

1 A bill to be entitled
2 An act relating to targeted economic development; amending
3 s. 288.106, F.S.; redefining the term "target industry
4 business" to revise the eligibility criteria for the tax
5 refund program for target industry businesses; requiring
6 certain local governing boards to notify the Office of
7 Tourism, Trade, and Economic Development and Enterprise
8 Florida, Inc., of the average private-sector wage
9 calculation to be used for purposes of a business's wage
10 commitment under the tax refund program; amending s.
11 377.809, F.S.; deleting an obsolete provision; revising
12 the date by which the Department of Community Affairs must
13 submit a report to the Governor and Legislature which
14 evaluates the success of the Energy Economic Zone Pilot
15 Program; requiring that all incentives and benefits
16 provided for enterprise zones be made available to energy
17 economic zones by a specified date; assigning duties for
18 the administration of energy economic zones to the local
19 governing bodies that have jurisdiction over such zones;
20 providing for boundaries of the zones, eligibility
21 criteria for the incentives, and benefits provided in the
22 zones; specifying the incentives and benefits available in
23 the zones; requiring that the applicable requirements for
24 employee residency for higher refund or credit thresholds
25 be based on employee residency in the energy economic zone
26 or an enterprise zone; establishing priorities for funding
27 certain projects; limiting the annual amount of such
28 incentives; authorizing the carryforward of any unused

29 amount of incentives for a specified period; providing for
 30 the issuance of certificates to eligible businesses;
 31 requiring the local governing body to certify to the
 32 Department of Revenue or the Office of Tourism, Trade, and
 33 Economic Development which businesses or properties are
 34 eligible for the incentives; requiring the Department of
 35 Revenue to send written instructions to eligible
 36 businesses on claiming the credit on a sales and use tax
 37 return initiated through an electronic data interchange;
 38 authorizing the Office of Tourism, Trade, and Economic
 39 Development and the Department of Revenue to adopt
 40 emergency rules; providing for renewal of the rules;
 41 amending s. 380.06, F.S.; exempting certain developments
 42 in an energy economic zone from review as a development of
 43 regional impact; providing an effective date.

44
 45 Be It Enacted by the Legislature of the State of Florida:

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 47 Section 1. Paragraph (t) of subsection (2) and paragraph
 48 (b) of subsection (4) of section 288.106, Florida Statutes, are
 49 amended to read:

50 288.106 Tax refund program for qualified target industry
 51 businesses.—

52 (2) DEFINITIONS.—As used in this section:

53 (t) "Target industry business" means a corporate
 54 headquarters business or any business that is engaged in one of
 55 the target industries identified pursuant to the following
 56 criteria developed by the office in consultation with Enterprise

57 Florida, Inc.:

58 1. Future growth.—Industry forecasts should indicate
59 strong expectation for future growth in both employment and
60 output, according to the most recent available data. Special
61 consideration should be given to businesses that export goods
62 to, or provide services in, international markets and businesses
63 that replace domestic and international imports of goods or
64 services.

65 2. Stability.—The industry should not be subject to
66 periodic layoffs, whether due to seasonality or sensitivity to
67 volatile economic variables such as weather. The industry should
68 also be relatively resistant to recession, so that the demand
69 for products of this industry is not typically subject to
70 decline during an economic downturn.

71 3. High wage.—The industry should pay relatively high
72 wages compared to statewide or area averages.

73 4. Market and resource independent.—The location of
74 industry businesses should not be dependent on Florida markets
75 or resources as indicated by industry analysis, except for
76 businesses in the renewable energy industry.

77 5. Industrial base diversification and strengthening.—The
78 industry should contribute toward expanding or diversifying the
79 state's or area's economic base, as indicated by analysis of
80 employment and output shares compared to national and regional
81 trends. Special consideration should be given to industries that
82 strengthen regional economies by adding value to basic products
83 or building regional industrial clusters as indicated by
84 industry analysis. Special consideration should also be given to

85 the development of strong industrial clusters that include
86 defense and homeland security businesses.

87 6. Positive economic impact benefits.—The industry is
88 expected to have strong positive impacts on or benefits to the
89 state or regional economies. Special consideration should be
90 given to industries that facilitate the development of the state
91 as a hub for domestic and global trade and logistics.

92
93 The term does not include any business engaged in retail
94 industry activities; any electrical utility company; any
95 phosphate or other solid minerals severance, mining, or
96 processing operation; any oil or gas exploration or production
97 operation; or any business subject to regulation by the Division
98 of Hotels and Restaurants of the Department of Business and
99 Professional Regulation. Any business within NAICS code 5611 or
100 5614, office administrative services and business support
101 services, respectively, may be considered a target industry
102 business only after the local governing body and Enterprise
103 Florida, Inc., make a determination that the community where the
104 business may locate has conditions affecting the fiscal and
105 economic viability of the local community or area, including but
106 not limited to, factors such as low per capita income, high
107 unemployment, high underemployment, and a lack of year-round
108 stable employment opportunities, and such conditions may be
109 improved by the location of such a business to the community. By
110 January 1 of every 3rd year, beginning January 1, 2011, the
111 office, in consultation with Enterprise Florida, Inc., economic
112 development organizations, the State University System, local

113 governments, employee and employer organizations, market
114 analysts, and economists, shall review and, as appropriate,
115 revise the list of such target industries and submit the list to
116 the Governor, the President of the Senate, and the Speaker of
117 the House of Representatives.

118 (4) APPLICATION AND APPROVAL PROCESS.—

119 (b) To qualify for review by the office, the application
120 of a target industry business must, at a minimum, establish the
121 following to the satisfaction of the office:

122 1.a. The jobs proposed to be created under the
123 application, pursuant to subparagraph (a)4., must pay an
124 estimated annual average wage equaling at least 115 percent of
125 the average private sector wage in the area where the business
126 is to be located or the statewide private sector average wage.
127 The governing board of the local governmental entity providing
128 the local financial support ~~county~~ where the qualified target
129 industry business is to be located shall notify the office and
130 Enterprise Florida, Inc., which calculation of the average
131 private sector wage in the area must be used as the basis for
132 the business's wage commitment. In determining the average
133 annual wage, the office shall include only new proposed jobs,
134 and wages for existing jobs shall be excluded from this
135 calculation.

136 b. The office may waive the average wage requirement at
137 the request of the local governing body recommending the project
138 and Enterprise Florida, Inc. The office may waive the wage
139 requirement for a project located in a brownfield area
140 designated under s. 376.80, in a rural city, in a rural

141 community, in an enterprise zone, or for a manufacturing project
142 at any location in the state if the jobs proposed to be created
143 pay an estimated annual average wage equaling at least 100
144 percent of the average private sector wage in the area where the
145 business is to be located, only if the merits of the individual
146 project or the specific circumstances in the community in
147 relationship to the project warrant such action. If the local
148 governing body and Enterprise Florida, Inc., make such a
149 recommendation, it must be transmitted in writing, and the
150 specific justification for the waiver recommendation must be
151 explained. If the office elects to waive the wage requirement,
152 the waiver must be stated in writing, and the reasons for
153 granting the waiver must be explained.

154 2. The target industry business's project must result in
155 the creation of at least 10 jobs at the project and, in the case
156 of an expansion of an existing business, must result in a net
157 increase in employment of at least 10 percent at the business.
158 At the request of the local governing body recommending the
159 project and Enterprise Florida, Inc., the office may waive this
160 requirement for a business in a rural community or enterprise
161 zone if the merits of the individual project or the specific
162 circumstances in the community in relationship to the project
163 warrant such action. If the local governing body and Enterprise
164 Florida, Inc., make such a request, the request must be
165 transmitted in writing, and the specific justification for the
166 request must be explained. If the office elects to grant the
167 request, the grant must be stated in writing, and the reason for
168 granting the request must be explained.

169 3. The business activity or product for the applicant's
170 project must be within an industry identified by the office as a
171 target industry business that contributes to the economic growth
172 of the state and the area in which the business is located, that
173 produces a higher standard of living for residents of this state
174 in the new global economy, or that can be shown to make an
175 equivalent contribution to the area's and state's economic
176 progress.

177 Section 2. Subsection (4) of section 377.809, Florida
178 Statutes, is amended, and subsection (5) is added to that
179 section, to read:

180 377.809 Energy Economic Zone Pilot Program.—

181 (4) ~~If the pilot project is ongoing,~~ The Department of
182 Community Affairs, with the assistance of the Office of Tourism,
183 Trade, and Economic Development, shall submit a report to the
184 Governor, the President of the Senate, and the Speaker of the
185 House of Representatives by February 15, 2015 ~~2012~~, evaluating
186 whether the pilot program has demonstrated success. The report
187 shall contain recommendations with regard to whether the program
188 should be expanded for use by other local governments and
189 whether state policies should be revised to encourage the goals
190 of the program.

191 (5) (a) Beginning July 1, 2012, all the incentives and
192 benefits provided for enterprise zones pursuant to state law
193 shall be available to the energy economic zones designated
194 pursuant to this section on or before July 1, 2010. In order to
195 provide incentives, by March 1, 2012, each local governing body
196 that has jurisdiction over an energy economic zone must, by

197 local ordinance, establish the boundary of the energy economic
198 zone, specify applicable energy-efficiency standards, and
199 determine eligibility criteria for the application of state and
200 local incentives and benefits in the energy economic zone.
201 However, in order to receive benefits provided under s. 288.106,
202 a business must be a qualified target industry business under s.
203 288.106 for state purposes. An energy economic zone's boundary
204 may be revised by local ordinance. Such incentives and benefits
205 include those in ss. 212.08, 212.096, 220.181, 220.182, 220.183,
206 288.106, and 624.5105 and the public utility discounts provided
207 in s. 290.007(8). The exemption provided in s. 212.08(5)(c)
208 shall be for renewable energy as defined in s. 377.803. For
209 purposes of this section, any applicable requirements for
210 employee residency for higher refund or credit thresholds must
211 be based on employee residency in the energy economic zone or an
212 enterprise zone. A business in an energy economic zone may also
213 be eligible for funding under ss. 288.047 and 445.003, and a
214 transportation project in an energy economic zone shall be
215 provided priority in funding under s. 288.063. Other projects
216 shall be given priority ranking to the extent practicable for
217 grants administered under state energy programs.

218 (b) Effective July 1, 2012, the total amount of state
219 credits, refunds, and exemptions that may be provided by the
220 governing body of each energy economic zone to eligible
221 businesses for energy-economic-zone incentives pursuant to
222 paragraph (a) is \$300,000 per designated energy economic zone in
223 any state fiscal year. The governing body of an energy economic
224 zone shall disallow a credit or refund for which an application

225 is submitted after the zone's respective \$300,000 limit is
226 reached. If the \$300,000 incentive cap is not fully used in any
227 one state fiscal year by an energy economic zone, the unused
228 amount under the cap may be carried forward for up to 5 years.
229 The local governing body that has jurisdiction over the energy
230 economic zone is responsible for allocating the incentives, for
231 verifying that businesses receiving such incentives are eligible
232 for the incentives provided, and for ensuring that the
233 incentives provided do not exceed the cap for the state fiscal
234 year.

235 (c) Upon approving an incentive for an eligible business,
236 the governing body that has jurisdiction over the energy
237 economic zone shall provide the taxpayer with a certificate
238 indicating the name and federal identification number of the
239 eligible business, the date the incentive is provided, the name
240 of the energy economic zone, the incentive type, and the
241 incentive amount. The local governing body shall certify to the
242 Department of Revenue or the Office of Tourism, Trade, and
243 Economic Development, whichever is applicable, which businesses
244 or properties are eligible to receive any or all of the state
245 incentives according to their statutory requirements. The
246 governing body that has jurisdiction over the energy economic
247 zone shall provide a copy of the certificate to the Department
248 of Revenue and the Office of Tourism, Trade, and Economic
249 Development as notification that such incentives were approved
250 for the specific eligible business or property. For incentives
251 to be claimed against the sales and use tax under chapter 212,
252 the Department of Revenue shall send, within 14 days after

253 receipt, written instructions to an eligible business on how to
 254 claim the credit on a sales and use tax return initiated through
 255 an electronic data interchange. Any credit against the sales and
 256 use tax shall be deducted from any sales and use tax remitted by
 257 the dealer to the Department of Revenue by electronic funds
 258 transfer and may be deducted only on a sales and use tax return
 259 initiated through an electronic data interchange. The dealer
 260 shall separately state the credit on the electronic return. The
 261 net amount of tax due and payable must be remitted by electronic
 262 funds transfer. If the credit exceeds the amount owed on the
 263 sales and use tax return, such excess amount may be carried
 264 forward for a period not to exceed 12 months after the date that
 265 the credit is initially claimed.

266 (d) If all conditions are deemed met, the Office of
 267 Tourism, Trade, and Economic Development and the Department of
 268 Revenue may adopt emergency rules pursuant to ss. 120.536(1) and
 269 120.54 to administer the provisions of this subsection. The
 270 emergency rules shall remain in effect for 6 months after the
 271 rules are adopted, and the rules may be renewed while the
 272 procedures to adopt permanent rules addressing the subject of
 273 the emergency rules are pending.

274 Section 3. Paragraph (u) is added to subsection (24) of
 275 section 380.06, Florida Statutes, to read:

276 380.06 Developments of regional impact.—

277 (24) STATUTORY EXEMPTIONS.—

278 (u) Any development in an energy economic zone designated
 279 pursuant to s. 377.809 is exempt from this section upon approval
 280 by its local governing body.

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282 If a use is exempt from review as a development of regional
283 impact under paragraphs (a)-(s), but will be part of a larger
284 project that is subject to review as a development of regional
285 impact, the impact of the exempt use must be included in the
286 review of the larger project, unless such exempt use involves a
287 development of regional impact that includes a landowner,
288 tenant, or user that has entered into a funding agreement with
289 the Office of Tourism, Trade, and Economic Development under the
290 Innovation Incentive Program and the agreement contemplates a
291 state award of at least \$50 million.

292 Section 4. This act shall take effect July 1, 2011.