

CS/SB 522 by **CA, Bradley**; (Identical to H 0633) Biodiesel Fuel

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
APPROPRIATIONS SUBCOMMITTEE ON FINANCE AND TAX
Senator Hukill, Chair
Senator Ring, Vice Chair

MEETING DATE: Tuesday, March 19, 2013
TIME: 4:00 —6:00 p.m.
PLACE: *Mallory Horne Committee Room, 37 Senate Office Building*

MEMBERS: Senator Hukill, Chair; Senator Ring, Vice Chair; Senators Abruzzo, Altman, Brandes, Clemens, Diaz de la Portilla, Evers, Gardiner, Margolis, Sachs, and Simmons

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 522 Community Affairs / Bradley (Identical H 633)	Biodiesel Fuel; Exempting municipalities, counties, and school districts manufacturing biodiesel fuel for internal use from certain reporting, bonding, and licensing requirements applicable to biodiesel manufacturers; requiring such entities to file a return and pay a tax on such biodiesel fuel, etc. AG 02/19/2013 Favorable CA 03/07/2013 Fav/CS AFT 03/19/2013 AP	
2	Proposed draft legislation relating to Corporate Income Tax		
3	Workshop - Discussion of the following (no vote to be taken): Proposed draft legislation relating to Property Taxes		
4	Continuation of Review of Economic Development Tax Incentives		
Other Related Meeting Documents			

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Finance and Tax

BILL: CS/SB 522

INTRODUCER: Community Affairs and Senator Bradley

SUBJECT: Biodiesel Fuel

DATE: March 11, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Weidenbenner	Halley	AG	Favorable
2.	Anderson	Yeatman	CA	Fav/CS
3.	Cote	Diez-Arguelles	AFT	Pre-meeting
4.			AP	
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

CS/SB 522 creates an exemption for municipalities, counties, and school districts that manufacture biodiesel for internal use from the reporting, bonding, and licensing requirements that apply to wholesalers of biodiesel fuel. The bill also requires local government users of diesel fuel to file a return with the Department of Revenue for biodiesel manufactured for internal use and remit the appropriate taxes.

The Revenue Estimating Conference determined that this bill will have a negative, insignificant impact on General Revenue.

This bill is effective July 1, 2013.

This bill substantially amends sections 206.02 and 206.874, Florida Statutes.

II. Present Situation:

Florida imposes a tax on the sale, use, distribution, or consumption of motor fuel and other fuels.¹ Part II of chapter 206, F.S., addresses diesel fuel. The diesel fuel tax is imposed for the purpose of constructing and maintaining the public highways of the state.²

Biodiesel is a product made from nonpetroleum-based oils or fats that can be used in diesel-powered engines. As defined in 206.86(15), F.S., “biodiesel manufacturer” means those “industrial plants, regardless of capacity, where organic products are used in the production of biodiesel. This includes businesses that process or blend organic products that are marketed as biodiesel.”

Each biodiesel manufacturer in Florida must meet the reporting, bonding, and licensing requirements prescribed for motor fuel wholesalers pursuant to chapter 206, F.S.³ There is a \$30 annual application fee for each license. An exemption from the diesel fuel tax and reporting requirements was created in 2010 for a public or private secondary school that manufactures less than 1,000 gallons on an annual basis for its own use.⁴

To obtain a wholesaler of motor fuel license, an application must be filed with the Department of Revenue (DOR) under oath.⁵ While a bond must simultaneously be filed with the DOR,⁶ local governments are exempt from the bond requirement⁷ and background check required of certain applicants. Each license must be renewed annually. Licensed fuel wholesalers, which include local governments who manufacture biodiesel, must file a monthly return. Local government users of diesel fuel must also register with DOR and file a monthly return of acquisitions, inventory, and use of diesel fuel⁸ and pay 3 cents of the 4-cent excise tax plus the taxes required under s. 206.87(1)(b), (c), and (d), F.S.

One county reports that complying with the wholesale licensing and reporting requirements for the small volume of biodiesel manufactured for internal use is burdensome to the point that it has suspended its program.⁹ The county’s biodiesel manufacturing operation began in 2010 after it received a grant to purchase equipment to recycle waste vegetable oil as part of a fuel supply program. To have a diesel fuel manufacturing operation, the county had to dedicate additional time and labor to perform a more extensive review of diesel fuel purchased from commercial suppliers and internally produced biodiesel in order to file the monthly return required of fuel wholesalers. There are other counties and cities with similar programs¹⁰ that face the same challenges in complying with the reporting requirements of a wholesaler.

¹ Chapter 206, F.S.

² Section 206.85, F.S.

³ Section 206.02(5), F.S.

⁴ Chapter 2010-195, L.O.F.

⁵ Section 206.02(4), F.S., and Rule 12B-5.060, Florida Administrative Code.

⁶ Section 206.02(6), F.S.

⁷ Section 206.05(1), F.S.

⁸ Section 206.874(4), F.S.

⁹ Oral conversation with Mark Sexton, Communications Coordinator, Alachua County Manager’s Office (February 2013).

¹⁰ The Gainesville Sun, From chicken wings and fries to powering county trucks. See <http://www.gainesville.com/article/20130129/ARTICLES/130129540>. Site last visited February 2013.

III. Effect of Proposed Changes:

Section 1 amends s. 206.02, F.S., to exempt municipalities, counties, and school districts that manufacture biodiesel fuel for internal use from the reporting, bonding, and licensing requirements prescribed for wholesalers.

Section 2 amends s. 206.874, F.S., to require municipalities, counties, and school districts that manufacture biodiesel fuel for internal use to file a return accounting for biodiesel fuel manufactured and remit the appropriate taxes to the Department of Revenue (DOR).

Section 3 provides that this act shall take effect July 1, 2013.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

The Revenue Estimating Conference determined that this bill will have a negative insignificant impact on General Revenue.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Local governments that manufacture biodiesel for internal use will be relieved of the time and labor needed to be expended to comply with licensing and reporting requirements of fuel wholesalers. DOR reports that implementation of this bill will have an insignificant operational impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs on March 7, 2013:
The CS makes technical and clarifying changes.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By the Committee on Community Affairs; and Senator Bradley

578-02026-13

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1 A bill to be entitled
 2 An act relating to biodiesel fuel; amending s. 206.02,
 3 F.S.; exempting municipalities, counties, and school
 4 districts manufacturing biodiesel fuel for internal
 5 use from certain reporting, bonding, and licensing
 6 requirements applicable to biodiesel manufacturers;
 7 amending s. 206.874, F.S.; requiring such entities to
 8 file a return and pay a tax on such biodiesel fuel;
 9 providing an effective date.

10

11 Be It Enacted by the Legislature of the State of Florida:

12

13 Section 1. Subsection (5) of section 206.02, Florida
 14 Statutes, is amended to read:

15 206.02 Application for license; temporary license; terminal
 16 suppliers, importers, exporters, blenders, biodiesel
 17 manufacturers, and wholesalers.—

18 (5) Each biodiesel manufacturer must meet the reporting,
 19 bonding, and licensing requirements ~~prescribed~~ for wholesalers
 20 under by this chapter. This subsection does not apply to a
 21 municipality, county, or school district that manufactures
 22 biodiesel fuel solely for use by the municipality, county, or
 23 school district.

24 Section 2. Paragraph (b) of subsection (4) of section
 25 206.874, Florida Statutes, is amended to read:

26 206.874 Exemptions.—

27 (4)

28 (b) A municipality, county, or school district that
 29 manufactures biodiesel fuel solely for use by the municipality,

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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30 county, or school district and local government users of diesel
 31 fuel ~~are shall be~~ required to file a return accounting for
 32 biodiesel fuel manufacturing, diesel fuel acquisitions,
 33 inventory, and use, and remit a tax equal to 3 cents of the 4-
 34 cent tax required under s. 206.87(1)(a), plus the taxes required
 35 under s. 206.87(1)(b), (c), and (d) each month to the
 36 department.

37

Section 3. This act shall take effect July 1, 2013.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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1 A bill to be entitled

2 An act relating to the Internal Revenue Code; amending
3 s. 220.03, F.S.; adopting the 2013 version of the code
4 for the purposes of ch. 220, F.S.; amending s. 220.13,
5 F.S.; incorporating a reference to a recent federal
6 act into state law for the purpose of defining the
7 term "adjusted federal income"; authorizing the
8 executive director of the Department of Revenue to
9 adopt emergency rules; providing for retroactive
10 application; providing an effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Paragraph (n) of subsection (1) and subsection
15 (2) of section 220.03, Florida Statutes, are amended to read:
16 220.03 Definitions.—

17 (1) SPECIFIC TERMS.—When used in this code, and when not
18 otherwise distinctly expressed or manifestly incompatible with
19 the intent thereof, the following terms shall have the following
20 meanings:

21 (n) "Internal Revenue Code" means the United States
22 Internal Revenue Code of 1986, as amended and in effect on
23 January 1, 2013 ~~2012~~, except as provided in subsection (3).

24 (2) DEFINITIONAL RULES.—When used in this code and neither
25 otherwise distinctly expressed nor manifestly incompatible with
26 the intent thereof:

27 (a) The word "corporation" or "taxpayer" includes ~~shall be~~
28 ~~deemed to include~~ the words "and its successors and assigns" as
29 if these words, or words of similar import, were expressed.†

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30 (b) Any term used in any section of this code with respect
31 to the application of, or in connection with, the provisions of
32 any other section of this code has ~~shall have~~ the same meaning
33 as in such other section. ~~;~~ ~~and~~

34 (c) Any term used in this code has ~~shall have~~ the same
35 meaning as when used in a comparable context in the Internal
36 Revenue Code and other statutes of the United States relating to
37 federal income taxes, as such code and statutes are in effect on
38 January 1, 2013 ~~2012~~. However, if subsection (3) is implemented,
39 the meaning of a ~~any~~ term shall be taken at the time the term is
40 applied under this code.

41 Section 2. Paragraph (e) of subsection (1) of section
42 220.13, Florida Statutes, is amended to read:

43 220.13 "Adjusted federal income" defined.-

44 (1) The term "adjusted federal income" means an amount
45 equal to the taxpayer's taxable income as defined in subsection
46 (2), or such taxable income of more than one taxpayer as
47 provided in s. 220.131, for the taxable year, adjusted as
48 follows:

49 (e) ~~Adjustments related to federal acts ~~the Federal~~~~
50 ~~*Economic Stimulus Act of 2008, the American Recovery and*~~
51 ~~*Reinvestment Act of 2009, the Small Business Jobs Act of 2010,*~~
52 ~~*and the Tax Relief, Unemployment Insurance Reauthorization, and*~~
53 ~~*Job Creation Act of 2010.*~~ Taxpayers shall be required to make
54 the adjustments prescribed in this paragraph for Florida tax
55 purposes with respect ~~in relation~~ to certain tax benefits
56 received pursuant to the Economic Stimulus Act of 2008, the
57 American Recovery and Reinvestment Act of 2009, the Small
58 Business Jobs Act of 2010, ~~and~~ the Tax Relief, Unemployment

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59 Insurance Reauthorization, and Job Creation Act of 2010, and the
60 American Taxpayer Relief Act of 2012.

61 1. There shall be added to such taxable income an amount
62 equal to 100 percent of any amount deducted for federal income
63 tax purposes as bonus depreciation for the taxable year pursuant
64 to ss. 167 and 168(k) of the Internal Revenue Code of 1986, as
65 amended by s. 103 of Pub. L. No. 110-185, s. 1201 of Pub. L. No.
66 111-5, s. 2022 of Pub. L. No. 111-240, ~~and~~ s. 401 of Pub. L. No.
67 111-312, and s. 331 of Pub. L. No. 112-240, for property placed
68 in service after December 31, 2007, and before January 1, 2014
69 ~~2013~~. For the taxable year and for each of the 6 subsequent
70 taxable years, there shall be subtracted from such taxable
71 income an amount equal to one-seventh of the amount by which
72 taxable income was increased pursuant to this subparagraph,
73 notwithstanding any sale or other disposition of the property
74 that is the subject of the adjustments and regardless of whether
75 such property remains in service in the hands of the taxpayer.

76 2. There shall be added to such taxable income an amount
77 equal to 100 percent of any amount in excess of \$128,000
78 deducted for federal income tax purposes for the taxable year
79 pursuant to s. 179 of the Internal Revenue Code of 1986, as
80 amended by s. 102 of Pub. L. No. 110-185, s. 1202 of Pub. L. No.
81 111-5, s. 2021 of Pub. L. No. 111-240, ~~and~~ s. 402 of Pub. L. No.
82 111-312, and s. 315 of Pub. L. No. 112-240, for taxable years
83 beginning after December 31, 2007, and before January 1, 2014
84 ~~2013~~. For the taxable year and for each of the 6 subsequent
85 taxable years, there shall be subtracted from such taxable
86 income one-seventh of the amount by which taxable income was
87 increased pursuant to this subparagraph, notwithstanding any

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88 sale or other disposition of the property that is the subject of
89 the adjustments and regardless of whether such property remains
90 in service in the hands of the taxpayer.

91 3. There shall be added to such taxable income an amount
92 equal to the amount of deferred income not included in such
93 taxable income pursuant to s. 108(i)(1) of the Internal Revenue
94 Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5. There
95 shall be subtracted from such taxable income an amount equal to
96 the amount of deferred income included in such taxable income
97 pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986,
98 as amended by s. 1231 of Pub. L. No. 111-5.

99 4. Subtractions available under this paragraph may be
100 transferred to the surviving or acquiring entity following a
101 merger or acquisition and used in the same manner and with the
102 same limitations as specified by this paragraph.

103 5. The additions and subtractions specified in this
104 paragraph are intended to adjust taxable income for Florida tax
105 purposes, and, notwithstanding any other provision of this code,
106 such additions and subtractions shall be permitted to change a
107 taxpayer's net operating loss for Florida tax purposes.

108 Section 3. Emergency rules.—

109 (1) The executive director of the Department of Revenue is
110 authorized, and all conditions are deemed met, to adopt
111 emergency rules under ss. 120.536(1) and 120.54(4), Florida
112 Statutes, for the purpose of implementing this act.

113 (2) Notwithstanding any other provision of law, the
114 emergency rules shall remain in effect for 6 months after
115 adoption and may be renewed during the pendency of procedures to
116 adopt permanent rules addressing the subject of the emergency

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117 rules.

118 Section 4. This act shall take effect upon becoming a law
119 and operate retroactively to January 1, 2013.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Finance and Tax

BILL: Proposed Draft Legislation

INTRODUCER: Appropriations Subcommittee on Finance and Tax

SUBJECT: Internal Revenue Code of 2013

DATE: March 14, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Babin	Diez-Arguelles	AFT	Pre-meeting
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The proposed bill updates Florida’s corporate Income Tax Code by adopting the Internal Revenue Code as in effect on January 1, 2013.

The American Taxpayer Relief Act of 2012 grants extraordinary deductions for capital asset expensing and depreciation. Similar to past treatment, the bill requires Florida taxpayers to spread the benefit of these deductions over a 7-year period.

The bill authorizes the Department of Revenue to adopt emergency rules to implement this legislation.

The Revenue Estimating Conference (REC) estimates that this bill will have an indeterminate impact on general revenue.

This bill substantially amends sections 220.03 and 220.13, Florida Statutes.

II. Present Situation:

Florida imposes a 5.5 percent tax on the taxable income of corporations and financial institutions doing business in Florida. The determination of taxable income for Florida tax purposes begins with the taxable income used for federal income tax purposes. This means that a corporation paying taxes in Florida receives the same treatment in Florida as is allowed in determining its federal taxable income.

Florida maintains this relationship with the federal Internal Revenue Code by each year adopting the federal Internal Revenue Code as it exists on January 1 of the year. By doing this, Florida adopts any changes that were made in the previous year to the determination of federal taxable income.

III. Effect of Proposed Changes:

General Update

The bill updates the Florida corporate Income Tax Code to reflect changes in the federal Internal Revenue Code enacted by Congress. The bill takes effect upon becoming a law and operates retroactively to January 1, 2013.

Additions due to Bonus Depreciation and Increased Expensing

President Obama signed into law the American Taxpayer Relief Act of 2012¹ on January 2, 2013. The act contained several significant amendments to the Internal Revenue Code.

The Internal Revenue Code allows a taxpayer to deduct the cost of capital assets by deducting a portion of the cost over the useful life of the property (depreciation).² Additionally, the Internal Revenue Code allows a taxpayer to treat a certain amount of the cost of capital assets as a business expense that can be taken entirely in the year of purchase (expensing).³ Until recently, the amount that could be expensed was limited to \$25,000.

Similar to other federal legislation during the past several years,⁴ the American Taxpayer Relief Act of 2012 grants an additional depreciation deduction (bonus depreciation) and increases the expensing limitation. The American Taxpayer Relief Act of 2012 grants a bonus depreciation amount of 50 percent of the cost of the property placed in service during 2013 and it increases the expensing limitation to \$500,000 for taxable years beginning in 2012 and 2013.

In order to slow the fiscal impact of these increased federal deductions on Florida, the bill requires taxpayers to spread the effect of these deductions over 7 taxable years. The bill accomplishes this by requiring taxpayers to “add-back” the bonus depreciation deduction and the amount of the increased expensing deduction above \$125,000. The taxpayer is then permitted to subtract from income 1/7th of these deductions for the current taxable year and the following 6 taxable years. This mechanism was used to address the impacts of similar federal legislation in 2009 and 2011.⁵

The bill grants the Department of Revenue emergency rulemaking authority to implement the provisions of the bill.

¹ Pub.L. 112-240

² See generally ss. 167 and 168, Internal Revenue Code

³ See generally s. 179, Internal Revenue Code

⁴ See The Economic Stimulus Act of 2008, the American Recovery and Reinvestment Act of 2009, the Small Business Jobs Act of 2010, and the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010.

⁵ Chapters 2009-132 and 2011-229, Laws of Florida

The bill is effective upon becoming law and operates retroactively to January 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

By adopting recent changes to the Internal Revenue Code, Florida provides ease of administration for Florida corporate taxpayers.

C. Government Sector Impact:

The REC estimates that this bill will have an indeterminate impact on general revenue.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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1 A bill to be entitled
2 An act relating to ad valorem taxation; amending s.
3 192.047, F.S.; providing that the postmark date of
4 commercial mail delivery service is considered the
5 date of filing for certain ad valorem applications or
6 returns; creating s. 192.048, F.S.; allowing certain
7 ad valorem communications to be sent electronically in
8 lieu of first-class mail; providing requirements;
9 amending s. 193.122, F.S.; requiring a property
10 appraiser to publish notices of date of tax roll
11 certifications and extensions on the property
12 appraiser's website; amending s. 193.155, F.S.;
13 providing that a change of ownership for purposes of
14 assessing property at just value does not apply to
15 lessees entitled to the homestead; extending the time
16 for appealing a value adjustment board's denial of a
17 taxpayer's application to transfer prior homestead
18 assessment limitations to a new homestead; amending s.
19 193.703, F.S.; authorizing a county to waive the
20 annual application requirement for a reduction in the
21 assessed value of homestead property used to provide
22 living quarters for the parents or grandparents of the
23 owner or spouse of the owner; requiring the property
24 owner to notify the property appraiser if the
25 reduction no longer applies; providing for tax,
26 penalty, and interest assessments if the property
27 owner improperly received reductions; providing for
28 liens; amending s. 196.031, F.S.; deleting the express
29 requirement that titleholders of homesteads live on

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30 the homestead in order to qualify for homestead tax
31 exemption; amending s. 196.075, F.S., as amended by s.
32 1 of chapter 2012-57, Laws of Florida; clarifying that
33 local governments that provide additional homestead
34 exemptions to persons 65 and older may provide
35 exemptions up to a certain amount; amending s.
36 196.1978, F.S.; removing the ability of a general
37 partner classified as a 501(c)(3) organization to
38 qualify as a limited partnership for the affordable
39 housing property tax exemption; providing for
40 retroactive application; amending s. 4 of chapter
41 2012-45, Laws of Florida; providing that taxes imposed
42 by school districts in certain areas are not included
43 in determining the taxes that must be transmitted to
44 St. Lucie County pursuant to the transfer of property
45 from St. Lucie County to Martin County; providing an
46 effective date.

47
48 Be It Enacted by the Legislature of the State of Florida:

49
50 Section 1. Subsection (1) of section 192.047, Florida
51 Statutes, is amended to read:

52 192.047 Date of filing.—

53 (1) For the purposes of ad valorem tax administration, the
54 date of an official United States Postal Service or commercial
55 mail delivery service postmark on ~~of~~ an application for
56 exemption, an application for special assessment classification,
57 or a return filed by mail is ~~shall be~~ considered the date of
58 filing the application or return.

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59 Section 2. Section 192.048, Florida Statutes, is created to
60 read:

61 192.048 Electronic transmission.-

62 (1) Subject to subsection (2), the following documents may
63 be transmitted electronically rather than by regular mail:

64 (a) The notice of proposed property taxes required under s.
65 200.069.

66 (b) The tax exemption renewal application required under s.
67 196.011(6)(a).

68 (c) The tax exemption renewal application required under s.
69 196.011(6)(b).

70 (d) A notification of an intent to deny a tax exemption
71 required under s. 196.011(9)(e).

72 (e) The decision of the value adjustment board required
73 under s. 194.034(2).

74 (2) Electronic transmission pursuant to this section is
75 authorized only under the following conditions:

76 (a) The recipient consents in writing to receiving the
77 document electronically;

78 (b) Before sending a document, the sender verifies the
79 recipient's address by sending an electronic transmission to the
80 recipient and receiving an affirmative response from the
81 recipient verifying that the recipient's address is correct;

82 (c) If a document is returned as undeliverable, the sender
83 must send the document by regular mail, as required by law;

84 (d) Documents sent pursuant to this section must comply
85 with the same timing and form requirements as if the documents
86 were sent by regular mail; and

87 (e) The sender renews the consent and verification

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88 requirements every 5 years.

89 Section 3. Subsection (2) of section 193.122, Florida
90 Statutes, is amended to read:

91 193.122 Certificates of value adjustment board and property
92 appraiser; extensions on the assessment rolls.—

93 (2) After the first certification of the tax rolls by the
94 value adjustment board, the property appraiser shall make all
95 required extensions on the rolls to show the tax attributable to
96 all taxable property. Upon completion of these extensions, and
97 upon satisfying himself or herself that all property is properly
98 taxed, the property appraiser shall certify the tax rolls and
99 shall within 1 week thereafter publish notice of the date and
100 fact of extension and certification on the property appraiser's
101 website and in a periodical meeting the requirements of s.
102 50.011 and publicly display a notice of the date of
103 certification in the office of the property appraiser. The
104 property appraiser shall also supply notice of the date of the
105 certification to any taxpayer who requests one in writing. These
106 certificates and notices shall be made in the form required by
107 the department and ~~shall be~~ attached to each roll as required by
108 the department by rule ~~regulation~~.

109 Section 4. Paragraph (a) of subsection (3) and paragraph
110 (1) of subsection (8) of section 193.155, Florida Statutes, are
111 amended to read:

112 193.155 Homestead assessments.—Homestead property shall be
113 assessed at just value as of January 1, 1994. Property receiving
114 the homestead exemption after January 1, 1994, shall be assessed
115 at just value as of January 1 of the year in which the property
116 receives the exemption unless the provisions of subsection (8)

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117 apply.

118 (3) (a) Except as provided in this subsection or subsection
119 (8), property assessed under this section shall be assessed at
120 just value as of January 1 of the year following a change of
121 ownership. Thereafter, the annual changes in the assessed value
122 of the property are subject to the limitations in subsections
123 (1) and (2). For the purpose of this section, a change of
124 ownership means any sale, foreclosure, or transfer of legal
125 title or beneficial title in equity to any person, except ~~as~~
126 ~~provided in this subsection. There is no change of ownership if:~~

127 1. Subsequent to the change or transfer, the same person is
128 entitled to the homestead exemption as was previously entitled
129 and:

130 a. The transfer of title is to correct an error;

131 b. The transfer is between legal and equitable title or
132 equitable and equitable title and no additional person applies
133 for a homestead exemption on the property; ~~or~~

134 c. The change or transfer is by means of an instrument in
135 which the owner is listed as both grantor and grantee of the
136 real property and one or more other individuals are additionally
137 named as grantee. However, if any individual who is additionally
138 named as a grantee applies for a homestead exemption on the
139 property, the application is ~~shall be~~ considered a change of
140 ownership; or

141 d. The person is a lessee entitled to the homestead
142 exemption under s. 196.041(1).

143 2. Legal or equitable title is changed or transferred
144 between husband and wife, including a change or transfer to a
145 surviving spouse or a transfer due to a dissolution of marriage;

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146 3. The transfer occurs by operation of law to the surviving
147 spouse or minor child or children under s. 732.401; or

148 4. Upon the death of the owner, the transfer is between the
149 owner and another who is a permanent resident and who is legally
150 or naturally dependent upon the owner.

151 (8) Property assessed under this section shall be assessed
152 at less than just value when the person who establishes a new
153 homestead has received a homestead exemption as of January 1 of
154 either of the 2 immediately preceding years. A person who
155 establishes a new homestead as of January 1, 2008, is entitled
156 to have the new homestead assessed at less than just value only
157 if that person received a homestead exemption on January 1,
158 2007, and only if this subsection applies retroactive to January
159 1, 2008. For purposes of this subsection, a husband and wife who
160 owned and both permanently resided on a previous homestead shall
161 each be considered to have received the homestead exemption even
162 though only the husband or the wife applied for the homestead
163 exemption on the previous homestead. The assessed value of the
164 newly established homestead shall be determined as provided in
165 this subsection.

166 (1) The property appraisers of the state shall, as soon as
167 practicable after March 1 of each year and on or before July 1
168 of that year, carefully consider all applications for assessment
169 under this subsection which have been filed in their respective
170 offices on or before March 1 of that year. If, upon
171 investigation, the property appraiser finds that the applicant
172 is entitled to assessment ~~under this subsection~~, the property
173 appraiser shall make such entries upon the tax rolls of the
174 county as are necessary to allow the assessment. If, after due

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175 consideration, the property appraiser finds that the applicant
176 is not entitled ~~under the law~~ to the assessment ~~under this~~
177 ~~subsection~~, the property appraiser shall immediately prepare
178 ~~make out~~ a notice of such disapproval, giving his or her reasons
179 therefor, and a copy of the notice must be served upon the
180 applicant by the property appraiser ~~either~~ by personal delivery
181 or by registered mail to the post office address given by the
182 applicant. The applicant may appeal the decision of the property
183 appraiser refusing to allow the assessment ~~under this subsection~~
184 to the value adjustment board, and the board shall review the
185 application and evidence presented to the property appraiser
186 upon which the applicant based the claim and ~~shall~~ hear the
187 applicant in person or by agent on behalf of his or her right to
188 such assessment. Such appeal shall be heard by an attorney
189 special magistrate if the value adjustment board uses special
190 magistrates. The value adjustment board shall reverse the
191 decision of the property appraiser in the cause and grant
192 assessment ~~under this subsection~~ to the applicant if, in its
193 judgment, the applicant is entitled to ~~be granted~~ the assessment
194 or shall affirm the decision of the property appraiser. The
195 action of the board is final in the cause unless the applicant,
196 within 60 ~~15~~ days following the date of refusal of the
197 application by the board, files in the circuit court of the
198 county in which the homestead is located a proceeding against
199 the property appraiser for a declaratory judgment as is provided
200 under ~~by~~ chapter 86 or other appropriate proceeding. The failure
201 of the taxpayer to appear before the property appraiser or value
202 adjustment board or to file any paper other than the application
203 as provided in this subsection does not constitute a ~~any~~ bar to

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204 or defense in the proceedings.

205 Section 5. Subsections (5) and (6) of section 193.703,
206 Florida Statutes, are amended, and subsection (7) is added to
207 that section, to read:

208 193.703 Reduction in assessment for living quarters of
209 parents or grandparents.—

210 (5) At the request of the property appraiser and by a
211 majority vote of the county governing body, a county may waive
212 the annual application requirement after the initial application
213 is filed and the reduction is granted. Notwithstanding such
214 waiver, an application is required if property granted a
215 reduction is sold or otherwise disposed of, the ownership
216 changes in any manner, the applicant for the reduction ceases to
217 use the property as his or her homestead, or the status of the
218 owner changes so as to change the use of the property qualifying
219 for the reduction pursuant to this section ~~If the owner of~~
220 ~~homestead property for which such a reduction in assessed value~~
221 ~~has been granted is found to have made any willfully false~~
222 ~~statement in the application for the reduction, the reduction~~
223 ~~shall be revoked, the owner is subject to a civil penalty of not~~
224 ~~more than \$1,000, and the owner shall be disqualified from~~
225 ~~receiving any such reduction for a period of 5 years.~~

226 (6) The property owner shall notify the property appraiser
227 when the property owner no longer qualifies for the reduction in
228 assessed value for living quarters of parents or grandparents,
229 and the previously excluded just value of such improvements as
230 of the first January 1 after the improvements were substantially
231 completed shall be added back to the assessed value of the
232 property.

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233 (7) If the property appraiser determines that for any year
234 within the previous 10 years a property owner who was not
235 entitled to a reduction in assessed value under this section was
236 granted such reduction, the property appraiser shall serve on
237 the owner a notice of intent to record in the public records of
238 the county a notice of tax lien against any property owned by
239 that person in the county, and that property must be identified
240 in the notice of tax lien. Any property that is owned by that
241 person and is situated in this state is subject to the taxes
242 exempted by the improper reduction, plus a penalty of 50 percent
243 of the unpaid taxes for each year and interest at a rate of 15
244 percent per annum, unless such reduction is improperly granted
245 as a result of a clerical mistake or omission by the property
246 appraiser. Before any such lien may be filed, the owner must be
247 given 30 days within which to pay the taxes, penalties, and
248 interest. Such a lien is subject to the procedures and
249 provisions set forth in s. 196.161(3).

250 Section 6. Subsection (1) of section 196.031, Florida
251 Statutes, is amended to read:

252 196.031 Exemption of homesteads.-

253 (1) (a) A ~~Every~~ person who, on January 1, has the legal
254 title or beneficial title in equity to real property in this
255 state ~~and who resides thereon~~ and who in good faith makes the
256 property ~~same~~ his or her permanent residence, or the permanent
257 residence of another or others legally or naturally dependent
258 upon him or her ~~such person~~, is entitled to an exemption from
259 all taxation, except for assessments for special benefits, up to
260 the assessed valuation of \$25,000 on the residence and
261 contiguous real property, as defined in s. 6, Art. VII of the

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262 State Constitution. Such title may be held by the entireties,
263 jointly, or in common with others, and the exemption may be
264 apportioned among such of the owners as ~~shall~~ reside thereon, as
265 their respective interests ~~shall~~ appear. If only one of the
266 owners of an estate held by the entireties or held jointly with
267 the right of survivorship resides on the property, that owner is
268 allowed an exemption of up to the assessed valuation of \$25,000
269 on the residence and contiguous real property. However, an ~~no~~
270 ~~such~~ exemption of more than \$25,000 is not allowed to any one
271 person or on any one dwelling house, except that an exemption up
272 to the assessed valuation of \$25,000 may be allowed on each
273 apartment or mobile home occupied by a tenant-stockholder or
274 member of a cooperative corporation and on each condominium
275 parcel occupied by its owner. Except for owners of an estate
276 held by the entireties or held jointly with the right of
277 survivorship, the amount of the exemption may not exceed the
278 proportionate assessed valuation of all owners who reside on the
279 property. Before such exemption may be granted, the deed or
280 instrument shall be recorded in the official records of the
281 county in which the property is located. The property appraiser
282 may request the applicant to provide additional ownership
283 documents to establish title.

284 (b) Every person who qualifies to receive the exemption
285 provided in paragraph (a) is entitled to an additional exemption
286 of up to \$25,000 on the assessed valuation greater than \$50,000
287 for all levies other than school district levies.

288 Section 7. Subsection (2) of section 196.075, as amended by
289 section 1 of chapter 2012-57, Laws of Florida, is amended to
290 read:

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291 Section 1. Section 196.075, Florida Statutes, is amended to
292 read:

293 196.075 Additional homestead exemption for persons 65 and
294 older.—

295 (2) In accordance with s. 6(d), Art. VII of the State
296 Constitution, the board of county commissioners of any county or
297 the governing authority of any municipality may adopt an
298 ordinance to allow either or both of the following an additional
299 homestead exemptions:

300 (a) Up to \$50,000 ~~Fifty thousand dollars~~ for any person who
301 has the legal or equitable title to real estate and maintains
302 thereon the permanent residence of the owner, who has attained
303 age 65, and whose household income does not exceed \$20,000; or

304 (b) The amount of the assessed value of the property for
305 any person who has the legal or equitable title to real estate
306 with a just value less than \$250,000 and has maintained thereon
307 the permanent residence of the owner for at least 25 years, who
308 has attained age 65, and whose household income does not exceed
309 the income limitation prescribed in paragraph (a), as calculated
310 in subsection (3).

311 Section 8. Applying retroactively to the 2013 tax roll,
312 section 196.1978, Florida Statutes, is amended to read:

313 196.1978 Affordable housing property exemption.—Property
314 used to provide affordable housing serving eligible persons as
315 defined by s. 159.603~~(7)~~ and natural persons or families meeting
316 the extremely-low-income, very-low-income, low-income, or
317 moderate-income limits specified in s. 420.0004, which ~~property~~
318 is owned entirely by a nonprofit entity that is a corporation
319 not for profit, qualified as charitable under s. 501(c)(3) of

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320 the Internal Revenue Code and in compliance with Rev. Proc. 96-
321 32, 1996-1 C.B. 717, is ~~or a Florida-based limited partnership,~~
322 ~~the sole general partner of which is a corporation not for~~
323 ~~profit which is qualified as charitable under s. 501(c)(3) of~~
324 ~~the Internal Revenue Code and which complies with Rev. Proc. 96-~~
325 ~~32, 1996-1 C.B. 717, shall be considered property owned by an~~
326 exempt entity and used for a charitable purpose, and those
327 portions of the affordable housing property which provide
328 housing to natural persons or families classified as extremely
329 low income, very low income, low income, or moderate income
330 under s. 420.0004 are ~~shall be~~ exempt from ad valorem taxation
331 to the extent authorized in s. 196.196. All property identified
332 in this section must ~~shall~~ comply with the criteria provided
333 under s. 196.195 for determining ~~determination of~~ exempt status
334 and to be applied by property appraisers on an annual basis ~~as~~
335 ~~defined in s. 196.195.~~ The Legislature intends that any property
336 owned by a limited liability company ~~or limited partnership~~
337 which is disregarded as an entity for federal income tax
338 purposes pursuant to Treasury Regulation 301.7701-3(b)(1)(ii)
339 ~~shall be treated as owned by its sole member or sole general~~
340 ~~partner.~~

341 Section 9. Section 4 of chapter 2012-45, Laws of Florida,
342 is amended to read:

343 Section 4. The governing bodies of St. Lucie County and
344 Martin County shall enter into an interlocal agreement by ~~no~~
345 ~~later than~~ May 1, 2013, which must ~~shall~~ provide a financially
346 feasible plan for transfer of services, personnel, and public
347 infrastructure from St. Lucie County to Martin County. The
348 agreement must ~~shall~~ include compensation for the value of

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349 infrastructure investments by St. Lucie County in the
350 transferred property minus depreciation, if any. ~~Upon the~~
351 Effective July 1, 2013 ~~date of this act~~, the total tax and
352 assessment revenue that would have been generated in fiscal year
353 2013-2014 by all St. Lucie County taxing authorities levying
354 taxes or assessments within the area transferred to Martin
355 County, except for taxes levied by school districts, less 10
356 percent shall be transmitted to St. Lucie County for
357 distribution to the county and all other affected taxing
358 authorities. Thereafter, through fiscal year 2022-2023, the tax
359 and assessment revenue amount that would have been generated by
360 all St. Lucie County taxing authorities levying taxes or
361 assessments in the transferred area for fiscal year 2013-2014
362 shall serve as the base amount of tax and assessment revenue for
363 further annual reductions of 10 percent of the base amount
364 before annual distributions to the St. Lucie County through
365 fiscal year 2022-2023. However, for any fiscal year through
366 fiscal year 2022-2023, if ~~when~~ the total taxes and assessments
367 collected within the transferred area exceed the base amount by
368 more than 3 percent, St. Lucie County shall receive the same
369 percentage distribution from the tax and assessment revenue that
370 exceeds the base amount by more than 3 percent as they will
371 receive from the base amount. All distributions to St. Lucie
372 County shall occur within 30 days after the beginning of each
373 calendar year.

374 Section 10. This act shall take effect July 1, 2013.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Finance and Tax

BILL: Proposed Draft Legislation

INTRODUCER: Appropriations Subcommittee on Finance and Tax

SUBJECT: Property Tax

DATE: March 13, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Babin	Diez-Arguelles	AFT	Pre-meeting
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The proposed bill updates property tax statutes:

- to accommodate the use of commercial mail delivery service by taxpayers,
- to authorize the use of electronic mail by property appraisers and value adjustment boards,
- to require notices related to tax roll certification to be provided on websites,
- to provide long-term lessees the ability to retain homestead limitations in certain instances,
- to conform appeal and penalty provisions,
- to provide for an automatic renewal for “granny flat” assessment reductions,
- to delete a statutory requirement related to homestead that has been ruled unconstitutional by the Florida Supreme Court,
- to clarify the ability of local governments to provide property tax exemptions for persons 65 and older,
- to repeal the ability for limited liability partnerships to qualify for the affordable housing property tax exemption, and
- to amend the calculation of payments required by Martin County to St. Lucie County for the county boundary line change passed in 2012.

The Revenue Estimating Conference estimates that section 8 of the proposed bill will increase local property tax revenue by \$23.4 million in fiscal year 2013-14.

The proposed bill substantially amends sections 192.047, 193.122, 193.155, 193.703, 196.031, 196.075, and 196.1978, Florida Statutes.

The proposed bill creates section 192.130, Florida Statutes.

The proposed bill substantially amends Chapter 2012-45, Laws of Florida.

II. Present Situation:

The present situation for each section of the proposed bill has been included below in Section III, Effect of Proposed Changes.

III. Effect of Proposed Changes:

Section 1—Filing Dates for Returns and Applications

Present situation: Section 192.047, F.S., instructs property tax administrators to determine the date a person filed a property tax return or an application for exemption or special classification by using the United States Postal Service postmark date. Taxpayers that use commercial mail delivery service do not receive a United States Postal Service postmark date, and thus, may not receive the same amount of time to file returns and applications.

Proposed change: The proposed bill amends the date of filing provisions to allow a postmark from the United State Postal Service or a commercial mail delivery service to be considered the date of filing for returns and applications.

Section 2—Electronic Notices Related to Property Taxes

Present situation: Property appraisers must periodically mail notices of proposed property taxes, renewal applications for exemptions, and notices of intent to deny certain exemptions to taxpayers. Value Adjustment Boards are required to mail board decisions to property appraisers and petitioners.

Proposed change: The proposed bill creates s. 192.130, F.S., authorizing property appraisers to obtain permission from taxpayers to provide notices of proposed property taxes, renewal applications for certain exemptions and notices of intent to deny exemptions by electronic mail (email), rather than by mail. The proposed bill authorizes value adjustment boards to obtain permission to provide board decisions by email, rather than by mail.

In order to provide these items by email, property appraisers and value adjustment boards are required to obtain consent from the recipient in writing and verify the email address of the recipient. If a document is sent by email and the email is returned undeliverable, the property appraiser and value adjustment board must send the item by mail. Documents sent by email must comply with statutory requirements as to notice and form. The sender must renew the consent and verification requirements every 5 years.

Section 3—Publication of Notice Concerning Certified Assessment Rolls

Present situation: After property appraisers certify their property assessment rolls, they are required to publish a notice of the date of certification in a local periodical meeting certain statutory requirements as to publication frequency, etc.

Proposed change: The proposed bill requires property appraisers to publish the notices of the date of certification on their websites in addition to the notices published in a local periodical.

Section 4—Ad Valorem Tax – Homestead Exemption and Assessment Limitations

Present situation: Florida provides ad valorem tax exemptions and assessment limitations for homestead property.¹ Both property owners and long-term lessees² are entitled to homestead exemptions and assessment limitations if they use their property as a homestead.

Property generally is assessed at just value on January 1 of the year following a “change in ownership.” A change of ownership is any sale, foreclosure, or transfer of legal or beneficial title.³ However, certain title transfers—a transfer of title to correct an error, a transfer between legal and equitable title, and a transfer when the owner is listed as both a grantor and grantee—do not constitute a change of ownership when the person entitled to the homestead does not change after the transfer of title.

Proposed change: For long-term lessees that qualify for homestead tax exemptions and limitations, the proposed bill adds to the list of transfers that do not constitute a change of ownership a transfer of title that occurs when the person who is entitled to the homestead tax treatment is a long-term lessee entitled to homestead pursuant to s. 196.041(1), F.S., and that lessee continues to be entitled to homestead treatment after the transfer of title.

Present Situation: When a homestead owner sells homestead property and purchases a new homestead, he or she is entitled to transfer a portion of the assessment limitation accrued on the prior homestead to his or her new homestead.⁴ Property appraisers determine the amount of assessment limitation that can be transferred and, if the property owner disagrees, the property owner can appeal to the value adjustment board.⁵ Property owners can appeal the value adjustment board decision to circuit court, but must do so within 15 days following the value adjustment board decision.⁶

Proposed Change: The proposed bill extends the time for property owners to appeal value adjustment board decisions on transfers of assessment limitations from 15 to 60 days, which will

¹ See generally Fla. Const. Art. VII, ss. 4 and 6

² Lessees are entitled to homestead exemptions and assessment limitations if they use the property as a homestead and have a lease of at least 98 years (50 years if executed prior to June 19, 1973). See s. 196.041(1), F.S.

³ Section 193.155(3)(a), F.S.

⁴ See Fla. Const. Art. VII, s. 4(d)(8)

⁵ Section 193.155(8)(1), F.S.

⁶ *Id.*

align this court filing time frame with the general court filing time frame provided for challenges to tax assessments.⁷

Section 5—Homestead Exemption; Living Quarters for Parents and Grandparents; Application

Present situation: Counties may provide a reduction in assessed value for living quarters constructed on homestead property for the purpose of providing living quarters for parents or grandparents (granny flats).⁸ The authority for the granny flats reduction is in chapter 193, F.S., and thus, counties cannot use their current authority to waive the annual application requirement; the property owner must apply for the assessment reduction every year.

If a property owner claiming the granny flats reduction willfully makes a false statement when applying for the reduction, a civil penalty of not more than \$1,000 applies, and the property does not qualify for the reduction for 5 years.

Proposed change: The proposed bill amends the granny flats reduction to allow counties to waive the annual application requirement. The proposed bill requires property owners to notify the property appraiser when the property owner no longer qualifies for the reduction. The proposed bill removes the civil penalty and 5 year disqualification provisions from the granny flats reduction, and inserts authorization to assess for any reductions improperly claimed for the prior 10 years, a penalty equal to 50 percent, and 15 percent interest per year. The proposed bill also requires the property appraiser to give the property owner 30 days to pay the assessment; after 30 days, the property appraiser must file a lien against all property of the property owner in the county.

Section 6—Homestead Exemption; Dependents Residing on the Property

Present situation: The statute implementing Florida’s homestead exemption requires the property owner to live on the property in order to qualify for the exemption.⁹ In 2012, the Florida Supreme Court held that the Florida Constitution grants homestead exemption to a property owner when a dependent of the property owner lives on the property, regardless of whether the owner lives on the property.¹⁰

Proposed change: The proposed bill removes the statutory requirement that, in order to qualify for homestead exemption, the owner of homestead property must live on the property when a dependent lives on the property.

⁷ See s. 194.171(2), F.S.

⁸ See s. 193.703, F.S.

⁹ Section 196.031(1)(a), F.S., provides, in part, that “[e]very person who, on January 1, has . . . title . . . to real property in this state and who resides thereon and in good faith makes the same his or her permanent residence, or the permanent residence of another or others legally or naturally dependent upon such person, is entitled to an exemption” (emphasis added).

¹⁰ See *Garcia v. Andonie*, 101 So. 3d 339 (Fla. 2012).

Section 7—Additional Homestead Exemption – Person Age 65 or Older

Present situation: Since 1999, counties have been authorized to grant additional homestead exemptions up to \$50,000 to persons who are 65 or older and who satisfy certain low-income requirements.¹¹

In 2012, the voters approved a constitutional amendment allowing counties to provide an alternative additional exemption for the amount of homestead property with a just value less than \$250,000.¹² The implementing legislation¹³ inadvertently amended the original 1999 authority, causing concern that additional exemptions lower than \$50,000 were no longer authorized.

Proposed change: The proposed bill clarifies that counties are authorized to grant additional homestead exemptions lower than \$50,000.

Section 8—Ad Valorem Tax Exemption – Affordable Housing Property

Present situation: Since 1999, Florida has provided an ad valorem exemption for affordable housing property when the property is wholly-owned by a non-profit corporation that qualified as a charitable 501(c)(3) organization and meets certain other statutory requirements. In 2009,¹⁴ the statute was amended to also allow property to qualify if it was owned by a limited liability partnership and the only general partner of the limited liability partnership was a non-profit corporation that qualified as a charitable 501(c)(3) organization. Since the change was enacted, several for-profit limited liability partnerships have restructured to take advantage of the tax exemption.

Proposed change: The proposed bill amends the affordable housing property exemption to remove the authority of a limited liability partnership that merely has a non-profit general partner that is a charitable 501(c)(3) organization to qualify for the exemption.

Section 9—Change of Boundary of St. Lucie County and Martin County; School Taxes

Present situation: In 2012, the boundary line between St. Lucie and Martin counties was adjusted, transferring the subdivision of Beau Rivage from St. Lucie County to Martin County.¹⁵ The legislation requires Martin County to determine how much tax and assessment revenue the transferred property would have generated for St. Lucie County taxing authorities in fiscal year 2013-14 and requires Martin County to pay St. Lucie County a percentage of that amount for several years.¹⁶ The first payment is 90 percent of the total and is required in fiscal year 2013-

¹¹ See s. 196.075, F.S.

¹² Amendment 11, 2012 General Election. The amendment originated as CS/HJR 0169 (2012). The text of the amendment can be found on the website of the Florida Department of State at <http://election.dos.state.fl.us/initiatives/fulltext/pdf/10-89.pdf> (last visited March 18, 2013).

¹³ Ch. 2012-57, Laws of Florida.

¹⁴ The original 2009 legislation was ruled to have violated the single subject rule. The legislation was passed again in 2011.

¹⁵ See Ch. 2012-45, Laws of Florida. The law was required because, although the subdivision was located in St. Lucie County, the geography of the area required all government services to traverse Martin County. For instance, due to the vicinity of Martin County schools, the students in the subdivision had attended Martin County schools for many years prior to the boundary shift.

¹⁶ The apparent intent is to slowly transition the tax revenue between the counties.

14. Thereafter, the payments are reduced by an additional 10 percent per year. The last payment is required in fiscal year 2022-23.

Any loss in the ability of St. Lucie County to generate its required local effort school funding because of the transfer of the subdivision to Martin County will be made up in the Florida Education Finance Program through the state portion of the total required per student funding.

Proposed change: The proposed bill amends Ch. 2012-45, Laws of Florida, to exclude taxes levied by school districts from the calculation of the tax payment that Martin County must make to St. Lucie County.

Section 10 provides that the act takes effect July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference estimates that section 8 will increase local property tax revenues, but it will take several years before the full impact of the revenue is realized. Section 8 will increase local property tax revenues by \$23.4 million in fiscal year 2013-14. By fiscal year 2017-18, the full recurring impact of Section 8 is estimated to be \$140.9 million.

B. Private Sector Impact:

The proposed bill creates certainty for taxpayers who use commercial mail delivery services. It provides more access to information for taxpayers by requiring notices of the certification of tax rolls to be on the property appraisers' websites. The proposed bill also provides a tax reduction for long-term lessees in certain situations and provides taxpayers additional time for appealing certain value adjustment board decisions. The proposed bill lessens taxpayer filing requirements by allowing counties to waive annual exemption

filing requirements. Additionally, the proposed bill will increase taxes for some limited liability partnerships that have taken advantage of a recently-enacted exemption.

C. Government Sector Impact:

The proposed bill authorizes property appraisers and value adjustment boards to send certain notices electronically, thereby lowering postage expenses; will increase local government property tax revenue by limiting the exemption for affordable housing property; and will lower the amount of taxes that Martin County must pay St. Lucie County, with respect to the boundary change enacted in 2012.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

**APPROPRIATIONS SUBCOMMITTEE ON
FINANCE AND TAX
COMMITTEE MEETING
MARCH 19, 2013**

**REVIEW OF SELECTED ECONOMIC DEVELOPMENT
TAX INCENTIVES**

REVIEW OF SELECTED ECONOMIC DEVELOPMENT TAX INCENTIVES

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INTERNATIONAL BANKING FACILITY INCOME DEDUCTION

Section 220.63(5), F.S.

INCENTIVE:

- Income from international banking activities is not subject to Florida Corporate Income Tax.
- Although the statute is more detailed, qualifying income generally includes income derived from:
 - loans to foreign persons,
 - deposits with foreign banks or other international banking facilities; and
 - foreign exchange trading or hedging transactions.

PURPOSE:

- To encourage banks that engage in international banking activities to locate their physical facilities in Florida.
- Note: At the time this deduction was adopted, federal banking laws were such that Florida's deduction was restricted to Florida banks that had international banking facilities. Because of changes to federal law, a bank paying tax in Florida can take advantage of the deduction even if the international banking facility is located in another state.

QUALIFYING REQUIREMENTS:

- The deduction applies only to income from international banking activities. International banking accounts must be segregated from other banking organization accounts.

APPROVAL / OVERSIGHT / LIMITATIONS:

- No prior approval necessary.
- DOR reviews deductions through its normal auditing procedures.

SIGNIFICANT HISTORY:

- 1981 – Created.
- 1994 – Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 allowed interstate branch banking throughout the U.S., except in states that passed laws to prohibit it.

FISCAL IMPACT:

- \$10.8 Million per year

ADDITIONAL INFORMATION:

- The international banking facility deduction was created during an expansion of U.S. banks into international banking, apparently pursuant to increased authority granted by the federal Edge Act of 1919. See 12 U.S.C. ss. 611-631.
- The initial intent of the federal authority was directed at U.S. banks being permitted to conduct more activities outside of the U.S.
- U.S. banks taking advantage of this authority had discretion in choosing the location of their facilities for managing these accounts. Florida's deduction was created in an apparent attempt to have these facilities located in Florida.

SINGLE SALES FACTOR APPORTIONMENT

Sections 220.153, F.S.

INCENTIVE:

- Allows a multi-state corporation to use single sales factor apportionment to determine its Florida corporate taxable income.
- Typically, Florida uses a 3-factor formula to determine taxable income. The use of a single sales factor apportionment formula benefits corporations with a large percentage of sales to out-of-state customers.

PURPOSE:

- To encourage capital investment in Florida.

SIGNIFICANT HISTORY:

- 2011 – created.

QUALIFYING REQUIREMENTS:

- The company must declare a 2-year period for measuring its capital investment in Florida, and then within that 2-year period invest at least \$250 million into Florida real property, fixtures, and equipment.
- Expenditures to acquire an existing business and expenditures in excess of \$125 million for land or buildings do not qualify.
- There is no requirement that the company demonstrate that the incentive caused it to make the investment in Florida.

APPROVAL / OVERSIGHT / LIMITATIONS:

- DEO reviews and approves the qualifying capital expenditures.
- DOR oversees the use of apportionment factors through its normal auditing procedures.
- The first year during which single sales factor appointment could be used is a taxable year beginning on or after January 1, 2013.

FISCAL IMPACT:

- \$7.6 Million, beginning in 2013-2014, as originally estimated by the Revenue Estimating Conference in 2011.
- To date, 5 companies have filed notices of intent to begin their 2-year measurement period. One of the 5 companies has completed its \$250 million investment.

ADDITIONAL INFORMATION:

Program Participants	
1	CSX
2	Publix
3	NextEra Energy
4	Mosaic
5	(Confidential due to nature of project)

RESEARCH & DEVELOPMENT TAX CREDIT

Section 220.196, F.S.

INCENTIVE:

- Provides a credit against Corporate Income Tax for increasing research and development expenses in Florida. The credit is equal to 10 percent of the annual increase. Florida's credit is based on a similar federal credit.

PURPOSE:

- To encourage research and development activities within Florida.

QUALIFYING REQUIREMENTS:

- Companies must increase their qualifying research expenses in Florida over their average qualifying research expenses in Florida during the 4 immediately preceding years.
- The company must qualify for and receive the federal research and development credit.

APPROVAL / OVERSIGHT / LIMITATIONS:

- No prior approval necessary.
- Department of Revenue oversees through its normal auditing procedures.
- For companies that have not existed for 4 years, the credit amount is reduced 25 percent for each year that the business did not exist.
- Total credits may not exceed \$9 million per calendar year.

SIGNIFICANT HISTORY:

- 2011 – created.

FISCAL IMPACT:

- \$9 Million per year, as originally estimated by the Revenue Estimating Conference in 2011.

CAPITAL INVESTMENT TAX CREDIT

Section 220.191, F.S.

INCENTIVE:

- Corporate Income Tax credits and/or Insurance Premium Tax credits are provided to high-impact sector and qualified target industry companies, as well as corporate headquarters, if they invest significant capital (\$25 million or more) within Florida.

- High-impact sectors have evolved over time, but currently include:
 - Transportation Equipment (Aviation/Aerospace),
 - Silicon Technology,
 - Information Technology,
 - Life Sciences,
 - Financial Services,
 - Corporate Headquarters, and
 - Clean Energy.

- Qualified Target Industry business sectors include:
 - All High-impact sectors, and
 - Homeland Security and Defense.

PURPOSE:

- To encourage qualifying companies to locate or expand physical facilities in Florida.

QUALIFYING REQUIREMENTS:

CURRENT CAPITAL INVESTMENT TAX CREDIT QUALIFYING PROJECT TYPES					
	High-Impact Tier 1	High-Impact Tier 2	High-Impact Tier 3	Target Industry	Headquarters
Investment Required	\$25 Million	\$50 Million	\$100 Million	\$100 Million	\$250 Million
Taxes that the Credit can be Applied Against	Corporate Income Tax or Insurance Premium	Corporate Income Tax or Insurance Premium	Corporate Income Tax or Insurance Premium	Corporate Income Tax or Insurance Premium	Corporate Income Tax
Jobs Requirement	100 New Jobs	100 New Jobs	100 New Jobs	100 New, 900 New or Retained	1,500 New
Annual Credit Amount	5% of Eligible Costs	5% of Eligible Costs	5% of Eligible Costs	50% of increased tax liability arising out of the project	Lesser of \$15 million or 5% of Eligible Costs
Annual Credit Limit	50% of tax arising out of project	75% of tax arising out of project	100% of tax arising out of project	50% of increased tax liability arising out of project	\$15 million per year
Credit Period	20 years	20 Years	20 Years	5 years	20 years
Credit Carryover	None	None	Amounts not used within the 20-yr period can be taken between years 21 and 30	None	Annual unused amounts can be carried forward within the 20-yr period
Disproportionately Affected County Waiver	Between 7/1/11 and 6/30/14, the high impact sector requirement is waived for any business that relocates all or a portion of its out-of-state business to Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, Walton or Wakulla County.			N/A	N/A
Taxpayer Permitted to Transfer Credit?	Generally no. However, if a project establishes a new solar panel manufacturing facility and generates at least 400 jobs within 6 months of commencing operations and pays those jobs at least \$50,000 average annual salary, it may transfer its permissible credit to another business.				

APPROVAL / OVERSIGHT / LIMITATIONS:

- Businesses must apply and have their projects pre-approved through DEO.
- After credit is awarded, DEO reviews businesses annually to ensure continuing requirements are satisfied.
- DOR oversees credit use through DOR's normal auditing procedures.
- Taxpayer is only permitted to offset the income generated from the qualifying project.
- Taxpayer can only offset a set percentage of its income from the qualifying project.
- Except for certain projects, unused credits expire at the end of each year.

SIGNIFICANT HISTORY:

- 1998 – Capital Investment Tax Credit (CITC) was created for high-impact sectors. High-impact sectors included Aviation/Aerospace, Automotive, and Silicon Technology. The credit only applied against Florida's Corporate Income Tax.
- 1999 – CITC was amended to allow the credit to apply to insurance premium tax.
- 1999 – DEO expanded high-impact sectors to include Information Technology.
- 2002 – DEO expanded high-impact sectors to include Life Sciences.
- 2003 – CITC was amended to temporarily allow financial services businesses to qualify for the CITC through June 30, 2004.
- 2004 – DEO expanded high-impact sectors to include Financial Services.
- 2005 – CITC was expanded to allow target industry businesses to qualify.
- 2006 – CITC was expanded to allow corporate headquarters to qualify.
- 2006 – DEO expanded high-impact sectors to include corporate headquarters.
- 2008 – CITC was amended to allow certain solar projects to transfer the credits.
- 2008 – DEO expanded high-impact sectors to include clean energy.
- 2011 – CITC was amended to allow certain tax credits to be used outside of the normal 20-year period following commencement of operations.
- 2011 – High-impact sector requirement was temporarily waived from 7/1/2011 through 6/30/2014, for Bay, Escambia, Franklin, Gulf, Okaloosa, Santa Rosa, Walton, and Wakulla counties, due to the significant impacts from the Deepwater Horizon oil spill.

FISCAL IMPACT:

The following information is valid as of December 2012:

Number of Applicants recommended from Enterprise Florida, Inc.	24
Number of Applicants Certified by DEO to Participate	23
Amount of Credit Initially Certified	\$2.6 billion
Number of Projects Completed and Audited	5
Number of Completed Projects Taking Credit	5
Amount of Credit Taken	\$90.2 million
Amount of Credit Taken in 2011	\$5.6 million

ADDITIONAL INFORMATION:

Active CITC Participants (as of March 3, 2013)			
	Company	Investment	Location
1	Bellsouth Telecommunications, Inc.	\$127m	Statewide
2	Chase (dba Pricing, Billing & Commerce Solutions)	\$82.8m	Hillsborough
3	Chico's FAS, Inc.	unconfirmed	Lee
4	Chromalloy Castings	unconfirmed	Hillsborough
5	Cox Target Media	unconfirmed	Pinellas
6	Darden Restaurants, Inc.	\$150.1m	Orange
7	Embraer Aircraft Holdings	unconfirmed	Brevard
8	Harris Corporation.	unconfirmed	Brevard
9	Jabil Circuit, Inc.	unconfirmed	Pinellas
10	Lockheed Martin Astronautics	\$356m	Brevard
11	Lockheed Martin Missiles and Fire Control	unconfirmed	Orange
12	Nabi Biopharmaceuticals	unconfirmed	Broward
13	Nipro Diagnostics, Inc.	\$38.9m	Broward
14	Planar Energy Devices, Inc.	unconfirmed	Alachua
15	SAFT Industrial Battery Group	unconfirmed	Duval
16	T. Rowe Price Associates, Inc.	unconfirmed	Pasco
17	The Boeing Company	unconfirmed	Brevard
18	The Depository Trust & Clearing Corporation	\$35.7m	Hillsborough
19	UBS AG	unconfirmed	Dade
20	Verizon Corporate Resources Group, LLC	unconfirmed	Seminole

NEW MARKETS TAX CREDIT

Sections 288.9916, F.S.

INCENTIVE:

- Corporate Income Tax credits or Insurance Premium Tax credits equal to 39 percent of qualified investments in Community Development Entities (CDEs). The CDEs use qualified investments to fund projects in low-income communities. Florida's program is related to a similar federal government program.

PURPOSE:

- To encourage capital investment in low-income communities.

QUALIFYING REQUIREMENTS:

- The investor must make a qualifying investment in a CDE.
- The CDE must be certified under the federal New Markets Tax Program.
- CDEs must use these funds to invest in qualifying businesses in low-income communities. These investments are typically made in the form of loans.

APPROVAL / OVERSIGHT / LIMITATIONS:

- DEO reviews projects and approves credit allocations.
- DOR reviews credit use through its normal auditing procedures.
- The 39 percent credit must be taken in portions spread over 5 taxable years.
- A qualifying business may not receive more than \$10 million in qualifying investments under the entire program.
- The total amount of annual credits that may be awarded to CDEs is \$33.6 million per state fiscal year, and the total amount of credits that may be awarded for all years of the program is \$163.8 million.
- The New Markets Development Program expires December 31, 2022.

SIGNIFICANT HISTORY:

- 2000 -- The federal New Markets Tax Program was created by the Community Renewal Tax Relief Act.
- 2009 -- Florida created its New Markets Development Program, with an annual cap on credits of \$20 million, and a total program credit limit of \$97.5 million.
- 2012 -- The credit limits were raised to \$33.6 million per year and \$163.8 million for the life of the program, and some clarifying amendments were made.

FISCAL IMPACT:

- \$33.6 million per year; \$163.8 million over the life of the program.
- To date, \$163.8 million has been allocated.

ADDITIONAL INFORMATION:

PARTICIPATING COMMUNITY DEVELOPMENT ENTITIES	
1	Whitney New Market Fund, LLC
2	Urban Development Fund, LLC
3	Stonehenge Community Development, LLC
4	USBCDE Sub-CDE LXV, LLC
5	Enhanced Community Development, LLC
6	Advantage-BizCapital BIDCO I, LLC
7	Advantage- Southeast Community Development Fund V, LLC

QUALIFIED LOW-INCOME COMMUNITY BUSINESSES RECEIVING INVESTMENTS			
	BUSINESS	LOCATION	USE OF INVESTMENT
1	Cocoa Expo Sports	Cocoa	Construct Facility
2	Agri-Source Fuels, LLC	Dade City	Facility Expansion & Working Capital
3			
4			
5	Halifax Media Holdings & Halifax Media Acquisition	Daytona Beach	Media Acquisitions & Working Capital
6			
7	Contego Services Group, LLC	Fort Lauderdale	Working Capital
8	Patriot Risk Management	Fort Lauderdale	Employees
9	Harlem Heights	Fort Myers	Construct a Community Arts & Education Center
10	Coppert Art, LLC & Tropical Imports by Damar, LLC	Fort Pierce	Refinance & Working Capital
11	Prioria Robotics, Inc.	Gainesville	Working Capital for Contracts to provide UAVs
12			
13	Second Campbell Associates, LLC	Homestead	Create a Training Facility for a Restaurant Chain
14	Basic Products, LLC (Jerome Brown BBQ)	Jacksonville	Facility Renovations, New Equipment, Inventory & Working Capital
15	Litmark, Inc.	Jacksonville	Purchase Realty
16			
17	Lake Montessori by Weston, Inc.	Leesburg	Purchase Business & Working Capital
18	Advanced Footcare, Inc.	Miami	Purchase & Improve Realty
19	Sunburst Farms, Inc.	Miami	Corporate Headquarters & Warehouse Facilities

20	Summit Aerospace Holdings, LLC	Miami	Employees & Inventory
21	Aspira of Florida	Miami	Purchase & Renovate a Middle School
22	International Cruise Food and Hotel Supplies Inc.	Miami	Improve Operations
23			
24	Atlas Paper Mills, LLC	Miami	Refinance / Working Capital
25	University Plaza Properties, LLC	Miami	Construct Nursing Facility & Working Capital
26	Florida Trading Import & Export, Inc. (American Spice Trading Co., Inc.)	Miami	Refinance, New Equipment, Inventory & Working Capital
27	DCR Engineering Services, Inc.	Mulberry	Business Expansion & New Employees
28	ABC's of Learning and Growing, Inc.	North Lauderdale	Improve Operations
29			
30			
31	Okeechobee Funeral Home	Okeechobee	Purchase Realty
32	Orlando Telephone Company	Orlando	Operating Facility Investment
33	Harvill's Produce Company, Inc.	Orlando	Refinance and Improve Realty
34			
35	Orlando Historic Aloft Hotel	Orlando	Construct Facility
36	ESP Management of Florida, Inc.	Orlando	Refinance
37	Community Maritime Park Associates, Inc.	Pensacola	Construct Facility
38	BN Bio-Fuels, LLC	Riviera Beach	Construct a Bio-Fuel Facility
39	SunnyLand Solar, Inc.	Tallahassee	Construct Manufacturing Facility
40	Solar Distributors of America	Tallahassee	Construct commercial solar array, establish Headquarters & Working Capital
41	SolarSink, LLC	Tallahassee	Establish Manufacturing Facility
42	Manna Pro Products Florida	Tampa	Refinance & Working Capital
43	Glazer Children's Museum	Tampa	Finance Facility & Working Capital
44	Tampa Bay History Center	Tampa	Working Capital & Facility Improvements
45	Tampa Bay Arena, L.P.	Tampa	Facility Renovation
46	Drug Abuse Comprehensive Coordinating Office Properties, Inc.	Tampa	Construct Facility

URBAN HIGH-CRIME AREA JOB TAX CREDIT

Sections 212.097 and 220.1895, F.S.

INCENTIVE:

- Provides a credit of \$500 to \$2,000 per qualified job against either Sales Tax or Corporate Income Tax for creating new jobs within designated urban areas nominated by local governments and qualified by the Department of Economic Opportunity as high-crime areas.

PURPOSE:

- To encourage the creation of jobs in urban areas of Florida.¹

QUALIFYING REQUIREMENTS:

- “Qualified high-crime areas” were nominated by local governments and ranked by DEO based on:
 - Arrest rates for violent crimes and other crimes such as drug sales, drug possession, prostitution, vandalism, and civil disturbances
 - Reported crime volume and rate of specific property crimes
 - Percentage of reported index crimes that are violent in nature
 - Overall index crime volume for the area, and
 - Overall index crime rate for the geographic area
- Rankings are based on comparisons to other nominated areas, not to the community as a whole.
- Qualified high-crime areas are designated in 3 tiers, with tier one containing the highest crime areas. Available credits per job created are higher in higher-crime tiers.
- An area that has been designated as a federal Empowerment Zone is also considered a qualified high-crime area.
- Eligible businesses include sole proprietorships, firms, partnerships, and corporations predominantly engaged in:
 - Agriculture, forestry and fishing
 - Manufacturing
 - Retail
 - Public warehousing and storage
 - Hotels and other lodging places
 - Research and development
 - Motion picture production and allied services

¹ *State of Florida Job Creation Plan*, pg. 34.

- Public golf courses
- Amusement parks
- Targeted industries eligible for the targeted industry business tax refund
- Call centers or similar customer service operations that service a multistate or international market
- A qualified employee must work for an eligible business at least 36 hours per week for at least 3 months.
- A new business with at least 10 employees in a tier one area is eligible for tax credits; tiers two and three require 20 and 30 new employees, respectively.
- An existing business within a tier one area must add at least 5 employees; existing businesses in tiers two and three must add 10 and 15 more employees, respectively.
- To be eligible for this credit, an existing business's number of eligible employees as of one year before the application date must be at least as great as the number of qualified employees on January 1, 2009, or on the application date on which a credit was based for any previous application.
- A new or existing business will receive an additional \$500 credit for any qualified employee who is a welfare transition program participant.

APPROVAL / OVERSIGHT / LIMITATIONS:

- The Department of Economic Opportunity must approve all applications for this credit.
- The maximum credit amount that may be approved during any calendar year is \$5 million, and \$1 million is reserved for tier-one areas.
- Up to 15 high-crime areas are authorized by Florida Statutes but only 13 applications were submitted by local governments. These areas have not changed since the program's original application period in 1998.
- A municipality, or a county and one or more municipalities together, may not nominate more than one high-crime area. This limitation does not apply to Miami-Dade County.
- The size of a designated area is limited to 20 square miles in a community having more than 150,000 persons, and in smaller communities the allowable size is smaller. The designated area may consist of up to 3 noncontiguous parcels.

SIGNIFICANT HISTORY:

- Created in 1997.
- In 2001 qualified target industry businesses and motion picture production and allied services were added to the list of eligible businesses.
- In 2012, dates for the reference period number of employees for existing businesses applying for the credit for a second time or more were changed so that when a business is applying for the second time or more, the number of qualified employees the business has at the time must be no lower than the number of qualified employees that the employer had on January 1, 2009, or on the date of its previous application for this credit. The change also allowed a business to reapply for credits that had been disallowed under the law as it existed at the time of application, but would have been allowed under the law as amended.

FISCAL IMPACT:

- 13 Urban High-Crime Areas have been designated by DEO based on nominations by local governments.
- \$2.5 m in credits were approved in 2012.
- \$21.9 m in credits have been approved since the program's inception.

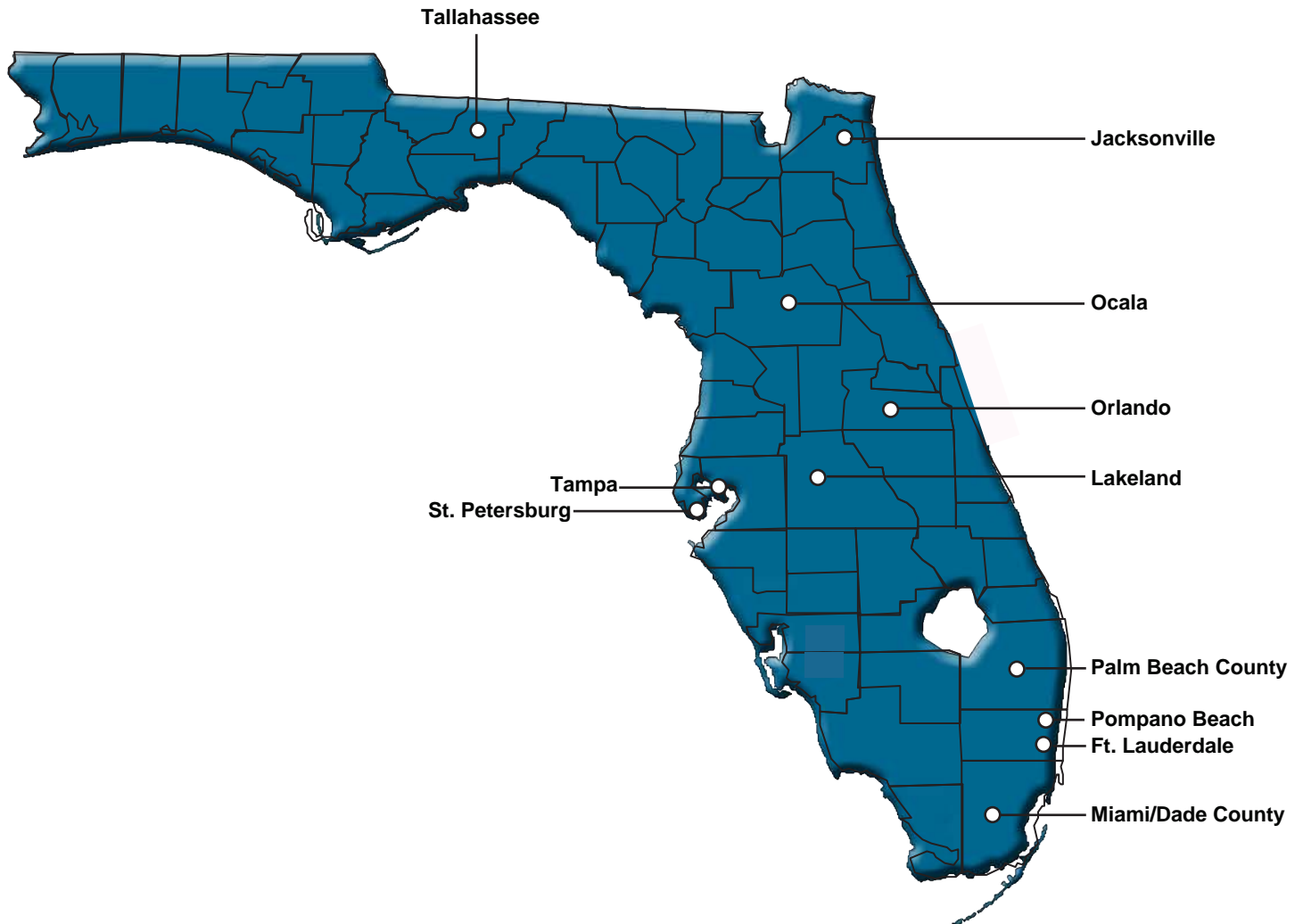
ADDITIONAL INFORMATION:

- Under this program the credit is based on the creation of new jobs; there is no ongoing obligation for the state to provide credits in the future. Job creation is measured over a 12-month period, and any change to the program could be crafted to allow any eligible business to receive credits for jobs created during its current 12-month measurement period.
- 46 percent (\$10.1 million) of the credits approved under this program have gone to hotel projects, and 2 companies—Universal City Development Partners, Ltd., and UCF Hotel Venture—have received 80 percent of those credits.
- Retail or distribution projects have received \$6.2 million in credits, and a handful of large businesses—Wal-Mart, Home Depot, Winn Dixie, Publix, Target, Lowes, and IKEA—account for \$5.6 million.
- Mail order fulfillment centers have received credits worth \$2.5 million.
- Auto dealers have received \$1 million in credits.
- Credits have been received by projects located in 11 Urban High Crime Areas, but 91 percent of credits have gone to 4 areas, namely, Orlando (48 percent), Miami-Dade (20 percent), Palm Beach (13 percent), and Jacksonville (11 percent).

- 76 percent of credits approved have gone to businesses that serve a predominantly local or regional market (retail and auto dealers) or could not easily locate elsewhere (hotels).

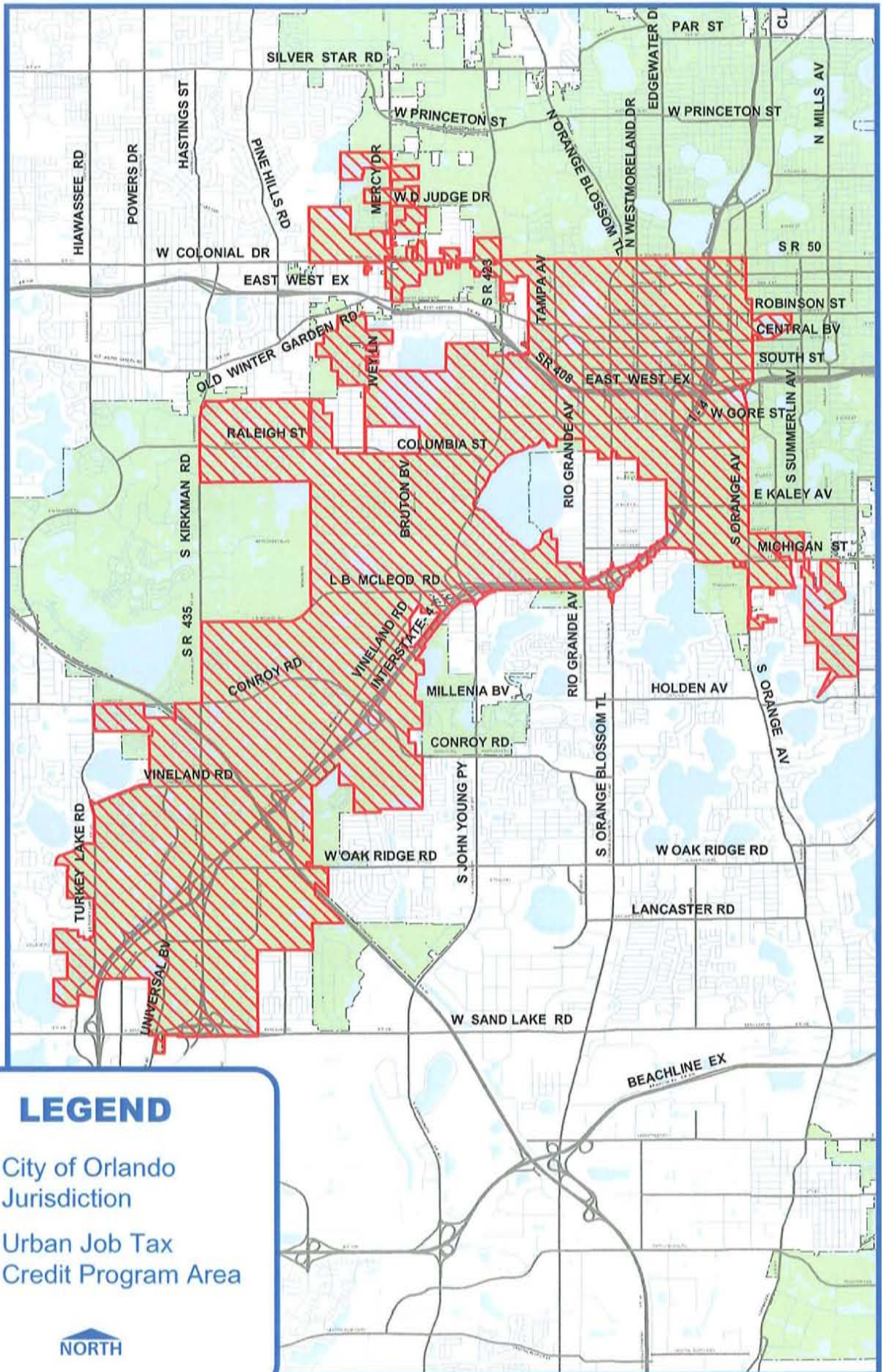
FLORIDA URBAN JOB TAX CREDIT PROGRAM

Effective January 2013



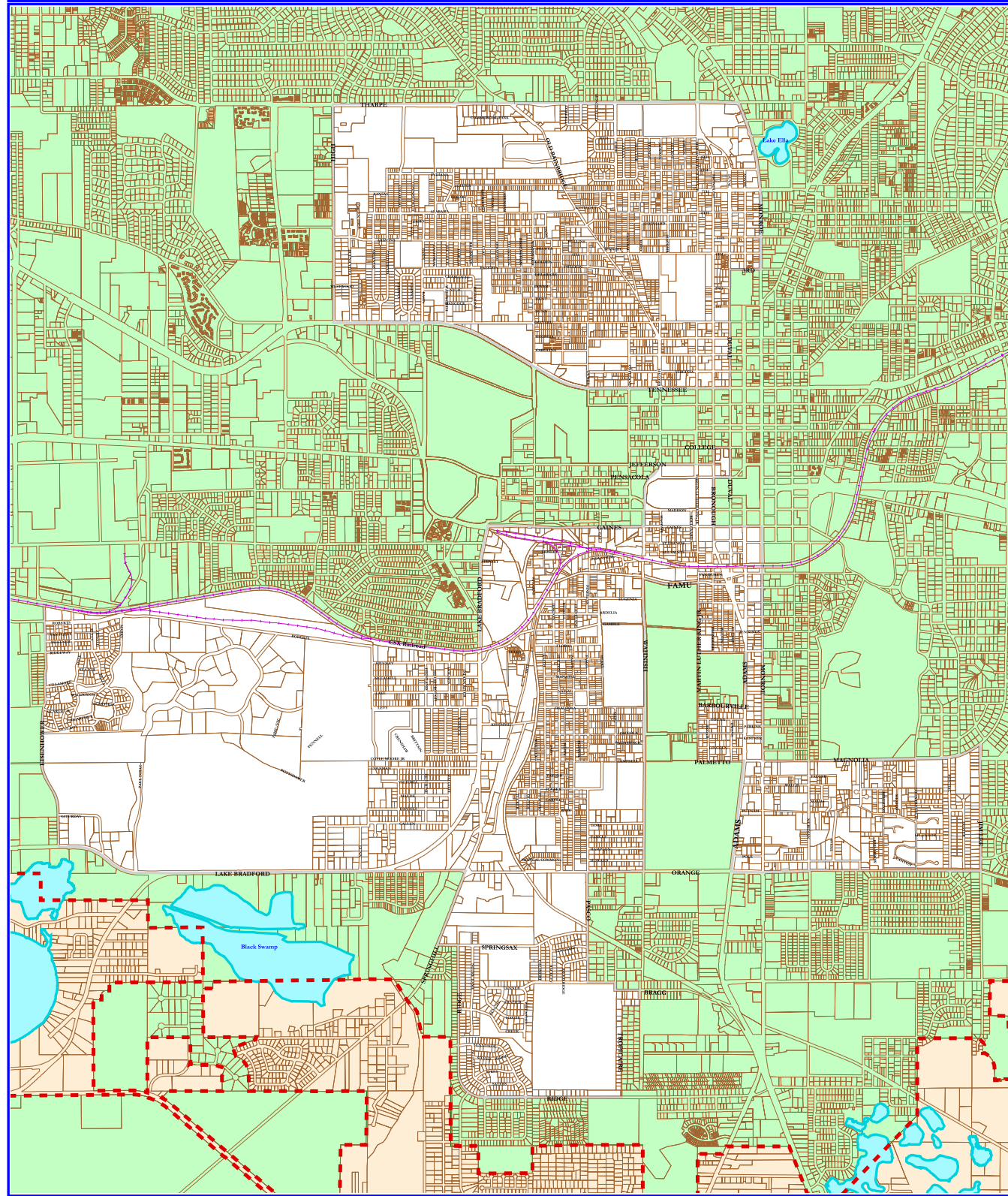
**Florida Department of Economic Opportunity
Division of Community Development
107 East Madison Street; MSC 160
Tallahassee, Florida 32399**








Urban Job Tax Credit Program Area

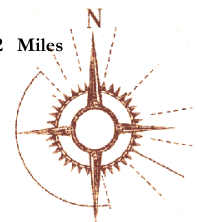


City of Tallahassee

Urban Job Tax Credit Program Area



-  City Limits
-  Lakes
-  Railroad
-  Parcels
-  UJTCP Area
-  Tallahassee
-  Leon County



RURAL JOB TAX CREDIT

Sections 212.098 and 220.1895, F.S.

INCENTIVE:

- Provides a credit of \$1,000 to \$1,500 per qualified job against either Sales Tax or Corporate Income Tax for creating new jobs in rural counties.

PURPOSE:

- To encourage meaningful employment opportunities that will improve the quality of life of those employed and to encourage economic expansion of new and existing businesses in rural areas of Florida.²

QUALIFYING REQUIREMENTS:

- A “Qualified Rural Area” is any area that is:
 - Within a Rural Area of Critical Economic concern;
 - A county with a population of fewer than 75,000; or
 - A county with a population of 125,000 or fewer that is contiguous to a county with a population of fewer than 75,000.
- Eligible businesses include sole proprietorships, firms, partnerships, and corporations predominantly engaged in:
 - Agriculture, forestry and fishing
 - Manufacturing
 - Public warehousing and storage
 - Hotels and other lodging places
 - Motion picture production and allied services
 - Public golf courses
 - Amusement parks
 - Targeted industries eligible for the targeted industry business tax refund
 - Call centers or similar customer service operations that service a multistate or international market
- A qualified employee must work for an eligible business at least 36 hours per week for at least 3 months.
- A new business with at least 10 employees is eligible for tax credits.
- An existing business with fewer than 50 employees must increase employment by at least 20 percent; and existing business with more than 50 employees must add at least 10 employees.

² *State of Florida Job Creation Plan*, pg. 36.

- For existing businesses, the number of qualified employees required for the credit is measured against the number of qualified employees the business had one year prior to application for the credit.
- A new or existing business will receive an addition \$500 credit for any qualified employee who is a welfare transition program participant.

APPROVAL / OVERSIGHT / LIMITATIONS:

- The Department of Economic Opportunity must approve all applications for this credit.
- The maximum credit amount available to any one business in a single year is \$500,000.
- The maximum credit amount that may be approved during any calendar year is \$5 million.

SIGNIFICANT HISTORY:

- Created in 1997.
- In 2001 qualified target industry businesses and motion picture production and allied services were added to the list of eligible businesses, and total tax credits available to a business in any one calendar year were limited to \$500,000.

FISCAL IMPACT:

- 32 rural counties, 3 cities, and one rural area qualify for the program.
- \$0.2 m in credits were approved in 2012.
- \$4.5 m in credits have been approved since the program's inception.

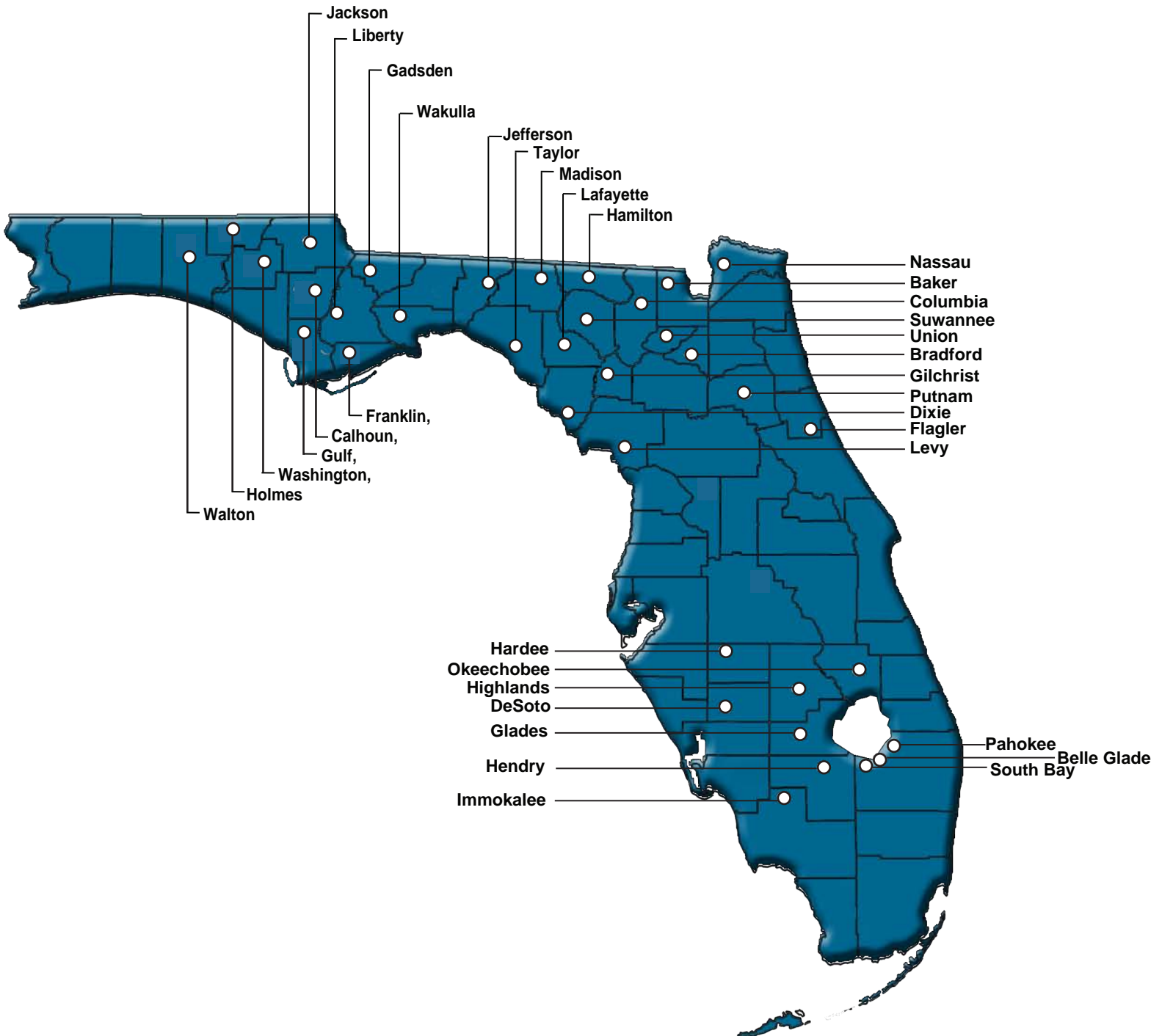
ADDITIONAL INFORMATION:

- Under this program the credit is based on the creation of new jobs; there is no ongoing obligation for the state to provide credits in the future. Job creation is measured over a 12 month period, and any change to the program could be crafted to allow any eligible business to receive credits for jobs created during its current 12-month measurement period.
- 64 applicants, representing 4,714 jobs, have been funded by this program since its inception.
- The largest single industry by number of projects is hospitality, with 24 projects and 915 jobs.
- The greatest number of credited jobs—1,490—was created in distribution centers for major retailers.
- Other industries that have received credits under this program are:
 - Food processing (980 jobs),
 - Manufacturing (420 jobs),

- Transportation and related services (332 jobs),
 - Construction and construction materials (271 jobs),
 - Business services (256 jobs), and
 - Real estate development (31 jobs).
- Projects located in 20 counties have received credits under this program.

FLORIDA RURAL JOB TAX CREDIT PROGRAM

Effective January 2013



**Florida Department of Economic Opportunity
Division of Community Development
107 East Madison Street; MSC 160
Tallahassee, Florida 32399**

FLORIDA BROWNFIELDS REDEVELOPMENT ACT

Sections 220.1845, 212.08(5)(o), 288.107, and 376.77-376.85, F.S.

INCENTIVE:

- Florida’s Brownfields Redevelopment Program offers 3 incentives for cleaning up and developing brownfield areas.
- **Voluntary Cleanup Tax Credits** are transferable corporate income tax credits for 50% of the cost of site rehabilitation, with an additional 25% credit when cleanup is complete. These credits are available to projects that are executed under a Brownfield Site Rehabilitation agreement with DEP, and are limited to \$500,000 per project per year and \$5 million annually.
- **Building Materials Sales Tax Refunds** are available in brownfield areas for construction of housing projects that set aside at least 20% of the units for low-income and moderate income persons, or mixed-use projects that set aside at least 20% of the square footage for housing reserved for low-income and moderate-income persons.
- **Brownfield Redevelopment Bonus Refund**, a tax refund of up to \$2,500 for each new job created by a pre-approved business in a brownfield area. The business must create at least 10 new jobs and satisfy other criteria, and the total amount of money available for refunds for a given year is subject to appropriation.

PURPOSE:

- To encourage cleanup and development of sites that are “abandoned, idled, or underused properties where expansion or redevelopment is complicated by actual or perceived environmental contamination.”³
- The program provides incentives to rehabilitate contaminated sites, and develop “brownfield areas” which are contiguous areas of one or more brownfield sites, **some of which may not be contaminated**. A brownfield site is real property, the expansion, redevelopment, or reuse of which may be complicated by actual **or perceived** environmental contamination. There are no objective criteria for designating brownfield sites or brownfield areas.

³ Office of Program Policy Analysis and Government Accountability Report No. 11-15, “Over 600 Brownfield Acres Cleaned Up; Businesses Tax Advantage of Program Incentives,” p. 1.

QUALIFYING REQUIREMENTS:

- A local government may designate a brownfield area by resolution.
- Voluntary Cleanup Tax Credits are 50 percent of the costs of voluntary cleanup activity that is integral to site rehabilitation in the previous year. An additional 25 percent of total cleanup costs is available in the final year of cleanup. This credit is also available for cleanup of a drycleaning-solvent contaminated site.
- Building materials sales tax refunds are available for housing projects and mixed use projects in brownfield areas if at least 20 percent of the project is set aside for low-income and moderate-income persons.
- Brownfield Redevelopment Bonus Refund, a tax refund of up to \$2,500 for each new job created by a pre-approved business in a brownfield area, is limited to a qualified target industry business, or a business that provides benefits to its employees and that can demonstrate a fixed capital investment of at least \$2 million in mixed-use business activities or at least \$500,000 in brownfield areas that do not require site cleanup. At least 10 new full-time permanent jobs must be created, and the actual amount of the refund is 20 percent of the average annual wage for the jobs created.

APPROVAL / OVERSIGHT / LIMITATIONS:

- Voluntary Cleanup Tax Credits require a Site Rehabilitation Agreement between the responsible party and either the Department of Environmental Protection (DEP) or a county with authorized program authority and DEP must authorize the credits.
- Voluntary Cleanup Tax Credits for any project are limited to \$500,000 per year, and the total amount of tax credits that may be granted under this program is limited to \$5 million annually. As of June 30, 2012, there was a backlog for unissued credits of \$13.6 million.
- The Department of Revenue also oversees these tax credits and building materials sales tax refunds through its normal auditing procedures.
- Brownfield Redevelopment Bonus Refunds require a recommendation by resolution of the governing board of the county or municipality that certain types of businesses be approved by the Department of Economic Opportunity.
- The total amount of bonus refunds approved in any fiscal year is limited by the amount appropriated to the Economic Development Incentives Account for this purpose.

SIGNIFICANT HISTORY:

- Created in 1997 as a voluntary program in which a local government may designate a brownfield area by resolution.

- In 2000 additional types of businesses were made eligible for the Brownfield Redevelopment Bonus Refund, and in 2009 the minimum investment required to qualify for the bonus refund was reduced for investments in brownfield areas that do not require site cleanup.
- In 2011 the annual authorization for the Voluntary Cleanup Tax Credit was increased from \$2 million to \$5 million.

FISCAL IMPACT:

- As of June 30, 2012, brownfield areas have been designated in 43 counties. There are 312 designated areas covering 226,948 acres.
- The extent of property subject to cleanup is much smaller--167 brownfield site rehabilitation agreements have been executed covering 3,642 acres. This equals 1.6% of total brownfield areas.
- Rehabilitation has been completed on 54 sites, totaling 812 acres, or 22% of the area covered by rehabilitation agreements.
- Voluntary Cleanup Tax Credits--\$5 million annually, \$20.5 million credits issued since program began through FY 2011-12. As of June 30, 2012, there was a backlog for unissued credits of \$13.6 million.
- Building Materials Sales Tax Refunds— \$1.2 m in FY 2011-12, \$7.0 m since FY 2005-06.
- Brownfield Redevelopment Bonus Refund--\$8.0 m through FY 2011-12.

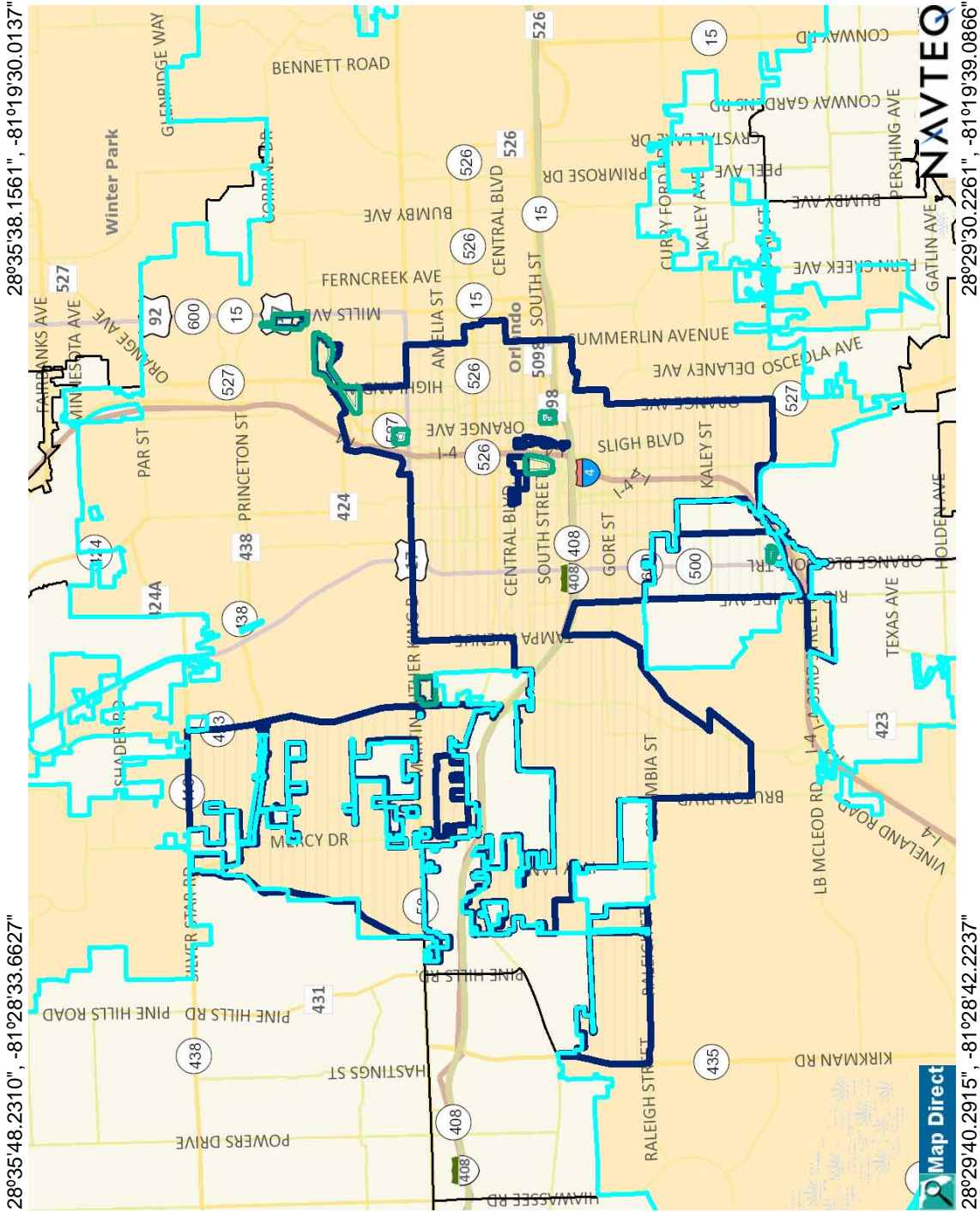
ADDITIONAL INFORMATION:

- Maps of all brownfield sites and areas can be viewed on the DEP website: <http://ca.dep.state.fl.us/mapdirect/?focus=brnfls>
- Some local governments have designated brownfield areas that are far larger than actual brownfield sites; others have limited the brownfield area designations.
- There are advantages to expansive brownfield areas because it is easier to initiate a site rehabilitation agreement for voluntary cleanup in a designated brownfield area.
- The Legislature could limit Brownfield Redevelopment Bonus Refunds and building materials sales tax refunds to actual brownfield sites and locations within a limited distance of these sites.
- The attached maps show where brownfield areas are located in the state and details of brownfield areas and sites in parts of Miami-Dade County and the cities of Orlando and Tampa.

- 42 projects have been **approved** for Brownfield Redevelopment Bonus incentive payments worth \$12.8 million (\$1 million was for a project that was subsequently terminated).⁴
- 15 projects have **received** Brownfield Redevelopment Bonus incentive payments of \$2.2 million.
- The single largest business type to receive bonus incentives is retail, with 16 projects. Other recipients include manufacturing (10 projects), wholesale distributors (4 projects), restaurants (3 projects), hotels and call centers (2 projects each), and recycling and smelting (1 project each).

⁴ Department of Economic Opportunity Economic Development Incentives Portal, Report Generated on 03/03/13

Map Direct: Brownfields



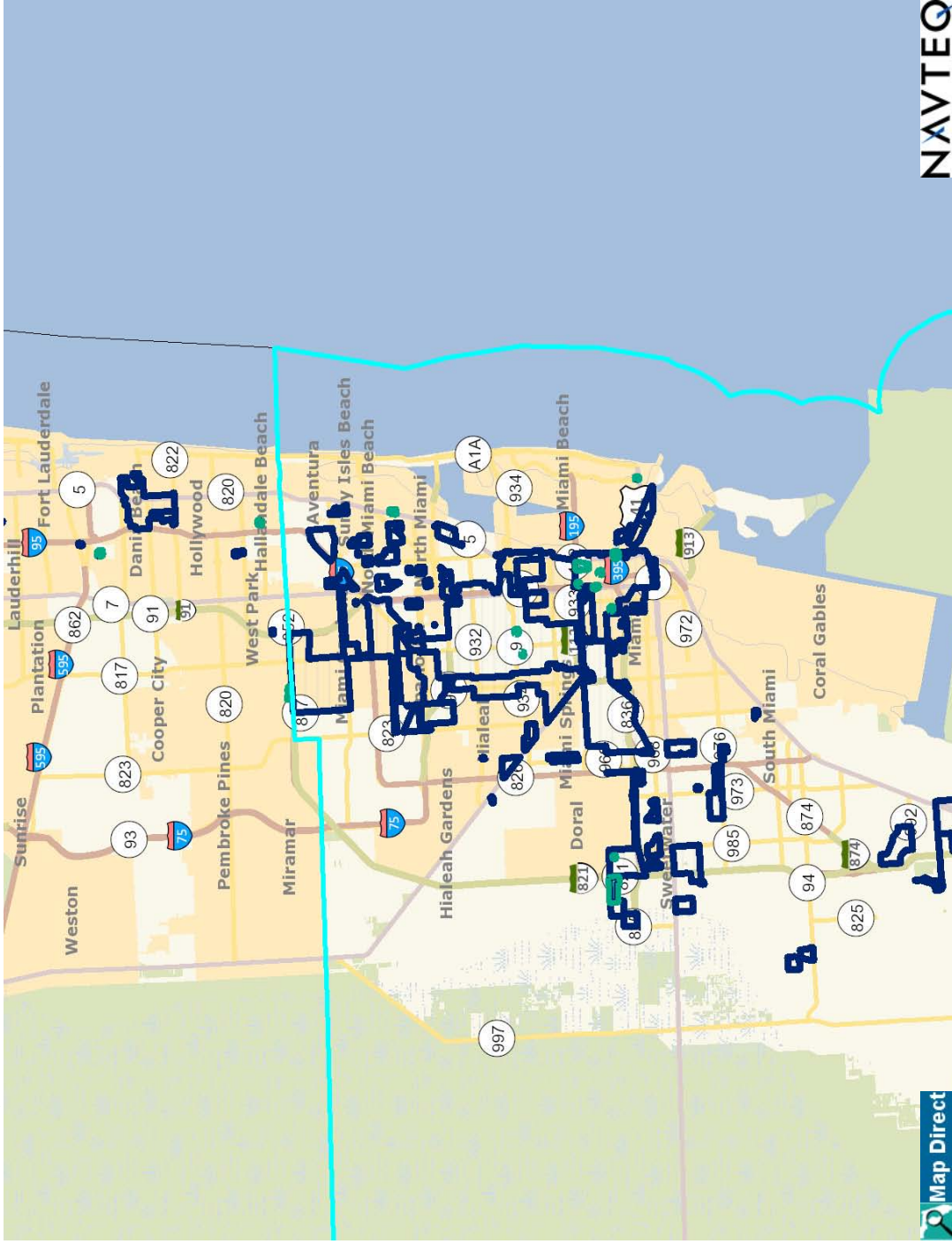
Florida Department of Environmental Protection Disclaimer: This map created in Map Direct on Mon, 4 Mar 2013 15:10:37 UTC is intended for display purposes only. It was created using data from different sources collected at different scales, with different levels of accuracy, and for differing purposes. The user is responsible for determining the accuracy, reliability, and completeness of any information displayed on this map. Map Direct does not warrant, represent, or imply any accuracy for a particular purpose, satisfactory quality and non-infringement. YOU SHOULD THEREFORE VERIFY ANY INFORMATION OBTAINED FROM THIS SITE BEFORE ACTING ON IT.

Map Direct: Brownfields



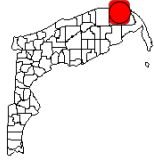
26°8'27.9585", -80°36'0.6570"

26°7'11.5231", -79°49'52.7811"



25°36'30.2758", -80°36'59.1585"

25°35'14.1766", -79°51'4.4944"



Scale 1:413,855

Aerial Imagery 2004-2009

Counties



Aerial Imagery Flight Dates
2004-2009



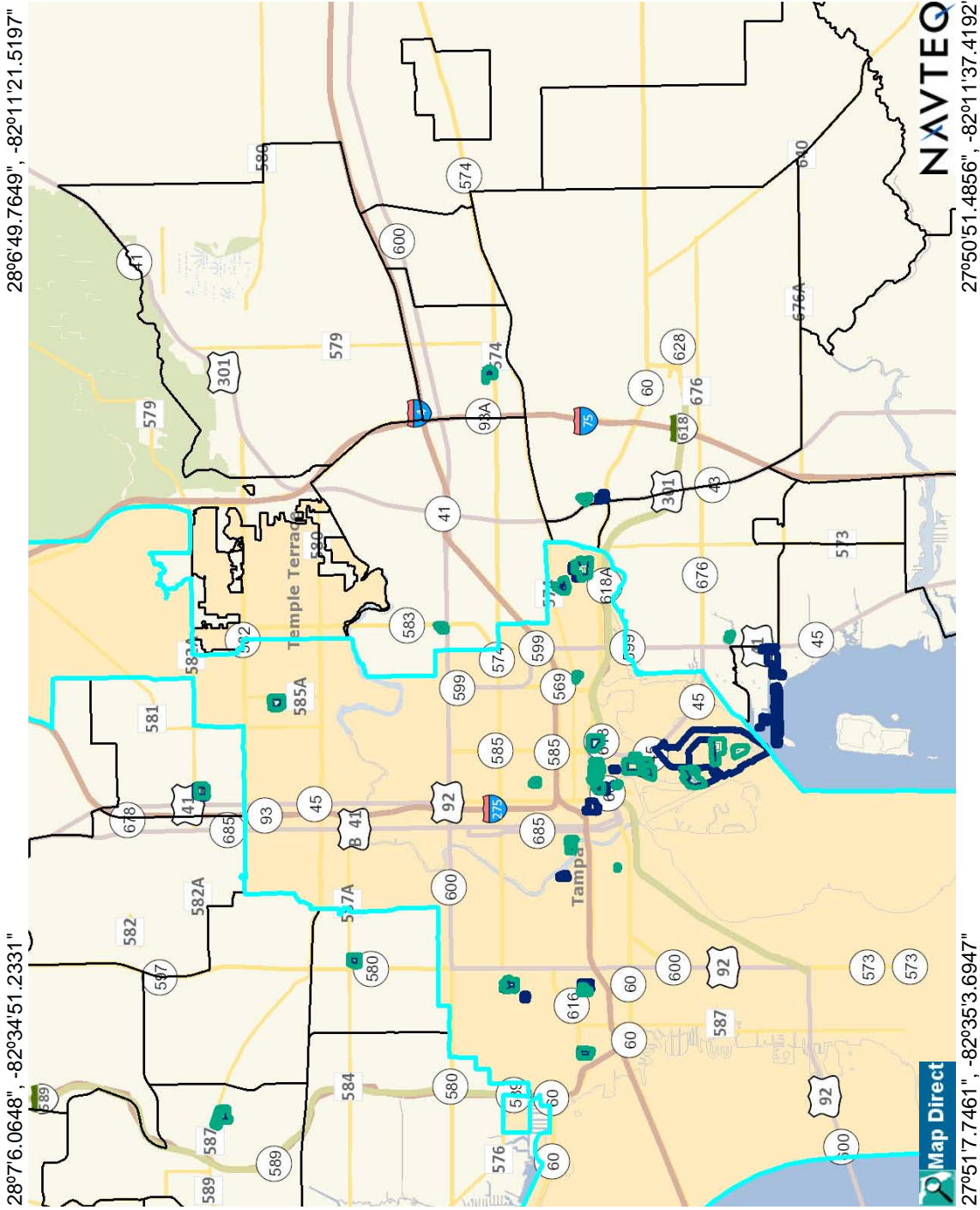
Brownfield Sites



Brownfield Areas

Florida Department of Environmental Protection Disclaimer: This map created in Map Direct on Mon, 4 Mar 2013 14:55:19 UTC is intended for display purposes only. It was created using data from different sources collected at different scales, with different intended uses. The accuracy of the data is not guaranteed. The data is provided as is. The user assumes all responsibility for any use of the data. The user should verify the accuracy of the data before using it for any purpose. Satisfactory quality and non-infringement. YOU SHOULD THEREFORE VERIFY ANY INFORMATION OBTAINED FROM THIS SITE BEFORE ACTING ON IT.

Map Direct: Brownfields

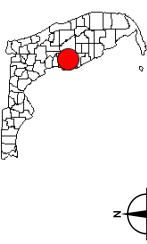


28°06'49.7649", -82°01'21.5197"

28°07'6.0648", -82°03'45.12331"

27°51'7.7461", -82°35'3.6947"

27°50'51.4856", -82°01'37.4192"



Scale 1:206,928

Aerial Imagery 2004-2009

TIGER 2010 Places

Counties

Aerial Imagery Flight Dates 2004-2009

Brownfield Sites

Brownfield Areas

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FLORIDA EMPLOYEES' SALARY INSURANCE PREMIUM TAX CREDIT

Section 624.509(5), F.S.

INCENTIVE:

- This statute provides a credit against the insurance premium tax equal to 15 percent of the amount paid by an insurer in salaries to employees located or based within Florida.

PURPOSE:

- To encourage insurance companies to locate employees in Florida.

QUALIFYING REQUIREMENTS:

- Employees of the insurance company, or employees of an affiliated group of corporations who perform insurance-related activities, must be located or based within Florida to qualify for the credit.

APPROVAL / OVERSIGHT / LIMITATIONS:

- "Salaries" does not include amounts paid as commissions, and "employees" does not include independent contractors or persons required to hold a license under the Florida Insurance Code (including insurance agents), except for adjusters, managing general agents, and service representatives.
- The sum of the salary credit and the credit for Florida corporate income taxes paid cannot exceed 65 percent of the premium tax due after deducting the taxes paid under s. 175.101 and s. 185.08, F.S., (Municipal Firefighters' Pension Fund and Municipal Police Retirement Fund Credits) and any assessments under s. 440.51, F.S.(Workers Compensation Assessments Credits).

SIGNIFICANT HISTORY:

- In 1949, the Legislature provided an insurance premium tax exemption for insurers that maintained their home offices in Florida.
- In 1953 it reduced premium taxes of a foreign insurance company incorporated under the laws of another state or foreign country, if the company owned and substantially occupied any building in the state as a regional home office.

- In 1985, the U.S. Supreme Court ruled in *Metropolitan Life Insurance Company v. Ward* that a domestic preference provision in Alabama's insurance tax law similar to the preference provision in Florida at the time violated the Equal Protection Clause.
- Florida and other states looked for ways to provide tax breaks to their domestic insurance companies that would pass constitutional muster, and in 1987 the Florida Legislature responded by repealing its own domestic preference provision and replacing it with a Florida Employees' Salary Credit.
- Chapter 87- 99, L.O.F, provided a credit against the net insurance premium tax equal to 10 percent of the amount paid by an insurer in salaries to employees located or based within Florida.
- The salary credit was increased to 15 percent by ch. 88-206, L.O.F, which also increased the amount of credit granted for corporate income taxes and Florida employees' salaries.

FISCAL IMPACT:

- In 2011, \$219.8 m in Florida employees' salary credit was taken against the insurance premium tax.

ADDITIONAL INFORMATION:

- Since 2006, the actual salary credits **taken** have ranged from \$202 million in 2006 to \$234.4 million in 2010.
- Total salary credits **available** have ranged from \$312.3 million in 2007 to \$399.1 million in 2008. Some credits are unused because the total amount of combined salary and corporate income tax credits that can be taken is capped at 65 percent of premium tax due after deductions.
- According to research done by NCSL, Arkansas is the only other state that provides an across-the-board salary credit against insurance premium tax. Several states allow premium tax credits for creating new jobs under programs meant to encourage job creation.
- Citizens Insurance is subject to the insurance premium tax laws, including the credit for employees' salaries. This credit is available to any insurance company with employees located in Florida, up to 65 percent of its net premium tax.

FLORIDA ENTERPRISE ZONE PROGRAM

PURPOSE:

- The Florida Enterprise Zone Program was created in 1982 to encourage economic development in economically distressed areas of the state by providing incentives and inducing private investment.

INCENTIVES: The Florida Enterprise Zone Program includes a variety of tax incentives available to qualified businesses.

- **Enterprise Zone Jobs Tax Credit – Sales and Use Tax (s. 212.096, F.S.) or Corporate Income Tax (s. 220.181, F.S.)**
Businesses located in an enterprise zone can receive sales tax or corporate income tax credits for wages paid to new employees who have been employed for at least three months and are residents of a Florida enterprise zone. The amount of the credit is limited to 20% of monthly wages, or 30% of monthly wages if at least 20 percent of all full-time employees are enterprise zone residents. For rural enterprise zones, the credit is limited to 30% of monthly wages, or 45% of monthly wages if at least 20 percent of all full-time employees are enterprise zone residents. The qualified business may receive the credit for up to 24 months.
- **Enterprise Zone Property Tax Credit - Corporate Income Tax (s. 220.182, F.S.)**
New or expanded businesses located in an enterprise zone can receive corporate income tax credits for property taxes paid in Florida. To qualify, a business must hire 5 or more additional full-time employees. The amount of the credit is limited to \$25,000 per business, or \$50,000 if at least 20 percent of full-time employees are enterprise zone residents. The qualified business may receive the credit for up to 5 years.
- **Sales Tax Refund for Building Materials Used in an Enterprise Zone (s. 212.08(5)(g), F.S.)**
A refund is available for sales taxes paid on the purchase of building materials used to rehabilitate real property located in an enterprise zone. The amount of the refund is limited to \$5,000 per parcel of property, or \$10,000 if at least 20 percent of full-time employees are enterprise zone residents. The refund is limited to one per parcel of property.

- **Sales Tax Refund for Business Machinery and Equipment Used in an Enterprise Zone (s. 212.08(5)(h), F.S.)**

A refund is available for sales taxes paid on the purchase of certain business property, (e.g., tangible personal property such as office equipment, warehouse equipment, and some industrial machinery and equipment). The minimum purchase price of equipment is \$5,000 per unit. The amount of the refund is limited to \$5,000, or \$10,000 if at least 20 percent of full-time employees are enterprise zone residents.

- **Sales Tax Exemption for Electrical Energy Used in an Enterprise Zone (s.212.08(15), F.S.)**

Qualified businesses located in an enterprise zone are eligible for a sales tax exemption on their electricity purchases if the municipality in which they are located has enacted an ordinance providing an exemption from municipal utility tax. The sales tax exemption is 50 percent or 100 percent if at least 20 percent of full-time employees are enterprise zone residents. The qualified business may receive the exemption for up to 5 years.

QUALIFYING REQUIREMENTS:

- Sections 290.001-290.016, F.S., authorize the creation of enterprise zones and establish criteria and goals for the program. Prior to submitting an application for an enterprise zone, a local governed body must determine that an area:
 - Has pervasive poverty, unemployment, physical deterioration, and economic disinvestment;
 - Needs rehabilitation or redevelopment for the public health, safety, and welfare of the residents in the county or municipality; and
 - Can be revitalized through the inducement of the private sector.
- An enterprise zone is subject to the following mileage limitations:
 - Up to 20 square miles for a rural enterprise zone or for communities with a population of 150,000 or more.
 - Up to 10 square miles for communities with a population between 50,000 and 150,000.
 - Up to 5 square miles for communities with a population between 20,000 and 50,000.
 - Up to 3 square miles for communities with a population less than 20,000.

APPROVAL / OVERSIGHT / LIMITATIONS:

- The Department of Economic Opportunity is responsible for approving applications for enterprise zones, and also approves changes to the boundaries of an enterprise zone. As part of the application process for an enterprise zone, the county or municipality in which the designation will be located is also responsible for creating an Enterprise Zone Development Agency and an enterprise zone development plan.

SIGNIFICANT HISTORY:

- Created in 1982 and revised several times since.
- There are currently 65 enterprise zones.
- The Florida Enterprise Zone Program is repealed December 31, 2015.

FISCAL IMPACT:

Enterprise zone incentives (\$ claimed)

Category	FY 05-06	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12
Jobs Credit - Sales Tax	6,777,250	6,087,843	5,732,605	5,227,245	5,683,252	757,739	865,560
Jobs Credit – Corporate Tax	4,253,621	5,919,236	5,507,311	5,072,555	4,348,031	4,956,598	4,455,624
Property Tax Credits	1,267,999	2,291,961	2,184,036	1,910,708	1,384,668	1,994,562	1,022,199
Building Materials Refunds	7,415,711	18,855,129	25,665,025	30,994,860	54,012,915	13,590,376	2,462,136
Business Equipment Refunds	2,940,864	1,771,396	1,269,955	1,139,066	1,035,562	679,440	1,228,479
Electric Energy Exemption	778,090	793,179	606	1,007,007	1,138,054	972,185	900,476
Total all zones	23,433,535	35,718,744	40,359,538	45,351,441	67,602,482	22,950,900	10,934,474

ADDITIONAL INFORMATION:

OPPAGA Report No. 11-01 (January 2011)

- Other states' enterprise zone programs are similar to Florida's.
- Research in Florida and other states has found mixed results regarding program effectiveness.
- Low program participation limited progress towards meeting major legislative goals.
- EZ coordinators rated program performance and incentives as moderately effective.
- EZ coordinators suggested program improvements (e.g., reducing incentive thresholds).

The Legislature could consider several options to modify the Enterprise Zone Program:

- Modify program eligibility requirements to encourage participation.
- Target program incentives to encourage job creation.
- Implement a one-year program moratorium.
- Abolish the program.
- Allow the program to sunset on December 31, 2015.

A copy of the OPPAGA report can be found here:

www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1101rpt.pdf

Florida Enterprise Zone Program Annual Reports

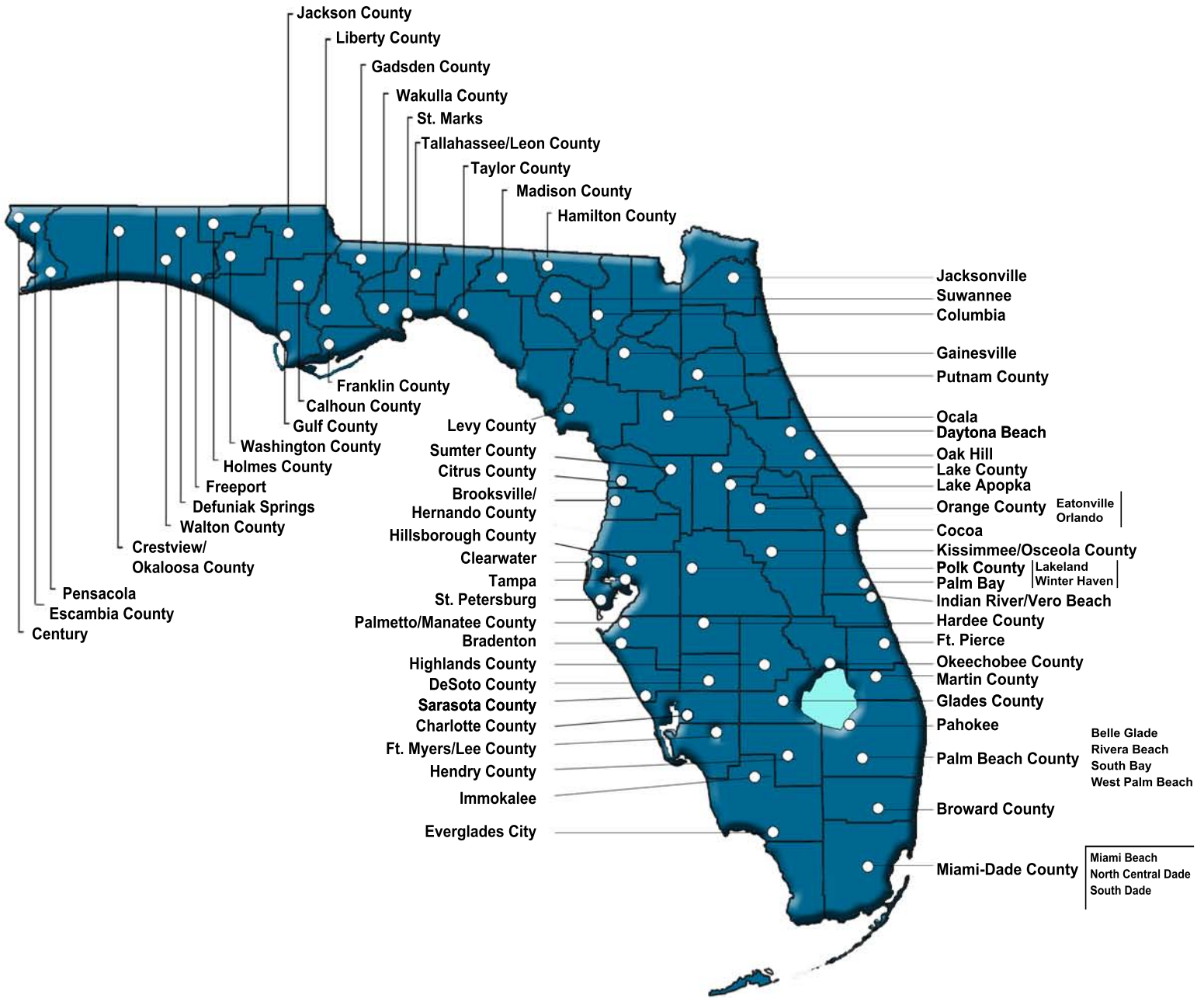
By March 1st of each year, the Department of Economic Opportunity submits a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives. Each year's annual report is based on information provided by the local Enterprise Zone Development Agencies and the Florida Department of Revenue. The purpose of the reports is to examine the impact of the program and monitor the use of state and local incentives.

Summary: FY 05-06 to FY 11-12

Category	FY 05-06	FY 06-07	FY 07-08	FY 08-09	FY 09-10	FY 10-11	FY 11-12	Total
Businesses Moved into or Created	3,324	4,976	2,719	3,104	7,559	4,103	4,500	30,285
Jobs Created	12,490	11,456	9,600	9,073	6,784	11,559	11,602	72,564
State Incentives Claimed	\$23.43m	\$35.72m	\$40.36m	\$45.35m	\$67.60m	\$22.95m	\$10.93m	\$246.34m
Number of Zones	55	56	56	56	59	59	63	

FLORIDA ENTERPRISE ZONES

EFFECTIVE JANUARY 1, 2013



Florida Department of Economic Opportunity
 Division of Community Development
 107 East Madison Street; MSC 160
 Tallahassee, Florida 32399
www.floridaenterprisezone.com

ENTERTAINMENT INDUSTRY FINANCIAL INCENTIVE PROGRAM

Sections 288.1254, F.S.

INCENTIVE:

- Transferable Corporate Income Tax credits and/or Sales and Use Tax credits are provided to companies that produce films, commercials, music videos, television shows, video games, etc. within Florida.

PURPOSE:

- To encourage the use of Florida as a site for filming, for the digital production of films, and to sustain the workforce and infrastructure for film, digital media, and entertainment production.

QUALIFYING REQUIREMENTS:

- Productions that qualify include motion pictures, television programs, digital effects and animation sequences, commercials, music videos, industrial/educational films, telenovelas, game shows, and digital media projects (video games, animations, interactive websites, etc.)
- 60 percent of the production cast and certain crew positions must be filled by Florida residents (75 percent for digital media projects).
- The project cannot include obscene content.
- The credit is calculated based upon qualifying expenditures. Qualifying expenditures include:
 - Goods and services, purchased or leased from a supplier in Florida, and
 - Salary or wage payments to Florida residents (\$400,000 per person limit).

Entertainment Industry Financial Incentive Program			
FY 2010/11 – 2015/16	\$296 million		
Queue	General Production	Commercials and Music Videos	Independent and Emerging Media
Credit Allocation	94% \$284 million	3% \$8.9 million	3% \$8.9 million
Required Expenses	\$625,000	\$500,000	\$100,000
Credit Calculation	20% of Expenses	20% of Expenses	20% of Expenses
Bonus Credits	15% Film Students 5% Qual. Prod. Facility 5% Off-season 5% Underutilized region 5% Family-friendly	None	5% family-friendly 5% Off-Season
Maximum Credit	30% \$8 million per project	20% \$500,000 per project	30% \$125,000 per project
Internal Allocation Limit	No greater than 45% of credits awarded after 4/1/2012 can go to high-impact television	None	None
Credit Carryforwards	5 years	5 years	5 years
Credit Transfers	Transferable	Transferable	Transferable

APPROVAL / OVERSIGHT / LIMITATIONS:

- Applicants must apply to DEO to determine if their project qualifies.
- DEO certifies credit amount after production is completed.
- DOR oversees credit use through DOR's normal auditing procedures.
- Anecdotal evidence suggests that credits are sold at 85-98% of their value.

SIGNIFICANT HISTORY:

- 2003 – Florida created the Entertainment Industry Financial Incentive Program. Initially, the program was structured as a reimbursement program, rather than a tax credit program. Qualifying projects could earn payments based on expenses.
- 2005 – The program was expanded to cover more types of projects and to remove time restraints (prior to 2005, certain projects had to have minimum airtimes).
- 2007 – The program was substantially reworded and amended to bring it up to date to industry practices.
- 2009 – The program was amended to increase the queue allocation for independent Florida filmmakers and to allow excess amounts to flow to digital media projects.
- 2010 – The program was substantially rewritten and changed into a tax credit program. Tax credits were allocated for FY 2010-11 through FY 2014-15, totaling \$242 million.
- 2011 – The program was amended to limit the allocation of credits to television series, provide additional credits for certain activities, and permit limited transfers of credits. An additional \$12 million of credit was added for FYs 2012-13, 2013-14, and 2014-15, raising the total credit under the program to \$254 million.
- 2012 – The program was amended to add an additional year of allocations of \$42 million (FY 2015-16), and to delay the television series limitations that were passed in 2011.

FISCAL IMPACT:

FISCAL YEAR	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16
ANNUAL	\$53.5m	\$74.5m	\$42m	\$42m	\$42m	\$42m
TOTAL	\$296 million					

TOP 5 CREDIT ALLOCATION CATEGORIES AND PERCENT OF TOTAL CREDIT ALLOCATIONS		
HIGH-IMPACT TELEVISION SERIES	\$118.6m	40.6%
VIDEO GAMES	\$56.8m	19.4%
MOTION PICTURES	\$47.5m	16.3%
TELENOVELA TELEVISION SERIES	\$26.4m	9.0%
OTHER (INCLUDES 13 CATEGORIES, EACH CLAIMING LESS THAN 3.4% OF TOTAL CREDIT)	\$43.0m	14.7%

QUALIFIED PRODUCTION COMPANY SALES TAX EXEMPTION

Sections 288.1258, 212.031(1)(a)9. and 212.08(5)(f), F.S.

INCENTIVES:

- A purchase or lease of motion picture and sound recording equipment is exempt from sales tax. The exemption may include a building and its structural components when they are closely related to the motion picture or sound recording equipment.
- A lease of property that is used as an integral part of a motion picture is exempt from the sales tax on commercial rentals.

PURPOSE:

- To encourage commercial filming and recording activities in Florida

QUALIFYING REQUIREMENTS:

- The exemption is for companies that produce motion pictures, television programs, commercials, music videos and sound recordings.

APPROVAL / OVERSIGHT / LIMITATIONS:

- Production companies apply to DOR for a certificate of exemption.
- DEO ultimately approves the applicants.

SIGNIFICANT HISTORY:

- 1983 – Created sales tax exemption, which would be obtained by a refund through the Department of Revenue.
- 2000 – Restructured the program to create oversight of production companies by the Office of Film and Entertainment.

FISCAL IMPACT:

- \$30.1 million

INTERCOMPANY TRANSACTIONS

1. A Corporation's State Income Tax Liability

a. Tax Rate

Forty-seven states and the District of Columbia impose a corporate income tax. The rates vary between 1 and 12 percent. The states that do not impose a tax are Nevada, South Dakota, Washington, and Wyoming. Texas and Ohio could be said not to have income taxes, but they do have similar tax burdens that are not measured on income.

b. Type of Income

Some states have a unique definition of "income." For instance, Delaware does not impose tax on income from intangible assets.

c. Consolidated Filing / Separate Return Filing

Many modern businesses are not made up of a single corporation doing business one state, but rather consist of many commonly-owned corporations doing business in many states. Some states permit separate filing by each individual corporation. However, as of 2010, twenty-two states required all related corporations to join in a single return (often referred to as a "combined report"). These combined reporting states then determine what their share of the total "corporate family" income is through their apportionment formula.

All southeastern states are "separate return" states. Additionally, some states throughout the Midwest and Northeast remain separate return states.

Separate return states are especially susceptible to the techniques described below.

2. Use of Intercompany Transactions

a. Basics

When a business transaction crosses state lines, it has the potential to "shift" income from one state to the other. For example, if a business in Florida buys a product from a business in Alabama, the Alabama business will have an item of income, while the Florida company will have a business expense (less income).

Some businesses use this “shifting” feature of multi-state transactions to move income to a no-tax or lower-tax state. By creating a subsidiary in a no-tax or lower-tax state and having that subsidiary conduct business with related corporations, a business can “shift” income to the no-tax or lower-tax state.

b. Leases

i. Intangible Holding Companies

Intangible Holding Companies are probably the most well-known method for using intercompany transactions to lower taxes. The basic structure is to create a holding company in a state that either does not have a tax or does not tax income from intangible assets. The main business then transfers its intangible assets (usually a trademark) to the holding company. The holding company then charges its related companies in other states a fee for the use of the intangible asset in the other state. In paying for the use of the intangible, the companies that are located in states that impose taxes (in-state companies) are creating business expenses.

This technique was involved in the recent case reported in Florida.

ii. Real Estate Investment Trusts

Real Estate Investment Trusts use the same type of structure, but rather than lease payments for an intangible asset, the in-state companies pay rent for the use of realty. The rental payments are made to a Real Estate Investment Trust that then pays out dividends to a company located in a no-tax state. By doing this, the in-state companies create a rental expense.

This technique is not effective in Florida due to Florida’s sales tax on commercial rents.

c. Transfer Pricing Issues

Related companies can also be used to reduce income through the use of inflated pricing. When a company calculates its income from the sale of a product, the income generally is the sales price of the item minus all of the costs of producing it.

The purchaser of a product can insert a related company between itself and a supplier in an effort to inflate the price it pays for supplies. For instance, a Florida company purchasing supplies could have the supplier sell the product to a related company in a low-tax or no-tax state. The related company could then inflate the price of the product when selling it to the Florida company. By doing so, the Florida company reduces its income because of the higher cost of goods.

d. Loans

Related companies can be established in no-tax states to make loans. In paying the interest on the loan, the in-state company creates an interest deduction.

e. Management Fees

Related companies can be established to provide management services. In paying for the management services, the in-state company creates a regular business expense.

3. Methods to Impose Tax

a. Add-Back Statute

A legislative approach to address these techniques is to require the Florida company to disregard or “add-back” the business expense for the payment to the related subsidiary.

In 2009, the Senate Committee on Finance and Taxation considered and passed a bill that contained an add-back provision. It addressed payments to related companies for intangible assets, interest, and management fees.

b. Impose Tax on “Out-of-State” Company

i. Nexus

A state could attempt address these related-company issues by attempting to subject the no-tax state subsidiary to tax. The primary obstacle to overcome is the Commerce Clause requirements of the federal Constitution. The U.S. Supreme Court has interpreted the Commerce Clause to require that a company must have a sufficient presence within the taxing state to support taxation. The Court has not provided a lot of guidance on what presence is sufficient in the context of income taxes. Oftentimes, these related companies will not have employees or a location within the state.

ii. Litigation Has Mixed Results

States that have attempted to impose tax have had varying results:

Toys-R-Us.....Taxable. South Carolina (1993)
SYL, Inc.....Not Taxable. Maryland (1999)
Lane Bryant.....Not Taxable. New Jersey (2003)
Autozone.....Not Taxable. Louisiana (2004)
KFC.....Taxable. Iowa (2010)
Conagra Brands, Inc.....Not Taxable. West Virginia (2012)

c. Consolidated Reporting (“Combined Reporting”)

The approach taken by 22 states is to require all related companies to join in a single return. With this approach, all of the income of every related corporation is included; the state just uses its apportionment factor to determine the portion of the combined income that is subject to tax.

SELECTED SALES TAX EXEMPTIONS FOR INDUSTRIAL MACHINERY AND EQUIPMENT

Generally, the sale at retail of tangible personal property, including industrial machinery and equipment, is subject to sales tax. Currently, there are several sales tax exemptions for machinery and equipment available to eligible businesses under specified conditions. These exemptions generally apply to manufacturing, defense and space activities.

PURPOSE:

- To encourage manufacturing, defense, and space activities within Florida.

INCENTIVES:

- Industrial Machinery and Equipment for New and Expanding Businesses or for Spaceports (s. 212.08(5)(b), F.S.)
- Industrial Machinery and Equipment Used in Semiconductor, Defense or Space Technology Production (s. 212.08(5)(j), F.S.)
- Research and Development Costs (ss. 212.052 and 212.08(18), F.S.)
- Repair Parts, Materials and Labor Charges for Industrial Machinery and Equipment (s. 212.08(7)(xx), F.S.)

INDUSTRIAL MACHINERY AND EQUIPMENT FOR NEW AND EXPANDING BUSINESSES OR FOR SPACEPORTS

Section 212.08(5)(b), F.S.

INCENTIVE:

- Industrial machinery and equipment purchased for exclusive use by a **new** business in spaceport activities or for use in a new business that manufactures, processes, compounds, or produces for sales items of tangible personal property at a fixed location in this state are exempt from sales and use tax.
- Industrial machinery and equipment purchased for exclusive use by an **expanding** facility engaged in spaceport activities or used in an expanding manufacturing facility that manufactures, processes, compounds, or produces for sales items of tangible personal property at a fixed location in this state are exempt from sales and use tax if the items are used to increase the productive output of a facility by at least 5%.

PURPOSE:

- To encourage manufacturing and spaceport activities within Florida.

QUALIFYING REQUIREMENTS:

- To qualify, the business must be new or increase production at the facility by at least 5% over the previous 12 month period.
- “Industrial machinery and equipment” is defined as tangible personal property or other property that has a depreciable life of 3 years or more and that is used as an integral part in the **manufacturing, processing, compounding, or production** of tangible personal property for sale or is exclusively used in spaceport activities.
- This exemption does not apply to machinery and equipment purchased by electric utilities, communications companies, oil or gas exploration or production, publishing firms that do not export at least 50% of their finished product out of state, or hotels and restaurants.
- “Spaceport activities” means activities directed or sponsored by Space Florida on spaceport territory.

APPROVAL / OVERSIGHT / LIMITATIONS:

- To receive these exemptions, a qualifying business must apply to the Department of Revenue for a temporary tax exemption permit.

SIGNIFICANT HISTORY:

- Created in 1978 and amended several times since.
- When the exemption was enacted in 1978, it applied to sales tax in excess of \$100,000. This threshold was reduced to \$50,000 in 1996. In 1999, the exemption was extended to included machinery and equipment used for phosphate and other solid mineral severance. In 2006, the \$50,000 tax threshold for expanding manufacturing businesses was eliminated. In 2012, the productive output requirement for expanding businesses was lowered from 10% to 5%.

FISCAL IMPACT:

\$41.7m per state fiscal year

INDUSTRIAL MACHINERY AND EQUIPMENT USED IN SEMICONDUCTOR, DEFENSE OR SPACE TECHNOLOGY PRODUCTION

Section 212.08(5)(j), F.S.

INCENTIVE:

- Industrial machinery and equipment used in **semiconductor** facilities to manufacture, process, compound or produce semiconductor products for sale or for use by these facilities is exempt from sales and use tax.
- Industrial machinery and equipment used in **defense or space technology** facilities to *design*, manufacture, *assemble*, process, compound or produce defense or space technology products for sale or for use by these facilities is exempt from sales and use tax.

PURPOSE:

- To encourage the development of defense and space technology facilities within Florida.

QUALIFYING REQUIREMENTS:

- The facilities must be certified by the Department of Economic Opportunity and the certification is valid for 2 years. A business may renew the certification biennially.

APPROVAL / OVERSIGHT / LIMITATIONS:

- The Department of Economic Opportunity is responsible for processing applications and certifying businesses.

SIGNIFICANT HISTORY:

- Created in 2000 to provide a full exemption for industrial M&E used in semiconductor facilities and a 25% exemption for industrial M&E used in defense or space technology facilities. A business using the exemption was required to apply for certification each year.
- In 2006, the exemption for industrial M&E used in defense or space technology facilities was increased to 100% and the certification was extended to 2 years. The definition of “space technology products” was expanded to include space flight vehicles and components of space technology products. The exemption was also extended to include M&E used to “design” or “assemble” defense or space technology products.

FISCAL IMPACT:

\$4.5m per state fiscal year

RESEARCH AND DEVELOPMENT COSTS

Sections 212.052 and 212.08(18), F.S.

INCENTIVE:

- Tangible personal property manufactured, produced, compounded, processed or fabricated for use directly or solely in research or development, and machinery and equipment used predominately for research and development is exempt from sales and use tax.

PURPOSE:

- To encourage research and development activities within Florida.

QUALIFYING REQUIREMENTS:

- “Machinery and equipment” includes, but is not limited to, molds, dies, machine tooling, other appurtenances or accessories to machinery and equipment, testing and measuring equipment, test beds, computers, and software.
- Must use machinery and equipment for research and development purposes at least 50% of the time, however, there is no requirement that machinery and equipment have a depreciable life of 3 years or more.
- Purchasers must provide an affidavit to seller stating the machinery and equipment will be used for research and development.

APPROVAL / OVERSIGHT / LIMITATIONS:

- The Department of Revenue oversees through its normal auditing procedures.

SIGNIFICANT HISTORY:

- Enacted in 2006.

FISCAL IMPACT:

\$46.8m per state fiscal year

REPAIR PARTS, MATERIALS AND LABOR CHARGES FOR INDUSTRIAL MACHINERY AND EQUIPMENT

Section 212.08(7)(xx), F.S.

INCENTIVE:

- Parts, materials and labor charges for the repair of industrial machinery and equipment are exempt from sales and use tax.

PURPOSE:

- To encourage manufacturing activities within Florida.

QUALIFYING REQUIREMENTS:

- The exemption is available to those industries classified under specified Standard Industrial Classification (SIC) Industry Major Group Numbers provided in statute. These classifications generally include mining, construction, and manufacturing industries.
- Purchasers must provide an exemption certificate to the seller stating that the repair parts, materials and labor charges will be used for the repair of machinery and equipment.

APPROVAL / OVERSIGHT / LIMITATIONS:

- The Department of Revenue oversees through its normal auditing procedures.

SIGNIFICANT HISTORY:

- Enacted in 1999. This exemption was phased in over a 4-year period. Starting July 1, 1999, only 25% of the charges for repair parts and labor were exempt. The exemption increased by 25% on July 1 of each year until it reached 100% on July 1, 2002.

FISCAL IMPACT:

\$10.3m per state fiscal year

ENERGY ECONOMIC ZONE PILOT PROGRAM

Section 377.809, F.S.

PURPOSE:

- The Florida Energy Economic Zone Pilot Program was created in 2009 to help communities cultivate green economic development, encourage renewable electric energy generation, and promote product manufacturing that contributes to energy conservation and green jobs.

INCENTIVES: All incentives and benefits provided for enterprise zones are available to the energy economic zones. However, the total amount of incentives is limited to \$300,000 annually for each zone.

- **Enterprise Zone Jobs Tax Credit – Sales and Use Tax (s. 212.096, F.S.) or Corporate Income Tax (s. 220.181, F.S.)**
Businesses located in an enterprise zone can receive sales tax or corporate income tax credits for wages paid to new employees who have been employed for at least three months and are residents of a Florida enterprise zone. The amount of the credit is limited to 20% of monthly wages, or 30% of monthly wages if at least 20 percent of all full-time employees are enterprise zone residents. For rural enterprise zones, the credit is limited to 30% of monthly wages, or 45% of monthly wages if at least 20 percent of all full-time employees are enterprise zone residents. The qualified business may receive the credit for up to 24 months.
- **Enterprise Zone Property Tax Credit - Corporate Income Tax (s. 220.182, F.S.)**
New or expanded businesses located in an enterprise zone can receive corporate income tax credits for property taxes paid in Florida. To qualify, a business must hire 5 or more additional full-time employees. The amount of the credit is limited to \$25,000 per business, or \$50,000 if at least 20 percent of full-time employees are enterprise zone residents. The qualified business may receive the credit for up to 5 years.

- **Sales Tax Refund for Building Materials Used in an Enterprise Zone (s. 212.08(5)(g), F.S.)**

A refund is available for sales taxes paid on the purchase of building materials used to rehabilitate real property located in an enterprise zone. The amount of the refund is limited to \$5,000 per parcel of property, or \$10,000 if at least 20 percent of full-time employees are enterprise zone residents. The refund is limited to one per parcel of property.

- **Sales Tax Refund for Business Machinery and Equipment Used in an Enterprise Zone (s. 212.08(5)(h), F.S.)**

A refund is available for sales taxes paid on the purchase of certain business property, (e.g., tangible personal property such as office equipment, warehouse equipment, and some industrial machinery and equipment). The minimum purchase price of equipment is \$5,000 per unit. The amount of the refund is limited to \$5,000, or \$10,000 if at least 20 percent of full-time employees are enterprise zone residents.

- **Sales Tax Exemption for Electrical Energy Used in an Enterprise Zone (s.212.08(15), F.S.)**

Qualified businesses located in an enterprise zone are eligible for a sales tax exemption on their electricity purchases if the municipality in which they are located has enacted an ordinance providing an exemption from municipal utility tax. The sales tax exemption is 50 percent or 100 percent if at least 20 percent of full-time employees are enterprise zone residents. The qualified business may receive the exemption for up to 5 years.

- **Sales Tax Exemption for Machinery and Equipment used in the Production of Renewable Energy (s. 212.08(5)(c), F.S.)**

The purchase of machinery and equipment used in the production of renewable energy is exempt from sales and use tax.

QUALIFYING REQUIREMENTS:

- The incentives and benefits are available to energy economic zones designated before July 1, 2010.
- By March 1, 2012, each local governing body with jurisdiction over an energy economic zone, must by local ordinance, establish the boundary of the energy economic zones, specify applicable energy-efficiency standards and determine the eligibility criteria for the application of state and local incentives and benefits.

APPROVAL / OVERSIGHT / LIMITATIONS:

- The Department of Economic Opportunity, Department of Transportation and the Department of Agriculture and Consumer Services provide technical assistance to designated communities.
- The governing body of an energy economic zone is responsible for allocating the incentives and verifying that businesses are eligible.
- The Department of Economic Opportunity must submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 15, 2015, evaluating whether the pilot program has demonstrated success.

SIGNIFICANT HISTORY:

- Created in 2009 and revised in 2011 to include tax incentives.
- There are currently two designated Energy Economic Zone Pilot Program Communities located in the City of Miami Beach and Sarasota County.

FISCAL IMPACT:

\$300,000 per energy economic zone in any state fiscal year

INCENTIVES SPECIFIC TO SPACEFLIGHT ACTIVITY

Since the creation of Spaceport Florida in 1989, the state has pursued space-related businesses as part of its economic development policy.

- The Spaceport Florida Authority Act included tax exemptions for rocket fuel as well as orbital space facilities, space propulsion systems, space vehicles, satellites, space stations, and tangible personal property placed or used on any of these devices.
- In 2000, an exemption was created for renting or leasing property used or occupied predominantly for space flight business purposes.
- In 2011, spaceflight business tax credits were created to attract launch, payload, research and development, and other space business to Florida. For a spaceflight business meeting job creation and other criteria, nontransferable corporate income tax credits can be used to offset up to 50 percent of the business's corporate income tax liability and transferable credits may be sold in an amount equal to the business's net operating loss.
 - The credits in this program are limited to tax returns filed on or after October 1, 2015, and no credit may be approved after October 1, 2017.
 - The maximum amount of nontransferable credit that may be approved under this program is \$3 million, and the maximum amount of transferable credit is \$7 million.
- Spaceflight activity is also eligible for many other tax incentives relating to machinery and equipment purchases.

SPACEPORT TAX EXEMPTIONS

Sections 206.42 and 212.08(16), F.S.

INCENTIVE:

- Provides tax exemptions for:
 - Rocket fuel, defined as fuel being produced for and sold and exclusively used for space flight, from sales tax and the tax on aviation fuel;
 - Any orbital space facility, space propulsion system, or space vehicle, satellite, or station of any kind possessing space flight capacity, including the components thereof; and
 - Tangible personal property placed on or used aboard any orbital space facility, space propulsion system, or space vehicle, satellite, or station of any kind, irrespective of whether such tangible personal property is returned to this state for subsequent use, storage, or consumption in any manner.

PURPOSE:

- These exemptions were enacted as part of the Spaceport Florida Authority Act, and the purpose of that act was to:
 - (P)rovide a unified direction for space-related economic growth and educational development, to ensure a stable and dynamic economic climate, to attract and maintain space-related businesses suitable to the state, and to further the coordination and development of Florida's economy.⁵

QUALIFYING REQUIREMENTS:

- In order to qualify for any of these exemptions, a transaction must meet the statutory criteria, as cited above.

APPROVAL / OVERSIGHT / LIMITATIONS:

- The Department of Revenue's normal oversight of tax exemption claims applies to these exemptions.

SIGNIFICANT HISTORY:

- Created in 1989.

⁵ Chapter 89-300, L.O.F., sec. 2.

FISCAL IMPACT:

- The Florida Tax Handbook reports that the exemption for satellites or other space vehicles reduces sales tax revenue by \$70.6 million annually,⁶ but this estimate has not been examined closely in recent years.

⁶2012 Florida Tax Handbook, p. 159.

SALES TAX EXEMPTION FOR SPACEFLIGHT COMMERCIAL LEASES

Section 212.031(1)(a)12., F.S.

INCENTIVE:

- Provides a sales tax exemption for renting or leasing property used or occupied predominantly for space flight business purposes.

PURPOSE:

- Is consistent with other tax preferences provided to the space industry to attract and maintain space-related businesses suitable to the state.

QUALIFYING REQUIREMENTS:

- To qualify for this exemption, property must be used or occupied predominantly for “space flight business” purposes, which means the manufacturing, processing, or assembly of a space facility, space propulsion system, space vehicle, satellite, or station of any kind possessing the capacity for space flight, or components thereof, and also means the following activities supporting spaceflight:
 - Vehicle launch activities,
 - Flight operations,
 - Ground control or ground support, and
 - All administrative activities related thereto.

APPROVAL / OVERSIGHT / LIMITATIONS:

- Possession by a landlord of a signed written statement from the tenant claiming the exemption relieves the landlord from the responsibility of collecting the tax.
- The Department of Revenue looks solely to the tenant for recovery of the tax if it determines that the exemption was not applicable.

SIGNIFICANT HISTORY:

- Created in 2000.

FISCAL IMPACT:

- This exemption is estimated to reduce state revenue by \$600,000 annually.

SPACEFLIGHT BUSINESS TAX CREDITS

Sections 220.194, F.S.

INCENTIVE:

- Provides nontransferable corporate income tax credits for up to 50 percent of the business's corporate income tax liability; and
- Provides transferable tax credits equal to the amount of a certified spaceflight business's Florida net operating loss, if the activity that gave rise to the net operating loss occurred after July 1, 2011.

PURPOSE:

- To create incentives to attract launch, payload, research and development, and other space business to this state.⁷

QUALIFYING REQUIREMENTS:

- The applicant must be a spaceflight business with a physical address in Florida.
- The applicant must have engaged in a qualifying spaceflight project before taking or transferring a credit.
- The applicant must have created 35 new fulltime jobs in this state directly associated with spaceflight projects during its immediately preceding 3 taxable years, and these jobs must pay at least 115 percent of the statewide or countywide average annual private sector wage for the preceding 3 taxable years.
- The applicant must have invested a total of at least \$15 million in this state on a spaceflight project during its immediately preceding 3 taxable years.

APPROVAL / OVERSIGHT / LIMITATIONS:

- The Department of Economic Opportunity must approve all applications for this credit, as well as the transfer of transferable credits.
- A certified spaceflight business may be approved for nontransferable credits only once and for transferable credits only once, and may not be approved for both types of credits in a single year.
- Credits must be based upon tax liabilities directly related to spaceflight projects as verified by an audit or examination by a certified public accountant and verified by DEO.

⁷ Section 220.194, F.S.

- Previously claimed tax credits may be forfeited if DOR determines that the taxpayer was not entitled to the credits.
- DEO may revoke or modify a certificate granting eligibility for tax credits if it finds that the certified spaceflight business made a false statement or representation on its application or other document filed in an attempt to receive these tax credits.
- This program is limited to returns filed for any tax period beginning October 1, 2015, and no credit may be approved after October 1, 2017.
- The maximum nontransferable credit amount available to any one business in a single year is \$1 million, and the total amount of nontransferable credits that may be approved during the life of the program is \$3 million.
- The maximum transferable credit amount available to any one business in a single year is \$2.5 million, and the total amount of transferable credits that may be approved during the life of the program is \$7 million.

SIGNIFICANT HISTORY:

- Created in 2011.⁸

FISCAL IMPACT:

- \$10 million in FY 2015-16 through 2017-18.

⁸ Chapter 2011-76, L.O.F.