

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 1668

SPONSOR: Commerce and Economic Opportunities Committee and Senator Kirkpatrick

SUBJECT: Economic Development

DATE: March 22, 2000 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Joseph</u>	<u>Maclure</u>	<u>CM</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>FP</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

This committee substitute:

- revises the term “development” for purposes of the Local Government Comprehensive Planning and Land Development Regulation Act to specify that certain activities, as described elsewhere in the Florida Statutes, are exempt from the term.
- provides a definition of the term “rural enterprise zone,” to include an enterprise zone within a county with a population of 75,000 or fewer persons, or a county with a population of 100,000 or fewer persons that is contiguous to a county with a population of 75,000 or fewer persons. This committee substitute allows an enterprise zone relating to communities affected by the fishing net limitations to be considered a rural enterprise zone.
- provides rural enterprise zones with an opportunity to amend their zone boundaries. The boundary amendment may increase the size of the zone to 15 square miles and may include one additional noncontiguous area.
- allows businesses in rural enterprise zones to apply for jobs tax credits for new hires for county residents (not just zone residents). In addition, businesses in the rural enterprise zones would be able to count county residents in calculating the 20 percent enhancement clause (rather than just zone residents) for enterprise zone tax incentives.
- provides that eight “Rural Champion Communities” would be able to apply for a state rural enterprise zone designation.
- increases the number of economic development grants that an eligible local government may receive in one fiscal year under the Florida Small Cities Community Development Block Grant Program.

- allows some insurance companies to make additional investments in CAPCOs (the Certified Capital Company Act) and thereby receive additional tax credits for these investments.

The committee substitute amends the following sections of the Florida Statutes: 163.3164, 290.0004, and 290.046. The committee substitute creates the following sections of the Florida Statutes: 290.00676, 290.00677, and 290.00694.

## II. Present Situation:

### Rural Economic Conditions

Thirty-four counties meet a legislatively prescribed definition of “rural community” as meaning a county with a population of 75,000 or less or a county with a population of 100,000 or less that is adjacent to a county with a population of 75,000 or less. (*See, e.g., s. 288.0656(2)(b), F.S.*)

Despite the recent period of high economic growth in Florida, rural communities have not shared in the state’s prosperity. Rural Florida makes up 7 percent of the state’s population with a growth rate that is out-pacing the state average; however, the income gap is growing. According to data provided by Enterprise Florida, Inc. (EFI), between 1990 and 1997, rural Florida’s population has increased by 20 percent compared to the state average of 13.4 percent. The median household income in 32 of 34 of the smallest counties is about 30 percent less than the state’s median income, according to a study by the Center on Budget and Policy Priorities. Not a single small county enjoys a per capita personal income that exceeds the state average of \$27,806.

Also of concern are low rates of pay by captured businesses in rural communities. According to 1997 data reported by EFI, manufacturing businesses throughout rural Florida pay lower than average sector wages. In northwest Florida, for example, manufacturing pays on average about 38 percent less per hour than the average manufacturing sector wages for all of Florida. In rural south Florida, manufacturing pays closer to the state manufacturing sector wage average; however, the manufacturing sector employs only 3.6 percent of the rural south Florida population. Prison construction has been a growth industry in rural north Florida counties; however, these jobs contribute to a dependence on government as the largest high-wage employer, and this source of development adds less to the tax base than other engines of development.

Adding to these difficulties, recent public policy decisions have made it more difficult for these communities to maintain their residents’ income levels or to generate revenues for education and critical government services. For example, Preservation 2000 and other conservation and protection programs have removed taxable land from the inventory of wealth-creating assets in rural communities. The constitutional amendment banning the use of certain types of nets for commercial fishing has cut incomes in coastal communities. Although each of these programs involves a laudable public goal, their cumulative impact has meant less wealth and has limited the fiscal capacity of the affected communities.

### Enterprise Zone Program

Florida established one of the first enterprise zone programs in the country in 1980 to encourage economic growth and investment in distressed areas by offering tax advantages to businesses

willing to make such an investment. An “enterprise zone” is a specific geographic area targeted for economic revitalization. Since July 1, 1995, the state has designated 34 enterprise zones.<sup>1</sup>

In 1994, the Legislature passed significant revisions to the first Enterprise Zone Program established in 1980. The original program became overwhelmed with the number of zones allowed. As a result, the existing zones were repealed on December 31, 1994, and parameters were established for designation of new zones. Administrative responsibilities of the program were transferred from the Department of Community Affairs to the Department of Commerce. The jobs tax credit eligibility criteria were revised to require both the business and the employee to reside within an enterprise zone.

In 1995, 19 enterprise zones were designated in urban and rural communities throughout the state. Local governments were required to establish a community-based Enterprise Zone Development Agency (EZDA).

In 1996, 11 new enterprise zones were authorized by the Legislature of which 10 submitted acceptable plans and applications. Administrative duties were transferred to the newly created Office of Tourism, Trade, and Economic Development (OTTED) upon the dissolution of the Department of Commerce.

In 1997, OTTED designated the City of Fort Pierce as the 30th enterprise zone.

In 1998, the 31st enterprise zone was added when the Legislature further amended the Enterprise Zone Program by authorizing a new zone to be designated within a brownfield pilot project area (Clearwater). Also in 1998, the Legislature provided that new employees who are WAGES Program participants or Job Training Partnership Act classroom training participants may provide a basis for employers to claim the enterprise zone job tax credit under ss. 212.096 and 220.181, F.S., regardless of whether such employees reside in the zone.

In 1999 and the first two months of 2000, enterprise zones were approved for Lake Apopka (32nd zone), Liberty County (33rd), and Hendry County (34th). In addition, Suwannee, Columbia, and Gadsden counties have submitted applications for enterprise zone designation pending approval from OTTED.

Costs of the program have increased as new areas have been added. The total cost of state and local incentives was \$11.2 million in FY 1996-97 and \$13 million in FY 1997-98. During the fourth full year of the revised Enterprise Zone Program, costs have increased by \$11 million, such that FY 1998-99 totals \$24 million in state and local incentives (\$5.2 million in state tax incentives approved by the Department of Revenue, and \$18.8 million in incentives provided by the local governing bodies; however, some of the local incentives provided are federal pass-through funds.). This increased activity was the result of 776 new businesses moving into enterprise zones creating 5,305 new jobs.

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<sup>1</sup> Information from the March 1, 2000, *Florida Enterprise Zone Program Annual Report* by the Office of Tourism, Trade, and Economic Development.

Section 290.0055, F.S., provides requirements for nominating and selecting an enterprise zone. It provides size limitations depending on the community population category and stipulates that for communities having a total population of 20,000 persons or less, the selected enterprise zone area shall not exceed 3 square miles. This section also requires that the selected area suffer from pervasive poverty, unemployment, and general distress, as described and measured pursuant to s. 290.0058, F.S. Section 290.0058(2), F.S., specifies that pervasive poverty “shall be evidenced by a showing that poverty is widespread throughout the nominated area. The poverty rate of the nominated area shall be established using the following criteria: (a) In each census geographic block group within a nominated area, the poverty rate shall be not less than 20 percent. (b) In at least 50 percent of the census geographic block groups within the nominated area, the poverty rate shall not be less than 30 percent.”

The effectiveness of enterprise zone tax incentives was the topic of a 1998 report issued by the Senate Committee on Ways and Means, Subcommittee E. In this report, and in testimony provided to the Legislative Committee on Intergovernmental Relations (LCIR) by the Office of Tourism, Trade, and Economic Development, the overall success of the enterprise zone program was discussed, as was whether rural and net-ban affected areas were sharing in that success. Rural and net-ban affected areas do not appear to be benefitting as much from the program as are urban areas. It was reported that rural enterprise zones claim progress on only 66 percent of goals identified in their strategic plans, compared with an 87 percent rate of progress toward goals for urban areas, and net-ban affected areas report only a 44 percent rate of progress.

In the 1998 report, the lower progress rate for rural and net-ban affected areas was largely attributed to a lack of local resources necessary to formulate, promote, and market an enterprise zone, and an increase in funding to those specific areas was recommended. Another explanation for insufficient progress in rural areas is that the enterprise zone program currently provides certain tax credits to businesses only for employees who reside within the enterprise zone. In rural areas, it is less likely that employees reside in the enterprise zone, as residential patterns differ from those common to densely populated urban areas. Because the enterprise zone program was originally created with urban areas in mind, the structure of some of the benefits remains more suited to urban communities. Currently, because of the unique characteristics of rural communities, they are not able to fully utilize the benefits conferred by the enterprise zone program under existing law.<sup>2</sup>

### **Local Government Comprehensive Planning and Land Development Regulation Act**

This act was created “to utilize and strengthen the existing role, processes, and powers of local governments in the establishment and implementation of comprehensive planning programs to guide and control future development” (s. 163.3161(2), F.S.). The stated intent of the act is “that its adoption is necessary so that local governments can preserve and enhance present advantages; encourage the most appropriate use of land, water, and resources, consistent with the public interest; overcome present handicaps; and deal effectively with future problems that may result from the use and development of land within their jurisdictions” (s.163.3161(3), F.S.).

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<sup>2</sup> Florida Senate Committee on Ways and Means, Subcommittee E, *The Effectiveness of Enterprise Zone Tax Incentives: Florida’s Enterprise Zone Program Since 1994*, Interim Project Summary 98-63, October 1998.

The definition of “development” under s. 163.3164(6), F.S., states that the word “has the meaning given it in s. 380.04,” which states that the term development “means the carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or the dividing of land into three or more parcels.” Section 380.04(3), F.S., lists operations or uses that shall not involve development for purposes of the land and water management chapter of the Florida Statutes.

### **Florida Small Cities Community Development Block Grant Program**

Title I of the federal Housing and Community Development Act of 1974 authorizes the distribution of Community Development Block Grant (CDBG) funds to local governments in order to meet the objective of developing viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income. (42 U.S.C. s. 5301(c).) Eighty-five percent of CDBG funds are dispersed directly to large urban cities and counties that have been designated entitlement communities. The remaining funds are distributed annually in the form of competitive grants to non-entitlement communities, which are counties with populations not exceeding 200,000 and small cities with populations not exceeding 50,000. The federal act authorizes states to administer the non-entitlement CDBG funds. Under the Florida Small Cities Community Development Block Grant Program Act, ss. 290.0401-290.049, F.S., the Department of Community Affairs allocates CDBG funds to non-entitlement communities in this state.

Applications for CDBG grants under s. 290.046, F.S., specify that each eligible local government may apply up to three times in any one annual funding cycle for a grant under the economic development program category but shall receive no more than one such grant per annual funding cycle. In addition, local governments with an open housing, neighborhood revitalization, or commercial revitalization contract shall not be eligible to apply for another grant in these categories until administrative closeout of their existing contract, unless their open CDBG contract’s activities are on schedule in accordance with the expenditure rates and accomplishments, in which case they may apply for an economic development grant. Local governments with an open economic development community development block grant contract whose activities are on schedule may apply for a housing or neighborhood revitalization and a commercial revitalization community development block grant, but may receive no more than one additional economic development grant in each fiscal year (s. 290.046(2)(b) and (c), F.S.).

### **Certified Capital Company Act**

The Certified Capital Company Act, s. 288.99, F.S., was adopted in 1998 to establish a mechanism to provide financing, via certified capital companies, for qualified small businesses. Insurance companies are provided a premium tax credit to invest in certified capital companies which, in turn, will make investments in qualified small businesses.

Under the 1998 legislation, a corporation, partnership, or limited liability company could file for certification as a certified capital company (CAPCO) on or before December 1, 1998. CAPCOs certified by the Department of Banking and Finance may receive contributions of capital from insurers (and other investors), and the insurers receive a credit against state premium taxes for each dollar contributed to a certified capital company, at the rate of 10 percent a year for 10

years, beginning with premium tax filings for the year 2000. The total amount of tax credits may not exceed \$15 million annually, subject to an aggregate cap of \$150 million (s. 288.99(7), F.S.). To be certified, a CAPCO must have net capital of at least \$500,000 and at least two of its principals must demonstrate 5 years experience in making venture capital investments.

To remain certified, CAPCOs are required to meet investment benchmarks. At least 50 percent of CAPCO funds must be invested in “qualified businesses” by December 31, 2003, defined as small businesses (determined by rules of the U.S. Small Business Administration) headquartered in Florida and with their principal business operations in Florida. A qualified business must certify that it is unable to obtain conventional financing and that it has fewer than 200 employees, at least 75 percent of whom are employed in Florida. At least 50 percent of the CAPCO’s investments in qualified businesses must be in “early stage technology businesses” involved in activities related to developing initial product or service offerings. A qualified business does not include a business predominantly engaged in retail sales, real estate development, insurance, banking, lending, oil and gas exploration, or engaged in professional services provided by accountants, lawyers, or physicians.

Before a CAPCO may make any distribution to its equity holders, other than a “qualified distribution,” the CAPCO must have invested 100 percent of its certified capital in qualified capital investments. A “qualified distribution” of up to 2.5 percent of the CAPCO’s capital may be made to equity holders for the costs and expenses of forming, managing, and operating the company, plus reasonable and necessary fees for professional services, such as legal and accounting services. Payments of principal and interest to debt holders may be made without restriction.

A CAPCO is required to pay to the Department of Revenue 10 percent of the portion of distributions to all certified investors (insurers) and equity holders that exceeds the sum of the CAPCO’s original certified capital (which includes both equity and debt investments) and any additional capital contributions to the CAPCO.

The Office of Tourism, Trade, and Economic Development (OTTED) is responsible for allocating premium tax credits to insurers who apply and submit specified documentation. A CAPCO must annually file a report with the office and the Department of Banking and Finance detailing the investments the CAPCO has received from insurers and the investments it has made in qualified businesses, including the number of jobs created or retained and the average wages of such jobs. The Department of Banking and Finance must conduct an annual review of each CAPCO to determine if it is abiding by the requirements of certification and the Department of Revenue may audit and examine the records of CAPCOs and insurer investors.

Currently s. 288.99(11), F.S., allows a certified investor’s unused premium tax credit to transfer to any other corporate owner of the insurance company regardless of the owner being a new owner, parent company, or subsidiary owner.

In 1999, OTTED allocated tax credits to the CAPCOs. Also in 1999 the Legislature amended s. 288.99(11), F.S., by expanding the definition of the term “transferee” to allow a subsidiary of the certified investor to use tax credits authorized under the Certified Capital Company Act. The redefinition of transferee allows such credits to be transferred to an entity 10 percent or more of

whose outstanding voting securities are owned by the certified investor or directly or who indirectly controls, is controlled by, or is under common control with the certified investor.

### III. Effect of Proposed Changes:

**Section 1.** Amends s. 163.3164, F.S., relating to the definition of “development” for purposes of the Local Government Comprehensive Planning and Land Development Regulation Act. The amended provision specifies that the term “development” is given the exemptions provided under s. 380.04(3), F.S.

**Section 2.** Amends s. 290.0004, F.S., to provide a definition of the term “rural enterprise zone,” to include an enterprise zone within a county with a population of 75,000 or fewer persons, or a county with a population of 100,000 or fewer persons that is contiguous to a county with a population of 75,000 or fewer persons. An enterprise zone designated under s. 370.28, F.S., relating to communities affected by the fishing net limitations, would be considered a rural enterprise zone as well.

**Section 3.** Creates s. 290.00676, F.S., governing amendment of rural enterprise zone boundaries, which provides rural enterprise zones with an opportunity to amend their zone boundaries. The boundary amendment may increase the size of the zone to 15 square miles and may include one additional noncontiguous area.

**Section 4.** Creates s. 290.00677, F.S., relating to rural enterprise zones and special qualifications. This provision would allow businesses in rural enterprise zones to apply for jobs tax credits for new hires for county residents (not just zone residents). Currently businesses in the “net ban zones” have this option and are able to apply for tax incentives for new hires residing within the county.

In addition, businesses in the rural enterprise zones would be able to count county residents in calculating the 20 percent enhancement clause (rather than just zone residents) for enterprise zone tax incentives. Under this provision, a business could claim the maximum amount of the tax exemption or credit if no less than 20 percent of its employees are residents of a rural county. The applicable tax incentives are: the building materials sales tax refund under s. 212.08(5)(g), F.S.; the business property sales tax refund under s. 212.08(5), F.S; the electrical energy sales tax exemption under s. 212.08(15), F.S.; the sales tax credit for job creation under s. 212.096, F.S.; the corporate income tax credit for job creation under s. 220.181, F.S.; and the enterprise zone property tax credit under s. 220.182, F.S.

Businesses eligible to receive these incentives within the period from January 1, 2000, to June 1, 2000, would be given additional time (until December 1, 2000) to apply for them.

**Section 5.** Creates s. 290.00694, F.S., relating to enterprise zone designation for rural champion communities. Under this provision, eight “Rural Champion Communities” would be able to apply for a state rural enterprise zone designation (the areas should be required to meet the enterprise zone eligibility criteria.) The “Rural Champion Community” designation is made under federal law.

**Section 6.** Amends s. 290.046, F.S., relating to the Florida Small Cities Community Development Block Grant Program. This provision increases the number of economic development grants that an eligible local government may receive in one fiscal year. Currently, such governments may receive one economic development grant (plus one additional economic development grant under certain conditions). This would allow such governments to receive two grants (plus one additional economic development grant under certain conditions).

**Section 7.** Authorizes some insurance companies to make additional investments in CAPCOs (the Certified Capital Company Act, s. 288.99, F.S.) and thereby receive additional tax credits for these investments. The credits could not exceed the difference between what the insurance company originally pledged to invest and what it actually invested during 1999. In addition, all new funds are to be invested by the CAPCOs in businesses that are located in the following areas: designated, distressed rural areas; Front Porch communities; enterprise zones; urban high-crime areas; or historic districts.

**Section 8.** This committee substitute provides that the act shall take effect upon becoming a law.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

This committee substitute could double the original CAPCO program cap of \$150 million with up to \$160 million in additional tax revenue losses.

This committee substitute authorizes a change in the boundaries of an existing zone and may have the effect of including some businesses and excluding others from the enterprise zone. The change in the mix of business activity, as well as the designation of additional noncontiguous enterprise zones, under the committee substitute, may result in additional state and local costs through use of the tax incentives provided under the enterprise zone program. This committee substitute has not been reviewed by the Revenue Estimating Conference.



**B. Private Sector Impact:**

This committee substitute may generate positive indeterminate effects resulting from the availability of various tax incentives to businesses in new enterprise zones or to businesses brought into the zone as a result of a boundary change.

**C. Government Sector Impact:**

This committee substitute may result in increased costs for the Office of Tourism, Trade, and Economic Development (OTTED) to review and approve each new enterprise zone application.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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