



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Lower Taxes – The bill provides for a complete exemption from sales, use and excise taxes for businesses located within a tax-free zone.

#### B. EFFECT OF PROPOSED CHANGES:

##### **Current Situation**

Florida law does not currently permit the designation of urban revitalization tax-free zones or the creation of an urban revitalization task force. However, Florida law does permit the designations of Enterprise Zones, which are similar but not identical to an urban revitalization tax-free zone as proposed in HB 1543.

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 purpose of enterprise zones is to assist local communities, their residents, and the private sector in creating the environment to induce the investment of private resources in business enterprises located in severely distressed areas and to provide jobs for residents in the area. Under the Enterprise Zone Act of 1994 [ss.290.001-290.016, F.S.], areas of the state meeting specified criteria have been designated as enterprise zones.

According to the Office of Tourism, Trade, and Economic Development (OTTED), since July 1, 1995, the state has designated 55 enterprise zones. State and local incentives are authorized to induce businesses to invest in enterprise zone which, in turn, offers a number of tax advantages to such businesses willing to make such an investment. Based on data from OTTED, there are currently 27 rural enterprise zones statewide encompassing 1,214 square miles and 111,638 residents.

The Enterprise Zone Act expires on December 31, 2005.

##### **State and Local Incentives Available to Businesses in Enterprise Zones**

Below are incentives provided to encourage the revitalization of enterprise zones:

- Enterprise zone jobs credit provided in s. 220.181, F.S.
- Enterprise zone property tax credit provided in s. 220.182, 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.
- Occupational license tax exemption in s. 205.054, F.S.
- Economic development ad valorem tax exemption in s. 196.1995, F.S.

##### **Enterprise Zone Jobs Credit – Corporate Income Tax**

Businesses located in an enterprise zone that pay Florida corporate income taxes are authorized to

receive a tax credit against their corporate income tax based on the amount of wages paid to new employees who are either residents of an enterprise zone or participants in a welfare transition program. [Section 220.181, F.S. This section expires June 30, 2005]

#### Enterprise Zone Property Tax Credit - Corporate Income Tax

New, expanded, or rebuilt businesses located within an enterprise zone are allowed a credit on their Florida corporate income tax based on the amount of property taxes paid. [Section 220.181, F.S. This section expires June 30, 2005 ]

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

A refund is available for sales taxes paid on the purchase of building materials used in the rehabilitation of real property used in an enterprise zone. The amount of the refund is the lesser of 97 percent of the sales taxes paid or \$5,000, or, if 20 percent or more of the business's employees reside in an enterprise zone, the lesser of 97 percent of the sales taxes paid or \$10,000. [Section 212.08(5)(g), F.S. This section expires December 31, 2005]

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

A refund is available for sales taxes paid on the purchase of business property with a purchase price of \$5,000 or more purchased by and for use in a business located in an enterprise zone. The amount of the refund is the lesser of 97 percent of the sales taxes paid or \$5,000, or, if 20 percent or more of the business's employees reside in an enterprise zone, the lesser of 97 percent of the sales taxes paid or \$10,000. [Section 212.08(5)(h), F.S. This section expires December 31, 2005]

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

A sales tax exemption is available to qualified businesses located in an enterprise zone on the purchase of electrical energy. The amount of the exemption is equal to 50 percent of the sales taxes otherwise due or 100 percent of the sales taxes otherwise due if 20 percent or more of the business's employees reside in an enterprise zone. This exemption is only available if the municipality in which the business is located has passed an ordinance to exempt the municipal utility taxes on such business. [Sections 212.08(15) and 166.231(8), F.S. This exemption expires December 31, 2005]

#### Enterprise Zone Jobs Credit – Sales Tax

Businesses located within an enterprise zone that collect and pay Florida sales and use tax are allowed a credit against their sales tax due based on the amount of wages paid to new employees who are either residents of an enterprise zone or participants in a welfare transition program. [Section 212.096, F.S. This section expires December 31, 2005]

#### Occupational License Tax Exemption

By ordinance, the governing body of a municipality may exempt 50 percent of the occupational license tax for businesses located in an enterprise zone. [Section 205.054, F.S. This section expires December 31, 2005]

#### Economic Development Ad Valorem Tax Exemption

Up to 100 percent of the assessed value of improvements to real or tangible property of a new or expanded business located in an enterprise zone may be exempted from property taxes if the voters of a municipality authorize the governing body of the municipality to grant such exemptions. [Section 196.1995, F.S.]

## Enterprise Zones and Sales Tax Exemption

An incentive for all designated enterprise zones is a sales tax for building equipment used in an enterprise zone. Currently, businesses located within any enterprise zone are eligible for a sales tax refund if the unit value of the equipment is \$5,000 or more [section 212.08(5)(h)].

According to Enterprise Florida, Inc., small businesses make up the majority of businesses located in all enterprise zones. The sales tax refund as currently structured cannot be assessed by the majority of businesses considering locating to or expanding in an enterprise zone.

## Enterprise Zone Designation Process and Criteria

Section 290.0055, F.S., prescribes the local procedures for the nomination of an enterprise zone. The governing bodies or body of a county and/or a municipality must adopt a resolution which:

1. Finds that an area exists in such a county or municipality, or in both the county and one or more municipalities, which chronically exhibit extreme and unacceptable levels of poverty, unemployment, and economic disinvestment;
2. Determines that the rehabilitation, conservation, or redevelopment of the area is necessary in the interest of the public health, safety, and welfare of the residents of the county or municipality, or the county and one or more municipalities; and
3. Determines that the revitalization of the area can occur only if the private sector can be induced to invest its own resources in productive enterprises that build or rebuild the economic viability of the area.

The governing body or bodies of a nominated area must also create an enterprise zone development agency and create and adopt an enterprise zone strategic plan prior to the submission of an application to OTTED.

The enterprise zone development agency created is responsible for assisting with the development and implementation of the enterprise zone strategic plan. The enterprise zone strategic plan is the community's plan for revitalizing the nominated area and contains commitments to enact and maintain local fiscal and regulatory incentives if the nominated area receives an enterprise zone designation.

## Determination of Poverty, Unemployment, and General Distress

OTTED may designate the nominated area as an enterprise zone if the selected area suffers from pervasive poverty, unemployment, and general distress. To determine whether an area suffers from pervasive poverty, census data must show that the poverty rate for each census block within the nominated area is at least 20 percent. The poverty rate must also exceed 30 percent in at least 50 percent of the census geographic block groups within the nominated area.

If a census block group within a nominated area has no population, it is considered to have a 20-percent poverty rate. Unemployment is evidenced by data indicating that the unemployment rate is equal to or greater than the state's unemployment rate or by evidence indicating severe economic conditions for the area. General distress is evidenced by such factors as a high crime rate, abandoned structures, and deteriorated infrastructure or substantial population decline.

## **Proposed Changes**

HB 1543 creates the "Urban Revitalization Tax-Free Zone Pilot Project Act" in Miami-Dade and Duval Counties.

The bill creates two tax-free zones, located as follows:

1. Within a portion of Miami-Dade County, specifically the area bordered by Northwest 23<sup>rd</sup> Street to the north, Northwest 5<sup>th</sup> Street to the south, Northeast First Avenue to the east, and Northwest 8<sup>th</sup> Avenue to the west.
2. Within a portion of Duval County, specifically the area bordered by A. Phillip Randolph Boulevard to the west, Tallyrand Road to the east, Ninth Street to the north, and Union Street to the south.

Any business located in a designated "tax free-zone" shall be exempt from charging and paying a sales and use tax imposed by chapter 212, F.S., and from paying an excise tax on documents imposed by chapter 201, F.S.

To qualify for the exemption, a business must apply to a local government or local community redevelopment organization. Applications must be filed by September 1 of the preceding tax year in which the business is seeking an exemption. The application must demonstrate that the business is located in the tax-free zone and that at least 20 percent of its employees are residents of the tax-free zone or that they are residents of an enterprise zone located within the county in which the tax-free zone is located. The employment requirement is a condition precedent to eligibility for the exemption and must be maintained throughout the period of exemption unless the local government or local community redevelopment organization waives the requirement for good cause.

For a new business established on or after July 1, 2005 in a zone, the term of the tax exemptions shall be 10 years, beginning in the year of initial certification. For existing businesses in the zones, the term of the exemptions will be five years, beginning in the year of initial certification.

Each local government or local community redevelopment organization must provide the Department of Revenue with an annual list of certified businesses and the department shall issue a tax exemption permit to each certified business.

The bill requires OPPAGA to conduct a study of the program in 2010 and again in 2015.

The bill provides that the tax exemptions in the zone shall expire and be void on June 30, 2015. No business shall be permitted to be exempt from the tax exemptions after that date.

The bill becomes effective on July 1, 2005 and shall apply to state taxable years beginning on that date.

### **C. SECTION DIRECTORY:**

Section 1. Creates the Urban Revitalization Tax-Free Zone Pilot Project Act.

Section 2. Creates urban revitalization tax-free zones; provides eligibility requirements; provides for an exemption from sales, use and excise taxes for businesses located in a tax-free zone; provides for certification of businesses.

Section 3. Requires review by OPPAGA of the pilot project.

Section 4. Provides for repeal of the law on June 30, 2015.

Section 5. Provides for an effective date of July 1, 2005 and for application to state taxable years thereafter.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The bill has not been reviewed by the Revenue Estimating Conference.

#### 2. Expenditures:

The bill does not appear to require expenditure of state funds.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

The bill has not been reviewed by the Revenue Estimating Conference.

#### 2. Expenditures:

The bill does not appear to require expenditure of local government funds.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will allow businesses located in a tax free zone to avoid sales, use and excise tax. Because the benefit authorized by the bill inures to each business in the zone, as opposed to transactions in the zone, the affected businesses will be able to operate on a tax free basis with respect to any transactions they are involved in that might generate sales, use or excise tax liability. For consumers of goods and services provided by businesses in the tax free zones, there will be a reduction in cost of goods and services due to the tax exemption. This may spur business activity within the zones.

### D. FISCAL COMMENTS:

The bill will likely result in a reduction in state sales, use and excise tax revenue and in local option sales tax revenue, but the amount of the reduction has not been estimated.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not reduce the percentage of state tax shared with municipalities or counties.

#### 2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES**

The Economic Development, Trade and Banking Committee adopted a strike-everything amendment to the bill on April 6, 2005. The amendment accomplished the following:

- Provided a statement of intent for the program;
- Removed the Urban Revitalization Task Forces;
- Provided that a business within a tax free zone could apply to the local government or local community redevelopment organization for certification of tax-free status;
- Required the local government or local community redevelopment organization to notify the Department of Revenue of all certified businesses;
- Clarified the terms of the tax-free certification;
- Revised the OPPAGA study to include an interim study in 2010; and
- Clarified that the program will begin on the state taxable year beginning July 1, 2005 and shall apply for state taxable years thereafter.