



# 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.<sup>1</sup>

The Florida Enterprise Zone Act of 1994 was scheduled to be repealed on December 31, 2005, but was re-enacted as the Florida Enterprise Zone Act (act) by ch. 2005-287, L.O.F., for an additional ten years, and is now scheduled to be repealed December 31, 2015.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.<sup>2</sup> 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.<sup>3</sup>
- 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.<sup>4</sup>
- 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,

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<sup>1</sup> Section 290.003, F.S.

<sup>2</sup> Sections 290.0055 and 290.0065, F.S.

<sup>3</sup> Sections 212.096 and 220.181, F.S.

<sup>4</sup> Section 220.182, F.S.

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.<sup>5</sup>

- 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.<sup>6</sup>

### **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.<sup>7</sup>
- 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.<sup>8</sup>
- 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.<sup>9</sup>
- Local impact fee abatement or reduction, or low-interest or interest-free loans, or grants to businesses.<sup>10</sup>

### **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.<sup>11</sup> In addition, the law grants an exemption for prosthetic and orthopedic appliances.<sup>12</sup>

### **The Uninsured**

By definition enterprise zones are located in communities that are suffering from pervasive poverty, unemployment, and general distress. Typically, the residents in these communities are disproportionately poor, and represent disproportionately racial and ethnic minorities. Medicaid and Medicare<sup>13</sup> assist many people in these communities who can't afford medical care by paying their medical bills. Medicaid targets individuals with low-income, but not all that are poor are eligible. Medicaid is a means-tested and categorical program. To qualify, applicants' income and resources

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<sup>5</sup> Section 212.08(5)(g), F.S.

<sup>6</sup> Section 212.08(5)(h), F.S.

<sup>7</sup> Sections 212.08(15) and 166.231(8), F.S.

<sup>8</sup> Section 196.1995, F.S.

<sup>9</sup> Section 205.054, F.S.

<sup>10</sup> Section 290.0057(1)(e), F.S.

<sup>11</sup> Section 212.08(2)(a), F.S.

<sup>12</sup> Id.

<sup>13</sup> Medicare is the Federal health insurance program for people age 65 or older, people under age 65 with certain disabilities, and people of all ages with End-Stage Renal Disease (permanent kidney failure requiring dialysis or a kidney transplant).

must be within certain limits and must meet certain categorical groups. These categorical groups include children in poverty, certain low-income women, the disabled, and certain low-income elderly. The specific income and resource limitations that apply to each categorical eligibility group are set through a combination of Federal parameters and a state's definitions within the Federal parameters. Enterprise zones contain subsets of low-income people that are not eligible for Medicaid or Medicare because of income or categories of individuals not covered by these programs.

Most Floridians (82%) are insured by some form of either private or public health coverage. However, an estimated 18% of Florida's population is uninsured at anytime during a year. The following table delineates population by health insurance status in FY 2002 - 2003.

Source of Insurance	FL Population	%	US Population	%
Employer	7,956,640	48	156,270,570	54
Individual	990,350	6	13,593,990	5
Medicaid	2,007,000	12	38,352,430	13
Medicare	2,726,250	16	34,190,710	12
Uninsured	2,957,290	18	44,960,710	16
Total	16,637,520	100	287,368,410	100

A recent survey study of the uninsured<sup>15</sup>, funded by the Agency for Health Care Administration, estimated the number of uninsured Floridians at 19.2%. The study also described the characteristics of Floridians who lack health insurance coverage. This analysis revealed:

- Children age 18 or younger are 18.5% of the uninsured.
- Working-aged adults are 81.5% of the uninsured.
- Individuals within the age of 18 to 24 years are 15.8% of the uninsured.
- Individuals within the age of 25 to 34 years are 23.2% of the uninsured.
- Individuals within the age of 35 to 54 years are 34.1% of the uninsured.
- Individuals within the age of 55 to 64 years are 8.3% of the uninsured.

The survey also found that among uninsured working-aged adults, about a third do not have a job, either because they are actively seeking employment (20.9%) or because they are out of the work place (16.1%) due to schooling, disability, or family obligations. Another 13.9% are exclusively self-employed. About 37.3% of uninsured adults work full-time for an employer, while 11.9% are employed part-time.

The uninsured typically gain access to health care services through what are known as "safety-net" hospitals or facilities that typically include public hospitals, private non-profit hospitals, and community health centers, and many physicians all of whom help shoulder the burden of uncompensated care. While a broad range of providers serve uninsured patients, the largest share of uncompensated care, in terms of dollars, is provided by hospitals.<sup>16</sup> Those who are uninsured for an entire year pay for over a third of their health care costs out-of-pocket and many have real problems paying their medical bills. The uninsured are over twice as likely as the insured to report having problems paying their medical bills and are almost three times as likely to be contacted by a collection agency about medical bills.<sup>17</sup>

<sup>14</sup> Source: Kaiser Foundation - Population Distribution by Insurance Status, state data 2002-03, U.S. 2003

<sup>15</sup> A Profile of Uninsured Floridians, Findings from the 2004 Florida Health Insurance Study

R. Paul Duncan et al, February 2005, The Department of Health Services Research, Management and Policy, University of Florida.

<sup>16</sup> Medicaid's Disproportionate Share Hospital Program: Complex Structure, Critical Payments; Robert E. Mechanic, National Health, Policy Forum, September 2004.

<sup>17</sup> *Ten Myths about the Uninsured* Kaiser Commission on Medicaid and the Uninsured Publication Number: 7307

Although approximately 19.2 % of Florida's population is uninsured at anytime during a year, the percent of uninsured is much greater in many areas designated as enterprise zones. The table below is a sample of counties that have a greater percent of its population uninsured than the state average. Some of these counties have an enterprise zone designation or have an enterprise zone within the county boundaries.

<b>Uninsured - Counties Above State Average (19.2%)</b>					
<b>County</b>	<b>Percent Uninsured</b>	<b>Enterprise Zone</b>	<b>County</b>	<b>Percent Uninsured</b>	<b>Enterprise Zone</b>
Gadsden	36.2	✓	Manatee	21.0	✓
Hendry	31.6	✓	Jackson	20.9	✓
Hardee	30.8	✓	Sumter	20.9	
DeSoto	29.6	✓	Franklin	20.7	✓
Miami-Dade	28.6	✓	Jefferson	20.7	
Collier	28.0	✓	Suwannee	20.5	
Okeechobee	26.3	✓	Baker	20.4	
Glades	26.2	✓	Columbia	20.4	
St. Lucie	25.4	✓	Holmes	20.4	✓
Indian River	23.5	✓	Lake	20.4	
Lee	23.2	✓	Putnam	20.4	✓
Lafayette	22.8		Marion	20.3	
Hamilton	22.4	✓	Gulf	20.2	✓
Liberty	21.9	✓	Taylor	20.2	✓
Charlotte	21.8		Dixie	20.1	✓
Gilchrist	21.6		Flagler	20.1	
Union	21.5		Washington	20.1	✓
Madison	21.3	✓	Monroe	20.0	
Calhoun	21.2	✓	Wakulla	19.9	✓
Bradford	21.1		Walton	19.9	✓
Citrus	21.0		Levy	19.8	

There are supplemental funding mechanisms put in place by the Federal government to assist the state's effort to ensure access to care by Medicaid recipients and to assist in providing care to the uninsured. These funding mechanisms include the Medicaid Disproportionate Share Hospital program (DSH) and the Low Income Pool (LIP). The bulk of this funding goes to certain safety net hospitals. DSH compensates certain hospitals for some of the cost of serving a disproportionate share of low-income individuals who either are part of the Medicaid program or have no insurance at all. Beginning July 1, 2006 as part of Medicaid Reform, LIP funds (\$1 billion) will be distributed by the state to provide direct payment and distributions to certain safety-net providers in the state for the purpose of providing coverage to the uninsured.<sup>18</sup> Many providers that serve the uninsured do not receive DSH or LIP funds.

<sup>18</sup> LIP replaces the current Upper Payment Limit (UPL) program. The UPL supplemental payment mechanism allows Florida within parameters established by the Federal Government to make higher special Medicaid payments to compensate certain hospitals by making up the difference between what Medicaid pays and what Medicare pays for certain hospital services.

## **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.
- 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 an affidavit declaring that at least ten percent of the cost incurred for care provided by the health care facility in the previous taxable year was uncompensated care and that the health care facility did not receive supplemental Medicaid disproportionate share hospital or low income pool funding pursuant to chapter 409.

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.

On March 28, 2006, the Health Care General Committee adopted an amendment to the bill. The amendment requires the applicant for the tax refund to submit an affidavit declaring that at least ten percent of the cost incurred for care provided by the health care facility in the previous taxable year was uncompensated care and that the health care facility did not receive supplemental Medicaid disproportionate share hospital or low income pool funding pursuant to chapter 409.

As amended, the bill was reported favorably by the Health Care General Committee with committee substitute.

This analysis reflects the bill as amended.