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**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY
COUNCIL FOR COMPETITIVE COMMERCE
ANALYSIS**

BILL #: CS/CS/HB 461

RELATING TO: Enterprise Zones

SPONSOR(S): Council for Competitive Commerce, Committee on Economic Development and International Trade, and Representative Ball

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) COMMITTEE ON ECONOMIC DEVELOPMENT AND INTERNATIONAL TRADE YEAS 8 NAYS 0
 - (2) FISCAL POLICY AND RESOURCES YEAS 13 NAYS 0
 - (3) COUNCIL FOR COMPETITIVE COMMERCE YEAS 13 NAYS 0
 - (4)
 - (5)
-

I. SUMMARY:

CS/CS/HB 461 would authorize applications for new enterprise zones and expansions of existing enterprise zones for specific entities and locations.

The bill would authorize applications for new enterprise zones by:

- The City of Cocoa, Brevard County, or the two jointly;
- The City of Pensacola;
- Leon County, or Leon County and the City of Tallahassee;
- Miami-Dade County and the City of Hialeah jointly; and
- Miami-Dade County (Miami River area).

The bill would authorize the expansion or amending of Enterprise Zone boundaries for:

- The City of St. Petersburg
- Manatee County
- Miami-Dade County ("Little Haiti" area)

The bill provides guidelines and requirements for the establishment, expansion, or boundary amendment of enterprise zones.

Except as otherwise provided in the bill, the act would take effect upon becoming a law.

See section VI for an explanation of the differences between the original bill and the council substitute for the committee substitute.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

In 1980, Florida established one of the first enterprise zone programs in the country to encourage economic growth and investment in distressed areas. An enterprise zone is a specific geographic area targeted for economic revitalization. The state offers a number of tax advantages to businesses willing to make such an investment.

In 1994, the legislature made significant revisions to the Enterprise Zone Program. 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. Since July 1, 1995, the state has designated 34 enterprise zones.

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 Ft. 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 for designation within a brownfield pilot project area (Clearwater). Also in 1998, the legislature provided that new employees who are Work and Gain Economic Self-sufficiency (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 or not such employees reside in the zone.

In 1999 and the first two months of 2000, enterprise zones were approved for Lake Apopka, the 32nd, Liberty County, the 33rd, and Hendry County, the 34th. Suwannee County, Columbia County and Gadsden County applied for designation in FY 2000 as well but did not meet eligibility requirements.

In 2001, the legislature authorized several counties to apply for enterprise zone designation prior to December 31, 2001. Twelve counties applied for enterprise zone designation under this latest authorization and OTTED advises that it expects to approve all applications in this group soon. The effective date for these proposed zones was January, 2002.¹

The 2001 legislature made several changes to provisions governing rural enterprise zones. Specifically, the legislature authorized rural enterprise zones to apply for boundary changes under certain circumstances, including meeting a December 30, 2001 application deadline.²

Chapter 2001-201, Laws of Florida, deleted the specified date by which an eligible municipality may apply for creation of a satellite enterprise zone and authorized the creation of such zones retroactive to December 31, 1999. In addition, businesses in a newly created satellite enterprise zone are eligible to receive a retroactive refund of certain sales taxes paid back to that date.

Enterprise Zone Designation Process and Criteria

Section 290.0055, F.S., provides requirements for nominating and selecting an enterprise zone and provides size limitations depending on the community population category. This section also requires that the selected area suffer from pervasive poverty, unemployment, and general distress, as described and measured under s. 290.0058, F.S.

Section 290.0058(2), F.S., specifies that pervasive poverty must 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 not be less than 20 percent; and (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.

Section 290.0065, F.S., outlines the process for designating an enterprise zone. It authorizes OTTED to designate no more than a total of 20 zones to be placed in five population categories.³ Each application is to be ranked competitively within the appropriate category based on the pervasive poverty, unemployment, and general distress of the area. Areas are to develop strategic plans, and be evaluated on the promotion of the following key principles: 1) economic opportunity through job creation within the community and throughout the region, as well as entrepreneurial initiatives, small business expansion, and job training promising upward mobility; 2) sustainable community development advancing the creation of livable and vibrant communities through comprehensive approaches that coordinate economic, physical, community, and human development; 3) community-based partnerships involving the participation of all segments of the community; 4) strategic vision for change that identifies how the community will be revitalized; and 5) local incentives inducing economic revitalization, comprised of job creation and small business expansion.

¹ Counties applying by December 31, 2001, were Gadsden, Okeechobee, DeSoto, Madison, Glades, Putnam, Hardee, Calhoun, Holmes, Okaloosa, Sarasota, and Hernando.

² Rural enterprise zones applying for boundary amendments are: Pahokee, Freeport, DeFuniak Springs, Highlands, Franklin, Wakulla, Washington, Liberty, Taylor, and Gulf.

³ Often, this provision is circumvented by inserting language in statute that states: "Notwithstanding the provisions of s. 290.065 limiting the total number of enterprise zones designated and the number of enterprise zones within a population category, the Office of Tourism, Trade, and Economic Development may designate one enterprise zone under this section."

Enterprise Zone Program Costs

Costs of the Enterprise Zone Program have increased as new areas have been added. The total cost of state and local incentives was \$11.2 million in fiscal year (FY) 1996-97 and \$13 million in FY 1997-98. Costs increased by \$11 million in FY 1998-99, totaling \$24 million in state and local incentives. \$5.2 million of this increase came from state tax incentives approved by the Department of Revenue and \$18.8 million in incentives by the local governing bodies; however, some of the local incentives provided are federal pass-through funds. In FY 1999-00, the total program cost dropped back down to \$15 million despite an increase of \$300,000 in state program spending. The drop was due to local government incentives declining \$8.7 million. The enterprise zone annual report, compiled by OTTED in conjunction with the Department of Revenue, is scheduled for release March 1, 2002, and will contain enterprise zone program costs for FY 2000-01.

State Incentives Available to Businesses in Enterprise Zones

Section 290.007, F.S., enumerates the majority of incentives provided by the state to “encourage revitalization of enterprise zones.”⁴

- Enterprise zone jobs credit provided in s. 220.181, F.S.;
- Enterprise zone property tax credit provided in s. 220.182, F.S.;
- Community contribution tax credits provided in ss. 212.08, 220.183, and 624.5105, F.S.;
- Sales tax exemption for building materials used in the rehabilitation of real property in enterprise zones provided in s. 212.08(5)(g), F.S.;
- Sales tax exemption for business property used in an enterprise zone provided in 212.08(5)(h), F.S.;
- Sales tax exemption for electrical energy used in an enterprise zone provided in s. 212.08(15), F.S.;
- Enterprise zone jobs credit against the sales tax provided in s. 212.096, F.S.;
- Discounts on tariffed rates for telecommunications and utilities.

Enterprise Zone Jobs Credit – Corporate Income Tax

Section 220.181, F.S., provides that, effective January 1, 2002, the enterprise zone jobs credit against corporate income tax applies only to businesses that have increased the number of full-time jobs from the average of the previous 12 months, or have added at least five new full-time jobs between July 1, 2000, and December 31, 2001. Comparable to the enterprise zone jobs credit against the sales tax, credit against the corporate income tax is computed as 20 percent of the actual monthly wages paid for each new job created, or 30 percent of the monthly wages paid if the business is located in a rural enterprise zone. If at least 20 percent of the full-time permanent employees of the business are residents of an enterprise zone, the credit is 30 percent of the actual monthly wages paid, or 45 percent of the actual monthly wages paid if the business is located in a rural enterprise zone. The credit is allowed for up to 24 consecutive months, beginning with the first tax return due after approval by the department.

If the new employee is a welfare transition program participant, the credit is 40 percent of the monthly wages paid if the hourly rate is \$4 above the hourly federal minimum wage rate; 42 percent if the hourly rate is \$6 above the hourly federal minimum wage rate; 43 percent if the hourly rate is

⁴ The 2001 legislature made several changes to the incentives program effective July 1, 2001 (chapter 2001-201, Laws of Florida). These changes are included in this narrative.

\$7 above the hourly federal minimum wage rate; and 44 percent if the hourly rate is \$8 above the hourly federal minimum wage rate.

Businesses that are located in rural enterprise zones and hire employees who live outside the zone's boundaries may claim the corporate income tax credit if the employees live within the jurisdiction of a rural county.

Enterprise Zone Property Tax Credit -- Corporate Income Tax

Section 220.182, F.S., provides that new or expanded businesses located in an enterprise zone may be granted a credit against corporate income tax liability equal to 96 percent of ad valorem taxes paid on the new or improved property that varies by county.

Community Contribution Tax Credits – Corporate Income Tax, Sales Tax, and Insurance Premium Tax

Section 212.08(5)(q), F.S., provides that, beginning July 1, 2001, the community contribution tax credit, which previously was available to eligible businesses under s. 220.183, F.S. (corporate income tax), and s. 624.5105, F.S. (insurance premium tax), was extended to include credits against the state sales and use tax. Taxpayers may take the credit against only one of the three taxes. The credit is computed as 50 percent of a contribution made to an eligible sponsor for an eligible project and is limited to a maximum of \$200,000 per donor per year. In 2001, the legislature also added Front Porch Communities as eligible projects for the credits.

Exemption for Building Materials Used in an Enterprise Zone – Sales Tax

Section 212.08(5)(g), F.S., provides that, effective July 1, 2001, the sales tax exemption for building materials used in the rehabilitation of real property located in an enterprise zone is available to nonprofit community-based organizations, as well as to city, county or other governmental agencies if the materials were paid for from:

- community development block grants;
- State Housing Initiatives Partnership Program; or
- similar grant or loan program.

Exemption for Business Property Used in an Enterprise Zone – Sales Tax

Section 212.08(5)(h), F.S., provides a sales tax exemption for the purchase of certain business property, which is used exclusively in an enterprise zone. Effective July 1, 2001, the items eligible for the refund must have a sales price of at least \$5,000 per unit and must meet other criteria under the "business property" definition.⁵

Exemption for Electrical Energy Used in an Enterprise Zone – Sales Tax

Section 212.08(15)(g) provides a sales tax exemption⁶ to a qualified business located in an enterprise zone on the purchase of electrical energy if the local governments have exempted at least one-half of the municipal utility tax. The business may receive the exemption for 5 years.

⁵ Please see s. 212.08(5)(h)9.a.- d., F.S.

⁶ The sales tax exemption is 50 percent unless at least 20 percent of the employees of the business are residents of an enterprise zone; in that case, the exemption is 100 percent.

Enterprise Zone Jobs Credit – Sales Tax

Section 212.096, F.S., provides that, effective January 1, 2002, the enterprise zone jobs credit against sales tax no longer applies to part-time jobs. Effective on that date, the enterprise zone jobs credit against sales tax is available to businesses which have increased the number of full-time jobs from the average of the previous 12 months, or added at least five new full-time jobs between July 1, 2000, and December 31, 2001. The credit is also available for jobs filled by leased employees who meet specific criteria. The credit is computed as 20 percent of the actual monthly wages paid for each new job created or 30 percent of the monthly wages paid if the business is located in a rural enterprise zone. If at least 20 percent of the full-time permanent employees of the business are residents of an enterprise zone, the credit is 30 percent of the actual monthly wages paid or 45 percent of the actual monthly wages paid if the business is located in a rural enterprise zone.

If the new employee is a welfare transition program participant, the credit is 40 percent of the monthly wages paid if the hourly rate is \$4 above the hourly federal minimum wage rate; 42 percent if the hourly rate is \$6 above the hourly federal minimum wage rate; 43 percent if the hourly rate is \$7 above the hourly federal minimum wage rate; and 44 percent if the hourly rate is \$8 above the hourly federal minimum wage rate.

Section 212.096(1)(e), F.S., defines “new job has been created” to mean the total number of full-time jobs has increased in an enterprise zone from the average of the previous 12 months, as demonstrated to the Department of Revenue by a business located in the enterprise zone.

For purposes of this section, the credit against the sales tax is allowed for up to 24 consecutive months, beginning with the first tax return due after approval by the department.

Section 290.00677, F.S., allows businesses in rural enterprise zones to claim the enterprise zone jobs credit against the sales tax for hiring employees who live outside the boundaries of the zone if the employees live within the jurisdiction of a rural county.

Discounted Rates – Public Utilities and Telecommunications

Section 290.007(8), F.S., authorizes the Public Service Commission to allow public utilities and telecommunications companies to grant discounts of up to 50 percent on tariffed rates for services to small businesses located in an enterprise zone designated pursuant to s. 290.0065, F.S. The discounts may be granted for a period not to exceed 5 years.

C. EFFECT OF PROPOSED CHANGES:

This bill creates s. 290.00686, F.S., and allows the City of Cocoa, Brevard County, or the two jointly, to apply to OTTED for designation of one enterprise zone comprising three community redevelopment areas. Application for the program is due by December 31, 2002. OTTED shall establish the initial effective date of the enterprise zone.

The City of Pensacola may apply to OTTED for designation of one enterprise zone comprising 10 or less contiguous square miles. Application for the program is due by December 31, 2002. OTTED shall establish the initial effective date of the enterprise zone.

Leon County, or the City of Tallahassee and Leon County jointly, may apply to OTTED for designation of one enterprise zone comprised of an area or areas within specified census tracts for

Leon County based on the 1990 census. Application for the program is due by December 31, 2002. OTTED shall establish the initial effective date of the enterprise zone.

OTTED may amend the boundaries of an enterprise zone in a community with a population of between 235,000 and 255,000 as long as area does not increase the overall size of the enterprise zone by more than 50 acres. The bill amends s. 290.00675, F.S., to increase the maximum population for an enterprise zone eligible under this section from 245,000 to 255,000, and further amends the section to increase the overall size of the zone from 25 to 50 acres.

OTTED may amend the boundaries of an enterprise zone located in Manatee County as long as the expansion does not increase the overall size of the enterprise zone by more than one square mile. The additional area to be included within the enterprise zone must be contiguous to the existing enterprise zone.

Upon joint application by Miami-Dade County and the city of Hialeah, OTTED shall designate an area bounded by 32nd Street, Palm Avenue, and East 4th Avenue as an enterprise zone. The application is due by June 1, 2002. The effective date of the enterprise zone is July 1, 2002.

Miami-Dade County may apply to OTTED to amend the boundaries of an existing enterprise zone to add an area of up to four square miles. The area to be included in the expansion must be contiguous to the existing enterprise zone, must be part of a revitalization area targeted for assistance, and must contain a high concentration of Haitian immigrants. The application is due by October 1, 2002. OTTED shall approve the boundary amendment by January 1, 2003.

Miami-Dade County may apply to OTTED to amend the boundaries of an enterprise zone to add an area not to exceed four square miles. The area to be included in the expansion must be contiguous to the existing enterprise zone and be part of a revitalization area targeted for assistance by the Miami River Commission. Application for this enterprise zone is due by October 1, 2002. OTTED shall approve the amendment to the enterprise zone boundaries by January 1, 2003. The area proposed for addition to the enterprise zone may not include any property used for the benefit of a professional sports franchise. Any part of the area added to the existing enterprise zone by this amendment shall automatically lose its status as part of the enterprise zone if such portion subsequently includes property used for the benefit of a professional sports franchise.

Sections of the act authorizing Miami-Dade County to amend or expand the boundary lines of an existing enterprise zone are not mutually exclusive.

D. SECTION-BY-SECTION ANALYSIS:

See "Effect of Proposed Changes."

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Impact Conference has not reviewed this bill. In previous years, the Impact Conference has estimated a \$100,000 fiscal impact on General Revenue and an insignificant impact on local revenues for legislation creating a single enterprise zone.

2. Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Businesses located within the designated enterprise zone will be eligible to claim tax incentives when hiring zone residents or making capital investments within the zone.

D. FISCAL COMMENTS:

The Office of Tourism, Trade, and Economic Development and the Department of Revenue do not assign any additional costs for administering the applicable provisions of this bill.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill will not reduce the authority of counties and municipalities to raise total aggregate revenues.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill is not anticipated to reduce the total aggregate percent of state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None

B. RULE-MAKING AUTHORITY:

None

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The original bill authorized the City of Cocoa, Brevard County, or the two jointly, to apply to OTTED for enterprise zone designation. The initial committee substitute added the City of Pensacola and Leon County, or Tallahassee and Leon County jointly, and authorized their application to OTTED for enterprise zone designation.

The council substitute further incorporates:

On February 14, 2002, the Committee on Fiscal Policy and Resources adopted two amendments that respectively authorize boundary amendments to enterprise zones in the City of St. Petersburg and Manatee County.

On February 21, 2002, the Council for Competitive Commerce adopted two amendments. The first authorizes Miami-Dade County and the City of Hialeah, jointly, to apply for an enterprise zone designation in the area of Hialeah Park. The second authorizes Miami-Dade County to apply for enterprise zone boundary amendments to, (1) incorporate the "Little Haiti" area into an existing enterprise zone, and (2) incorporate the Miami Riverfront area into an existing enterprise zone. The amendment states that the two boundary amendments are not mutually exclusive. The amendment further provides that the enterprise zone for the Miami River revitalization area may not include property used for the benefit of a professional sports franchise. If such property is used for the benefit of a projected sports franchise, the annexed area will lose its status as an enterprise zone.

VII. SIGNATURES:

COMMITTEE ON COMMITTEE ON ECONOMIC DEVELOPMENT AND INTERNATIONAL TRADE:

Prepared by:

Staff Director:

Lisa C. Gonzalez

J. Paul Whitfield, Jr.

COMMITTEE ON COUNCIL FOR FISCAL POLICY AND RESOURCES:

Prepared by:

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AS FURTHER REVISED BY THE COUNCIL FOR COMPETITIVE COMMERCE:

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