

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 1960

SPONSOR: Senators Meek and Diaz de la Portilla

SUBJECT: Empowerment Zones

DATE: March 4, 2002

REVISED: 03/06/02 \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cooper</u>	<u>Yeatman</u>	<u>CA</u>	<u>Favorable</u>
2.	<u>Cibula</u>	<u>Maclure</u>	<u>CM</u>	<u>Favorable</u>
3.	_____	_____	<u>GO</u>	_____
4.	_____	_____	<u>AGG</u>	_____
5.	_____	_____	<u>AP</u>	_____
6.	_____	_____	_____	_____

## I. Summary:

This bill appropriates \$7 million from the General Revenue Fund to the Department of Community Affairs for FY 2002-2003 for Miami-Dade County's empowerment zone.

This bill substantially amends section 290.0491, Florida Statutes.

## II. Present Situation:

### Florida Empowerment Zone Program

The Florida Empowerment Zone Program, codified in s. 290.0491, F.S., was created to assist local governments to submit strong proposals to be competitively selected for designation as empowerment zones or enterprise communities under the Federal Empowerment Zone Program (program), codified in 26 U.S.C. s. 1391 et seq. Several areas in this state have been designated as empowerment zones or enterprise communities under the federal program.

### Federal Empowerment Zone Program

The creation of empowerment zones and enterprise communities was authorized by the Federal Empowerment Zone Program, codified in 26 U.S.C. s. 1391 et seq. The program authorized the designation of empowerment zones and enterprise communities in three rounds. 26 U.S.C. 1391 s. (a), (g), and (h) (authorizing the designations of empowerment zones or enterprise communities in rounds I, II, and III respectively). The U.S. Department of Housing and Urban Development (HUD) designated urban empowerment zones and enterprise communities and the U.S. Department of Agriculture (USDA) designated rural empowerment zones and enterprise communities. Eligibility for designation, purposes for designation, and benefits of designation

are essentially the same for urban empowerment zones, urban enterprise communities, rural empowerment zones, or rural enterprise communities. The major differences between the different designations are the size of the area and the basket of grants and tax incentives and credits available.

*Purpose*

The purpose of the round I urban designations was to:

stimulate the creation of new jobs, particularly for the disadvantaged and long-term unemployed, and to promote revitalization of economically distressed areas.

24 C.F.R. s. 597.2.

The purpose of the round II and III urban designations was similar:

to stimulate the creation of new jobs -- empowering low-income persons and families receiving public assistance to become economically self-sufficient -- and to promote revitalization of economically distressed areas.

24 C.F.R. s. 598.2.

The purpose of the round I and II rural designations was to:

facilitate the empowerment of the disadvantaged and long-term unemployed such that they may become economically self-sufficient, and to promote revitalization of economically distressed areas, primarily by facilitating:

- (a) Coordination of economic, human services, health, transportation, education, community, and physical development plans, and other plans and related activities at the local level;
- (b) Local partnerships fully involving affected communities and local institutions and organizations in developing and implementing a comprehensive multi-sectoral strategic plan for any nominated rural Empowerment Zone or Enterprise Community;
- (c) Tax incentives and credits; and
- (d) Distribution of other federal resources including grants from USDA and other federal departments, including Empowerment Zone and Enterprise Community Social Services Block Grant (EZ/EC SSBG) funds as may be available from the U.S. Department of Health and Human Services (HHS).

7 C.F.R. s. 25.2.

### *Designation Process*

The competitive selection process for the designation of urban and rural empowerment zones and enterprise communities was essentially the same during all three rounds of selection. Areas eligible to apply for designation had to meet certain size and population criteria and have pervasive poverty, unemployment, and general distress. The applications were required to include a strategic plan that complied with four key principles: 1) Strategic Vision for Change, which identifies what the community will become and provides a strategic map for revitalization; 2) Community-Based Partnerships, involving all segments of the community; 3) Economic Opportunity Programs, to enable residents to be employed in jobs that offer upward mobility; and 4) Sustainable Community Development, to enhance the creation of livable and vibrant communities. 24 C.F.R. ss. 597.200 and 598.215, and 7 C.F.R. ss. 25.100 and 25.202. The evaluation of applications for designation of empowerment zones and enterprise communities was based on the quality of the strategic plans and the quality of commitments made by businesses and government for the revitalization of the area. 24 C.F.R. ss. 597.301 and 597.305, and 7 C.F.R. s. 25.301.

Under to the Federal Empowerment Zone Program, the following areas in Florida have received designations:

- Miami-Dade County, urban empowerment zone round II designation;
- Jacksonville, urban empowerment zone round III designation;
- Tampa, urban enterprise community round I designation;
- Jackson County, rural round I enterprise community designation; and
- Hendry and Collier counties Empowerment Alliance of Southwest Florida, rural round II enterprise community.

### *Benefits*

Congress has approved \$19 million for the Miami-Dade County empowerment zone. The City of Tampa has received \$3 million in social service block grants and tax exempt bond financing for enterprise community businesses. (See <http://www.hud.gov/offices/ezec/about/ezecinit.cfm>.) An area within the City of Jacksonville was recently designated as a round III empowerment zone. (See <http://www.hud.gov/news/release.cfm?content=pr02-008jvez.cfm>.) Round III urban empowerment zones will receive a variety of the same tax incentives and credits as the round I and II designees, but they will not receive federal grants. (*Id.*) According to the USDA, each round I rural enterprise community, like Jackson County, is to receive a one-time 10-year grant of \$2.97 million, and each round II enterprise community, like the Empowerment Alliance of Southwest Florida is to receive \$250,000 for the first year. However, the USDA expects round II enterprise communities to receive an addition \$2.25 million.

### **Initiative's Future**

The Office of Management and Budget (OMB) proposes to eliminate round II empowerment zone grants because it has found no convincing evidence that adding grants to the tax benefits provided in empowerment zones increases the effectiveness of the empowerment zone. (See <http://www.whitehouse.gov/omb/budget/fy2003/bud16.html>.) For 2002, Congress appropriated

\$45 million for urban empowerment zone grants. The OMB's proposed budget for 2003 does not provide any funding for urban empowerment zone grants.

### **Legislative Authority**

The Legislature's authority to enact laws stems from the Constitution of the State of Florida. The constitutional authority to enact laws passes to each successive Legislature. As such, the acts of a Legislature are not binding on the authority of a future Legislature. See *Gonzalez v. Sullivan*, 16 Fla. 791 (June Term, 1878), and *Straughn v. Camp*, 293 So. 2d 689, 694 (Fla. 1974).

## **III. Effect of Proposed Changes:**

### **Legislative Intent**

Section 290.0491(3)(b), F.S., is created by the bill to provide additional legislative intent for the Florida Empowerment Zone Act. The new paragraph (b) provides a historical discussion of the Legislature's appropriations under the Florida Empowerment Zone Act and an intent to provide funding for the remaining years of the empowerment zone program. No additional obligations or duties are imposed on any party by the new paragraph (b). The Legislature may wish to place this language in paragraph (b) in whereas clauses in the preamble of the bill rather than codifying legislative intent.<sup>1</sup>

### **Funding**

Section 290.0491(5), F.S., is created by the bill and specifies that the Legislature shall appropriate \$7 million per year, contingent on receiving matching funds under the Federal Empowerment Zone Program, until the termination of the Florida Empowerment Zone Program to the local government that was awarded an empowerment designation under 26 U.S.C. s. 1391(g). The only empowerment zone designation in this state under 26 U.S.C. s. 1391(g) was awarded to Miami-Dade County. Additionally, because this new subsection (5) attempts to make appropriations in future years, a future Legislature has the constitutional authority to ignore or repeal its provisions. See *Gonzalez v. Sullivan*, 16 Fla. 791 (June Term, 1878), and *Straughn v. Camp*, 293 So. 2d 689, 694 (Fla. 1974).

### **Appropriation**

The bill appropriates the sum of \$7 million from the General Revenue Fund for FY 2002-2003 to carry out the purposes of the Florida Empowerment Zone Program for the benefit of the Miami-Dade Empowerment Zone.

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<sup>1</sup> The preferred method of drafting legislative intent is to insert the legislative intent into the preamble of a legislative act in the form of whereas clauses. *The Manual for Drafting General Bills, The Florida Senate*, p. 31-34, (5th ed. 1999).

**Effective Date**

The bill takes effect on July 1, 2002.

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

None.

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

None.

**C. Trust Funds Restrictions:**

None.

**D. Other Constitutional Issues:**

The bill requires the Legislature to appropriate at least \$7 million per year for the future of the Florida Empowerment Zone Program. However, this Legislature does not have the authority to bind future Legislatures. *Gonzalez v. Sullivan*, 16 Fla. 791 (June Term, 1878), and *Straughn v. Camp*, 293 So. 2d 689, 694 (Fla. 1974). A future Legislature will be free to ignore or repeal provisions of this bill mandating an appropriation in future years. *Id.*

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

The appropriation may be used to fund economic development programs in the empowerment zone located in Miami-Dade County.

**C. Government Sector Impact:**

The bill appropriates \$7 million for FY 2002-2003 for the purposes of the Florida Empowerment Zone Act. The Department of Community Affairs will be required to distribute the appropriation made by the bill to Miami-Dade County to fund economic development programs in its empowerment zone.

**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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