values;
- More than five percent of area homes, apartments or buildings are abandoned or have been condemned within the previous 24 months or have a greater number of violations of the Florida Building Code than recorded in the remainder of the county or municipality; or
- Tax or special assessment delinquencies exceed the fair value of the land.

The bill revises population and distance criteria by requiring the designated urban job tax credit areas to be within 10 miles of the central business district of a city if the area has a total population of 150,000 persons or more; to be within 7.5 miles of the central business district of a city if the area has a total population of 50,000 persons or more but fewer than 150,000; to be within 5 miles of the central business district of a city for areas having total population of 20,000 persons or more but fewer than 50,000; and to be within three miles of the central business district for areas having a total population of fewer than 20,000 persons.

The bill excludes from a designated urban job tax credit area any portion of a central business district unless the poverty rate for each census geographic block group in the district is at least 30 percent.

Transfer of Unused Credits – Designated Urban Job Tax Credit and Rural Job Tax Credit Programs

The bill also provides for transfers of unused credits in units of no less than 25 percent of the remaining credit and provides limitations on the use of such credits and any successive transfer with an exception for a succeeding entity.

Enterprise Zone Business Property Tax Exemption

The bill 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. The bill also changes the date of application of the business property exemption to July 1, 2005 (instead of 2000).

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.

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 map of the zone;
- 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.

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. Amends s. 212.08, F.S., relating to the enterprise zone business tax exemption, to lower the threshold of property that eligible for the exemption from \$5,000 to \$500 per unit and to provide conforming changes.

Section 2. Amends s. 212.097, F.S., relating to the Urban High-Crime Job Tax Credit Program, renaming it as the Designated Urban Job Tax Credit Area Program; including businesses identified as qualified target industry businesses in the program; redefining the "designated urban job tax credit;"

providing definitions; limiting the amount of tax credit of \$1,000; requiring designation criteria; providing for the transfer of credits.

Section 3. Amends s. 212.098, F.S., relating to the Rural Job Tax Credit Program, to allow for transfer of unused credits.

Section 4. Amends s. 220.1895, F.S., relating to Rural Job Tax Credits and Urban High-Crime Job Tax Credits, to conform name changes.

Section 5. Amends s. 288.99, F.S., relating to the Certified Capital Company Act, to conform name changes.

Section 6. Amends s. 290.007, F.S., relating to enterprise zone tax incentives, to allow for the transfer of unused credits.

Section 7. Creating an unnumbered section of law authorizing OTTED to approve enterprise zone boundary changes and providing for recertification of existing enterprise zones.

Section 8. Amending s. 290.016, F.S., relating to repeal of the Enterprise Zone Act of 1994; extending the date of repeal to December 21, 2015.

Section 9. Providing an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

The bill appears not to have a fiscal impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

The bill appears not to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will reduce the amount of a credit that a business in a designated urban job tax credit area may receive from a maximum of \$1,500 per employee to a maximum of \$1,000 per employee. At the same time, it will raise the minimum credit to \$1,000 per employee.

D. FISCAL COMMENTS:

This bill has not been reviewed by the Revenue Estimating Conference. However, the Conference did evaluate identical provisions in HB 573 regarding the extension of the repeal date; enterprise zone boundary amendments; the lowered threshold for the enterprise zone business property tax exemption;

and the transfer of unused enterprise zone credits. The Conference's worksheet contained the following cost data used to reach its consensus:

Transfer of Unused Credits	\$505,944
Enterprise Zone Boundary Changes	\$630,435
Business Property Tax Exemption	\$1,615,911
Extension of Repeal Date	\$3,023,631

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:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES