

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 865 CS

Enterprise Zone Incentives to Serve the Uninsured

SPONSOR(S): Quinones

TIED BILLS:

IDEN./SIM. BILLS: SB 2588

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Economic Development, Trade & Banking Committee</u>	<u>13 Y, 0 N, w/CS</u>	<u>Olmedillo</u>	<u>Carlson</u>
2) <u>Health Care General Committee</u>	<u></u>	<u></u>	<u></u>
3) <u>Finance & Tax Committee</u>	<u></u>	<u></u>	<u></u>
4) <u>Commerce Council</u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

The bill creates an exemption through a refund of previously paid sales taxes for the purchase and use of medical equipment and supplies by a health care facility providing primary care services to the uninsured and located in an enterprise zone. The bill provides the following:

- A definition of “medical equipment”, “medical supplies” and “health care facility”.
- A limit on the property subject to refund of the first \$500,000 of medical equipment and supplies purchased and used by a facility any taxable year.
- Procedures for application for and approval of eligibility for tax exemption.
- Rulemaking authority for DOR.
- Assessment of penalties and interest in the event DOR determines medical equipment or supplies for which a refund is sought has been used outside an enterprise zone; and
- Revision of Enterprise Zone Development Authority boards to allow appointment of a person who is employed in the health care field.

The Revenue Estimating Conference has not estimated the fiscal impact of the bill.

The bill has an effective date of July 1, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Lower Taxes – The bill creates a tax exemption for health care facilities and community health care centers providing services to the uninsured and located in an enterprise zone.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

Florida Enterprise Zone Program

The Florida Enterprise Zone Act (act), codified in ss. 290.001-290.016, F.S., was created:

to provide the necessary means to assist local communities, their residents, and the private sector in creating the proper economic and social environment to induce the investment of private resources in productive business enterprises located in severely distressed areas and to provide jobs for residents of such areas.¹

The Florida Enterprise Zone Act of 1994 was scheduled to be repealed on December 31, 2005, but was re-enacted as the Florida Enterprise Zone Act (act) by ch. 2005-287, L.O.F., for an additional ten years, and is now scheduled to be repealed December 31, 2015.

Under the act, areas of the state meeting specified criteria, including suffering from pervasive poverty, unemployment, and general distress, have been designated as enterprise zones. The act established a process for the nomination and designation of a maximum of 20 enterprise zones in 1994.² Subsequently, the Legislature has designated additional zones. Currently, there are 55 enterprise zones in the state. When the Enterprise Zone Act was re-enacted by ch. 2005-287, L.O.F., the 53 existing enterprise zones were allowed to apply for re-designation; 51 of 53 have been re-designated. Four of the 55 enterprise zones were created by ch. 2005-244, L.O.F.: City of Lakeland, Indian River County, Sumter County, and Orange County. There are also three Federal Enterprise Communities and two Federal Empowerment Zones. Certain federal, state, and local incentives are authorized to induce private businesses to invest in these enterprise zones.

State Incentives

The program's incentives are as follows:

- Jobs credit against sales or corporate income taxes: In order to be eligible, businesses must increase the number of full time jobs. The credit amount varies based on job location and wage of employee.³
- Property tax credit: 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.⁴
- Sales tax refund for building materials: A refund is available for sales taxes paid on the purchase of building materials used in the rehabilitation of real property 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

¹ Section 290.003, F.S.

² Sections 290.0055 and 290.0065, F.S.

³ Sections 212.096 and 220.181, F.S.

⁴ Section 220.182, F.S.

percent or more of the business's employees reside in an enterprise zone, the lesser of 97 percent of the sales taxes paid or \$10,000.⁵

- Sales tax refund for business property used in an enterprise zone: 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 \$10,000.⁶

Local Incentives

The following are examples of local incentives:

- Sales tax exemption for electrical energy used in an enterprise zone: A sales tax exemption (state and local taxes) is available to qualified businesses located in an enterprise zone on the purchase of electrical energy. 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.⁷
- 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.⁸
- 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.⁹
- Local impact fee abatement or reduction, or low-interest or interest-free loans, or grants to businesses.¹⁰

State Agencies

The Governor's Office of Tourism, Trade, and Economic Development (OTTED) administers the Florida Enterprise Zone Act; the Department of Revenue (DOR) reviews and approves or denies a business's application for enterprise zone tax credits; and Enterprise Florida, Inc., is responsible for marketing the act.

Medical Equipment Exemption

Current law exempts medical products and supplies or medicine dispensed according to a prescription and common household remedies from the sales and use tax.¹¹ In addition, the law grants an exemption for prosthetic and orthopedic appliances.¹²

Effect of Proposed Changes:

Medical Sales and Use Tax Exemption

The bill creates a tax exemption on the purchase and use of medical equipment and supplies by a health care facility providing primary care services to the uninsured and located in an enterprise zone.

The bill provides the following definitions:

- Medical equipment: durable medical equipment that can be used repeatedly that serves a medical purpose in the diagnosis, treatment or care of an individual.
- Medical supplies: items that are consumable, expendable, disposable or non-durable that serve a medical purpose in the diagnosis, treatment or care of an individual.

⁵ Section 212.08(5)(g), F.S.

⁶ Section 212.08(5)(h), F.S.

⁷ Sections 212.08(15) and 166.231(8), F.S.

⁸ Section 196.1995, F.S.

⁹ Section 205.054, F.S.

¹⁰ Section 290.0057(1)(e), F.S.

¹¹ Section 212.08(2)(a), F.S.

¹² Id.

- Health care facility: a facility licensed pursuant to chapter 395 or a county health department, a children's medical services program, a federally qualified health center, a federally funded migrant health center, rural clinic, or other publicly funded community health program, and other programs designated by the Department of Health as a community health center that provide primary care services to the uninsured.

The bill limits the exemption to the first \$500,000 of equipment and supplies purchased and used by a facility in any taxable year. In addition, the bill provides that the exemption inures to the benefit of the health care facility as a refund of previously paid taxes.

The bill requires that a facility must first seek approval from the governing body or enterprise zone development agency having jurisdiction of the enterprise zone where the facility is located. Specifically, the bill provides that the applicant must complete an application, under oath, that includes information such as the name and address of the facility, the identifying number assigned to the enterprise zone in which the facility is located, a definition of the facility's taxable year, a specific description of the medical equipment and supplies for which a refund is sought, specific proof of the purchase of the medical equipment and supplies, and a statement that the facility serves uninsured patients.

The bill allots the governing body or enterprise zone development agency 10 working days from receipt of the application to review it and determine the applicant's eligibility. If the applicant meets all relevant criteria, governing body or enterprise zone development authority must certify, in writing, the applicant as eligible to receive the refund.

Thereafter, the applicant shall forward to DOR a certified application requesting a refund no later than 6 months after the tax is due on the medical equipment and supplies for which the applicant is seeking a refund. A refund shall not be granted if the equipment and supplies are eligible for exemptions under ss. 212.08(2) and (5)(h), F.S.; or unless a refund exceeds \$100 in sales tax paid on purchases made within a 60 day period. The bill provides DOR rulemaking authority to implement the provisions of this bill.

DOR shall deduct an amount equal to 10 percent of each refund granted from the amount transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20 for the county area in which the medical equipment and supplies are located and shall transfer that amount to the General Revenue Fund.

The bill provides that the provisions of s. 212.095, F.S. (limiting actions) do not apply to refund applications pursuant to this section.

In the event DOR determines that any of the medical equipment and supplies for which a refund is sought is used outside an enterprise zone within 3 years from the date of purchase, the applicant shall immediately return the refund amount, interest on that amount from the date of purchase, and penalties.

The bill provides that the provisions of the bill expire concurrently with the expiration of the Florida Enterprise Zone Act, December 31, 2015.

The bill allows one of the commissioners of an enterprise zone development agency to be employed in the health care field, and provides for appointment only when a position becomes vacant after July 1, 2007.

C. SECTION DIRECTORY:

Section 1: Amends s. 212.08, F.S., to create a sales and use tax exemption, provide a cap, provide procedures, provide rulemaking authority, provide penalties for a violation, and provide an expiration date.

Section 2: Amends s. 290.0056, F.S., to provide an additional requirement for the enterprise zone development agency board of commissioners and to provide a cross reference.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference has not estimated the fiscal impact of the bill.

2. Expenditures:

The Revenue Estimating Conference has not estimated the fiscal impact of the bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has not estimated the fiscal impact of the bill.

2. Expenditures:

The Revenue Estimating Conference has not estimated the fiscal impact of the bill.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will provide an exemption to health care facilities serving the uninsured and located in an enterprise zone.

D. FISCAL COMMENTS:

The Revenue Estimating Conference has not estimated the fiscal impact of the bill.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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:

The bill provides DOR with rulemaking authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 16, 2006, the Economic Development, Trade and Banking Committee adopted a strike-all amendment to the bill. The amendment provides the following:

1. An exemption through refund of previously paid sales and use taxes for medical equipment and supplies purchased by a health care facility that is located in an enterprise zone and that serves uninsured patients.
2. The exemption applies to the first \$500,000 in equipment and supplies purchased by the health care facility in a given taxable year.
3. A requirement that the health care facility must apply to the local government or Enterprise Zone Development Agency that oversees the enterprise zone for certification for eligibility to receive the exemption.
4. Local government must certify eligibility if the health care facility meets the application requirements and the Department of Revenue must provide the refund of previously paid sales or use taxes.
5. Rulemaking authority to DOR to implement the program.
6. A requirement that the medical equipment and supplies be used in the enterprise zone and provides a penalty if the equipment or supplies are used outside the zone within three years of their purchase.
7. Definitions of "medical equipment", "medical supplies" and "health care facility".
8. One member of an Enterprise Zone Development Agency may be employed in the health care field and that such a person may be appointed after a vacancy on such an agency after July 1, 2007.