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1                   A bill to be entitled  
2           An act relating to energy economic zones; amending s.  
3           377.809, F.S.; authorizing specified tax credits and other  
4           incentives for pilot energy economic zone communities;  
5           providing requirements for the provision of such  
6           incentives; providing that designated energy economic  
7           zones shall be considered transportation concurrency  
8           exception areas; providing requirements for the  
9           calculation of land required to accommodate anticipated  
10          growth for specified purposes; defining the term "clean  
11          technology industries and technologies"; requiring pilot  
12          communities to work with certain agencies to test  
13          specified methods to promote energy-efficient land use;  
14          amending s. 212.08, F.S.; providing definitions; exempting  
15          specified building materials used in the construction or  
16          rehabilitation of energy-efficient structures from certain  
17          sales, rental, use, consumption, distribution, and storage  
18          taxes; exempting specified real property located in an  
19          energy economic zone from certain sales, rental, use,  
20          consumption, distribution, and storage taxes; exempting  
21          clean technology and manufacturing products used in energy  
22          economic zones from certain taxes; providing an effective  
23          date.

24  
25   Be It Enacted by the Legislature of the State of Florida:

26  
27           Section 1. Subsections (5) through (8) are added to  
28   section 377.809, Florida Statutes, to read:

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29 377.809 Energy Economic Zone Pilot Program.—

30 (5) Based on findings of the designated energy economic  
31 zone pilot communities as to incentives that may be desirable  
32 pursuant to subsection (3), the state incentives in paragraphs  
33 (a)-(d) may be offered by the pilot communities, by ordinance,  
34 to cultivate green economic development, encourage renewable  
35 electric energy generation, manufacture products that contribute  
36 to energy conservation and green jobs, develop energy-efficient  
37 land use patterns, and reduce greenhouse gas emissions. In order  
38 for such incentives to be provided, the pilot community must  
39 designate the energy economic zone by amendment to the future  
40 land use map portion of the comprehensive plan and implementing  
41 land development regulations and must certify to the Department  
42 of Community Affairs and the Office of Tourism, Trade, and  
43 Economic Development that the pilot community's developments are  
44 eligible to receive the incentives.

45 (a) The jobs credit provided under s. 220.181 for  
46 enterprise zones shall apply to pilot energy economic zones for  
47 renewable energy manufacturers, zero-emission vehicle  
48 manufacturers and assemblers, and other such industries that  
49 contribute to energy conservation and the reduction of  
50 greenhouse gas emissions, as approved by the governing body with  
51 jurisdiction over the designated energy economic zone, which are  
52 expanding production activity through increased employment.

53 (b) The property tax credit provided under s. 220.182 for  
54 enterprise zones shall apply to pilot energy economic zones for  
55 eligible clean technology industries and technologies, pursuant  
56 to subsection (7), and as approved by the governing body with

57 jurisdiction of the energy economic zone.

58 (c) The jobs credit against the sales tax provided under  
 59 s. 212.096 for enterprise zones shall apply to pilot energy  
 60 economic zones for businesses that meet the eligibility criteria  
 61 set forth in s. 212.08(5)(q) and (r) and (7)(ggg).

62 (d) All other statutory reporting and accountability  
 63 requirements relating to the incentives under this subsection  
 64 shall also apply to energy economic zones.

65 (6) The following provisions apply to designated energy  
 66 economic zones:

67 (a) Designated energy economic zones shall be considered  
 68 transportation concurrency exception areas. Development within  
 69 and consistent with designated energy economic zones are exempt  
 70 from review under s. 380.06.

71 (b) Density and intensity bonuses for energy-efficient  
 72 developments within the designated energy economic zones shall  
 73 not be calculated as part of the amount of land required to  
 74 accommodate anticipated growth for the purposes of chapter 163.

75 (7) For purposes of energy economic zone eligibility  
 76 criteria for the exemptions provided in subsection (5), the term  
 77 "clean technology industries and technologies" includes a  
 78 diverse range of products, services, and processes that harness  
 79 renewable materials and energy sources and significantly reduce  
 80 the use of natural resources, greenhouse gas emissions, and  
 81 waste. Such products, services, and processes shall include, but  
 82 are not limited to:

83 (a) Clean transportation technologies such as advanced  
 84 battery storage, electro propulsion, fuel cells, hybrid-electric

85 and solar-powered vehicles, and stirling engines.

86 (b) Clean energy technologies such as biofuels, fuel  
 87 cells, microturbines, photovoltaics, small-scale hydroelectric,  
 88 wind power, and energy efficiency.

89 (c) Clean materials such as biomass materials,  
 90 biomimetics, green buildings, green chemistry, and  
 91 phytoremediation.

92 (d) Clean water industries such as biological water  
 93 filtration, decentralized filtration systems, small-scale  
 94 desalination, ultraviolet purification, and wetlands  
 95 restoration.

96 (8) The pilot communities shall work with water management  
 97 districts, the Department of Community Affairs, the Department  
 98 of Environmental Protection, the Department of Health, and other  
 99 appropriate state agencies to test sub-basin modeling and  
 100 management, credit systems, and use of green infrastructure  
 101 within the designated energy economic zones as methods to  
 102 promote energy-efficient land use.

103 Section 2. Paragraphs (q) and (r) are added to subsection  
 104 (5) of section 212.08, Florida Statutes, and paragraph (ggg) is  
 105 added to subsection (7) of that section, to read:

106 212.08 Sales, rental, use, consumption, distribution, and  
 107 storage tax; specified exemptions.—The sale at retail, the  
 108 rental, the use, the consumption, the distribution, and the  
 109 storage to be used or consumed in this state of the following  
 110 are hereby specifically exempt from the tax imposed by this  
 111 chapter.

112 (5) EXEMPTIONS; ACCOUNT OF USE.—

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113 (g) Building materials used in the construction or  
114 rehabilitation of energy-efficient structures of real property  
115 located in an energy economic zone.—

116 1. Building materials used in the construction or  
117 rehabilitation of real property located in an energy economic  
118 zone shall be exempt from taxes imposed by this chapter upon an  
119 affirmative showing to the satisfaction of the department that  
120 the materials have been used for energy-efficient structures  
121 located in a designated energy economic zone. Except as provided  
122 in subparagraph 2., this exemption inures to the owner, lessee,  
123 or lessor of the real property located in an energy economic  
124 zone only through a refund of previously paid taxes. To receive  
125 a refund pursuant to this paragraph, the owner, lessee, or  
126 lessor of the real property located in an energy economic zone  
127 must file an application under oath with the governing body of  
128 the local government having jurisdiction over the energy  
129 economic zone where the business is located, as applicable,  
130 which includes:

131 a. The name and address of the person claiming the refund.

132 b. An address and assessment roll parcel number of the  
133 real property in an energy economic zone for which a refund of  
134 previously paid taxes is being sought.

135 c. A description of the materials and energy-efficient  
136 construction utilized to construct or rehabilitate an energy-  
137 efficient structure.

138 d. A copy of the building permit issued for the  
139 construction of the real property.

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140 e. A sworn statement, under the penalty of perjury, from  
141 the general contractor licensed in this state with whom the  
142 applicant contracted to accomplish the energy-efficient  
143 construction or rehabilitation of the real property, which  
144 statement lists the building materials used, the actual cost of  
145 the building materials, and the amount of sales tax paid in this  
146 state on the building materials. In the event that a general  
147 contractor has not been used, the applicant shall provide this  
148 information in a sworn statement, under the penalty of perjury.

149 f. The identification of the energy economic zone in which  
150 the energy-efficient structure constructed or rehabilitated is  
151 located.

152 g. A certification by the local building code inspector  
153 that the improvements necessary to accomplish the construction  
154 or rehabilitation of the real property are substantially  
155 completed.

156 h. Whether the business is a small business as defined in  
157 s. 288.703(1).

158 i. If applicable, the name and address of each permanent  
159 employee of the business, indicating those employees who reside  
160 in the energy economic zone.

161 2. This exemption inures to a city, county, other  
162 governmental agency, or nonprofit community-based organization  
163 through a refund of previously paid taxes if the building  
164 materials used in the construction or rehabilitation of real  
165 property located in an energy economic zone are paid for from  
166 the funds of a community development block grant, State Housing  
167 Initiatives Partnership Program, or similar grant or loan

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168 program. To receive a refund pursuant to this paragraph, a city,  
169 county, other governmental agency, or nonprofit community-based  
170 organization must file an application that includes the same  
171 information required to be provided in subparagraph 1. by an  
172 owner, lessee, or lessor of rehabilitated real property. In  
173 addition, the application must include a sworn statement signed  
174 by the chief executive officer of the city, county, other  
175 governmental agency, or nonprofit community-based organization  
176 seeking a refund which states that the building materials for  
177 which a refund is sought were paid for from the funds of a  
178 community development block grant, State Housing Initiatives  
179 Partnership Program, or similar grant or loan program.

180 3. Within 10 working days after receipt of an application,  
181 the governing body or designee of the energy economic zone shall  
182 review the application to determine if it contains all the  
183 information required pursuant to subparagraph 1. or subparagraph  
184 2. and meets the criteria set out in this paragraph. The  
185 governing body or designee shall certify all applications that  
186 contain the information required pursuant to subparagraph 1. or  
187 subparagraph 2. and meet the criteria set out in this paragraph  
188 as eligible to receive a refund. The certification shall be in  
189 writing, and a copy of the certification shall be transmitted to  
190 the executive director of the Department of Revenue. The  
191 applicant shall be responsible for forwarding a certified  
192 application to the department within the time specified in  
193 subparagraph 4.

194 4. An application for a refund pursuant to this paragraph  
195 must be submitted to the department within 6 months after the

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196 construction of the property is deemed to be substantially  
197 completed by the local building code inspector or by September 1  
198 after the rehabilitated property is first subject to assessment.

199 5. Not more than one exemption through a refund of  
200 previously paid taxes for the construction of real property  
201 shall be permitted for any single parcel of property unless  
202 there is a change in ownership between unrelated parties, a new  
203 lessor, or a new lessee, other than related parties. No refund  
204 shall be granted pursuant to this paragraph unless the amount to  
205 be refunded exceeds \$500. No refund granted pursuant to this  
206 paragraph shall exceed the lesser of 97 percent of the state  
207 sales and use tax paid on the cost of the building materials  
208 used in the construction of the real property as determined  
209 pursuant to sub-subparagraph 1.e. or \$5,000, or, if no less than  
210 20 percent of the employees of the business are residents of an  
211 energy economic zone, excluding temporary and part-time  
212 employees, the amount of refund granted pursuant to this  
213 paragraph shall not exceed the lesser of 97 percent of the sales  
214 tax paid on the cost of such building materials or \$10,000. A  
215 refund approved by the department pursuant to this paragraph  
216 shall be made within 30 days after formal approval of the  
217 application, which determination shall be made within 30 days  
218 after receiving the application. This subparagraph shall apply  
219 retroactively to July 1, 2005.

220 6. The department shall adopt rules governing the manner  
221 and form of refund applications and may establish guidelines as  
222 to the requisites for an affirmative showing of qualification  
223 for exemption under this paragraph.



224 7. For the purposes of the exemption provided in this  
 225 paragraph:

226 a. "Building materials" means tangible personal property  
 227 that becomes a component part of construction and improvements  
 228 to real property.

229 b. "Real property" has the same meaning as provided in s.  
 230 192.001(12).

231 c. "Energy-efficient construction " means the  
 232 construction, renovation, restoration, rehabilitation, or  
 233 expansion of improvements to real property resulting in a  
 234 structure that meets Leadership in Energy and Environmental  
 235 Design (LEED) standards.

236 d. "Energy-efficient structures" means structures that  
 237 meet LEED-certified buildings standards.

238 e. "Substantially completed" has the same meaning as  
 239 provided in s. 192.042(1).

240 (r) Business property used in an energy economic zone.—

241 1. Business property purchased for use by businesses  
 242 located in an energy economic zone that is subsequently used in  
 243 an energy economic zone shall be exempt from the tax imposed by  
 244 this chapter. This exemption inures to the business only through  
 245 a refund of previously paid taxes. A refund shall be authorized  
 246 upon an affirmative showing by the taxpayer to the satisfaction  
 247 of the department that the requirements of this paragraph have  
 248 been met.

249 2. To receive a refund, the business must certify to the  
 250 governing body of the local government having jurisdiction over

251 the energy economic zone in which the business is located, as  
252 applicable, an application that includes:

253 a. The name and address of the business claiming the  
254 refund.

255 b. A specific description of the property for which a  
256 refund is sought, including its serial number or other permanent  
257 identification number.

258 c. The location of the property.

259 d. The sales invoice or other proof of purchase of the  
260 property, showing the amount of sales tax paid, the date of  
261 purchase, and the name and address of the sales tax dealer from  
262 whom the property was purchased.

263 e. Whether the business is a small business as defined by  
264 s. 288.703(1).

265 f. If applicable, the name and address of each permanent  
266 employee of the business, indicating those employees who reside  
267 in the energy economic zone.

268 3. An application for a refund pursuant to this paragraph  
269 must be submitted to the governing body having jurisdiction over  
270 the energy economic zone within 6 months after the tax is due on  
271 the business property that is purchased.

272 4. Within 10 working days after receipt of an application,  
273 the governing body or designee shall review the application to  
274 determine if it contains all the information required pursuant  
275 to subparagraph 2. and meets the criteria set out in this  
276 paragraph. After review, the certified application shall be  
277 transmitted to the executive director of the Department of  
278 Revenue.

279       5. The amount refunded on purchases of business property  
 280 under this paragraph shall be the lesser of 97 percent of the  
 281 sales tax paid on such business property or \$5,000, or, if no  
 282 less than 20 percent of the employees of the business are  
 283 residents of an energy economic zone, excluding temporary and  
 284 part-time employees, the amount refunded on purchases of  
 285 business property under this paragraph shall be the lesser of 97  
 286 percent of the sales tax paid on such business property or  
 287 \$10,000. A refund approved pursuant to this paragraph shall be  
 288 made within 30 days after formal approval by the department of  
 289 the application for the refund. No refund shall be granted under  
 290 this paragraph unless the amount to be refunded exceeds \$100 in  
 291 sales tax paid on purchases made within a 60-day time period.

292       6. The department shall adopt rules governing the manner  
 293 and form of refund applications and may establish guidelines as  
 294 to the requisites for an affirmative showing of qualification  
 295 for exemption under this paragraph.

296       7. If the department determines that the business property  
 297 is used outside an energy economic zone within 3 years after the  
 298 date of purchase, the amount of taxes refunded to the business  
 299 purchasing such business property shall immediately be due and  
 300 payable to the department by the business, together with the  
 301 appropriate interest and penalty, computed from the date of  
 302 purchase, in the manner provided by this chapter.

303 Notwithstanding this subparagraph, business property used  
 304 exclusively in:

- 305       a. Licensed commercial fishing vessels,
- 306       b. Fishing guide boats, or

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307 c. Ecotourism guide boats

308  
309 that leave and return to a fixed location within an area  
310 designated under s. 379.2353 are eligible for the exemption  
311 provided under this paragraph if all requirements of this  
312 paragraph are met. Such vessels and boats must be owned by a  
313 business that is eligible to receive the exemption provided  
314 under this paragraph. This exemption does not apply to the  
315 purchase of a vessel or boat.

316 8. For the purposes of this exemption, "business property"  
317 means new or used tangible personal property having a value of  
318 at least \$500 used in energy economic zones by renewable energy  
319 manufacturers, zero-emissions vehicle manufacturers and other  
320 such industries involved in clean technology industries and  
321 technologies.

322 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any  
323 entity by this chapter do not inure to any transaction that is  
324 otherwise taxable under this chapter when payment is made by a  
325 representative or employee of the entity by any means,  
326 including, but not limited to, cash, check, or credit card, even  
327 when that representative or employee is subsequently reimbursed  
328 by the entity. In addition, exemptions provided to any entity by  
329 this subsection do not inure to any transaction that is  
330 otherwise taxable under this chapter unless the entity has  
331 obtained a sales tax exemption certificate from the department  
332 or the entity obtains or provides other documentation as  
333 required by the department. Eligible purchases or leases made  
334 with such a certificate must be in strict compliance with this

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335 subsection and departmental rules, and any person who makes an  
336 exempt purchase with a certificate that is not in strict  
337 compliance with this subsection and the rules is liable for and  
338 shall pay the tax. The department may adopt rules to administer  
339 this subsection.

340 (ggg) Clean technology and manufacturing products used in  
341 energy economic zones, as defined in s. 377.809(7), are exempt  
342 from the tax imposed by this chapter. The local governing body  
343 with jurisdiction for the energy economic zone shall submit a  
344 list of products to the department considered eligible pursuant  
345 to this definition.

346 Section 3. This act shall take effect upon becoming a law.