

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: CS/SB 1022

INTRODUCER: Commerce and Tourism Committee and Senator Garcia

SUBJECT: Revitalizing Municipalities

DATE: February 6, 2012 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Philo</u>	<u>Hrdlicka</u>	<u>CM</u>	Fav/CS
2.	<u>Toman</u>	<u>Yeatman</u>	<u>CA</u>	Favorable
3.	_____	_____	<u>BC</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

CS/SB 1022 creates the Municipal Revitalization Act and makes associated changes to calculations and distributions under the Revenue Sharing Trust Fund for Municipalities.

This CS authorizes any municipality having a population of at least 300,000 residents that has designated an enterprise zone (or all of the governing bodies in the case of a county and one or more municipalities having designated an enterprise zone if the county has a population of at least 1,200,000 residents) to adopt a resolution after a public hearing designating a sales tax TIF (tax increment financing) area. The Department of Economic Opportunity is tasked with reviewing and approving the designation, and no more than two sales tax TIF areas may be designated in any one eligible municipality, and no more than four in any eligible county.

This CS also permits the governing body for the enterprise zone where the sales tax TIF area is located to share with the state any annual increase in sales tax collections. The CS amends the provisions relating to the distribution formula under the Municipal Revenue Sharing Program, to require distributions to municipalities that have a sales tax TIF area prior to the final adjustment. The distributions must be made to the appropriate designated local governing body eligible for

distribution. Such percentage distributions are contingent upon, among other things, a 30 percent match by the local governing body.

The CS requires the Department of Revenue to determine monthly, the specific amount payable to each eligible governing body of a designated sales tax TIF area and the aggregate amount of sales tax revenue that is required for distribution, and transfer that amount from the General Revenue Fund to the Revenue Sharing Trust Fund for Municipalities.

The CS substantially amends ss. 212.20, 218.23, 290.004, 290.0056, and 290.007 of the Florida Statutes.

The CS creates ss. 290.01351, 290.0136, 290.0137, 290.0138, 290.0139, and 290.01391 of the Florida Statutes.

II. Present Situation:

Redevelopment of distressed urban communities is primarily a local government responsibility. Local governments use the state's redevelopment programs in conjunction with other federal and local programs to help package deals for revitalizing distressed urban communities. While Florida's programs do not directly provide a large amount of funds, they are viewed as being useful in helping leverage other funding support and in demonstrating government commitment to revitalization. Florida's programs also are viewed as being useful in helping local governments get community and private sector buy-in on revitalization projects.¹

The Florida Legislature has created or authorized the creation of several programs and mechanisms to encourage businesses to operate in and provide jobs in distressed areas, and assist local governments in financing infrastructure and capital projects that will result in revitalizing business and residential communities and creating jobs. Some of the primary programs and mechanisms are discussed below.

Community Redevelopment Act

The Community Redevelopment Act of 1969, ch. 163, Part III, F.S., was enacted to provide a mechanism to revitalize slum and blighted areas "which constitute a serious and growing menace, injurious to the public health, safety, morals, and welfare of the residents of the state."² The act authorizes each local government to establish a Community Redevelopment Agency (CRA) to revitalize designated slum and blighted areas upon a "finding of necessity" and a further finding of a need for a CRA to carry out community redevelopment.³

¹Florida Legislature, Office of Program Policy Analysis and Government Accountability, *Locals Find Urban Revitalization Programs Useful; More Centralized Program Information Would Be Helpful*, Report No. 05-32 (May 2005), at 1 (available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/0532rpt.pdf>).

² Section 163.335(1), F.S.

³ Section 163.356(1), F.S.

CRA's are funded primarily through tax increment financing (TIF).⁴ As property tax values in the redevelopment area rise above property values in the base year the redevelopment area was created, increment revenues are generated by applying the current millage rate levied by each taxing authority in the area to the increase in value. Each non-exempt taxing authority that levies taxes on property within a community redevelopment area must annually appropriate the amount of increment revenues to the CRA trust fund. These revenues are used primarily to service bonds issued to finance redevelopment projects. CRA's created prior to 2002 may receive TIF contributions for 60 years, while CRA's subsequently created may receive TIF contributions for 40 years.⁵

The Florida Enterprise Zone Program

The Florida Enterprise Zone Program was created in 1982 to encourage economic development in economically distressed areas of the state by providing incentives and inducing private investment. Currently, Florida has 62.⁶ The program is scheduled to be repealed on December 31, 2015.⁷

The Department of Economic Opportunity is responsible for approving applications for enterprise zones, and also approves changes in enterprise zone boundaries when authorized by the Florida Legislature. As part of the application process for an enterprise zone, the county or municipality in which the designation will be located also is responsible for creating an Enterprise Zone Development Agency and an enterprise zone development plan.

An enterprise zone development plan (or strategic plan) must accompany an application. At a minimum this plan must:⁸

- Describe the community's goal in revitalizing the area;
- Describe how the community's social and human resources—transportation, housing, community development, public safety, and education and environmental concerns—will be addressed in a coordinated fashion;
- Identify key community goals and barriers;
- Outline how the community is a full partner in the process of developing and implementing this plan;
- Describe the commitment from the local governing body in enacting and maintaining local fiscal and regulatory incentives;
- Identify the amount of local and private resources available and the private/public partnerships;
- Indicate how local, state, and federal resources will all be utilized;

⁴ See s. 163.387, F.S. For a general overview of tax increment financing, see City of Tampa, Economic and Urban Development Department, *Tax Increment Financing in Florida* (available at http://www.tampagov.net/dept_economic_and_urban_development/information_resources/Tax_Increment_Financing.asp).

⁵ Section 163.387(2)(a), F.S.

⁶ Florida Legislature, Office of Economic and Demographic Research, *Economic Development Financial Reference Manual* (Jan. 11, 2012), at 30 (available at <http://edr.state.fl.us/Content/presentations/local-government/2012economicdevelopmentfinancialreferencemanual.pdf>).

⁷ Section 290.016, F.S.

⁸ Section 290.0057, F.S.

- Identify funding requested under any state or federal program to support the proposed development; and
- Identify baselines, methods, and benchmarks for measuring success of the plan.

Florida's enterprise zones qualify for (A) state sales tax incentives, (B) state corporate income tax incentives, and (C) local incentives:

A. *State Sales Tax Incentives*

Available state sales tax incentives for enterprise zones include:

- Building Materials Used in the Rehabilitation of Real Property Located in an Enterprise Zone:⁹ Provides a refund for sales taxes paid on the purchase of certain building materials, up to \$5,000 or 97 percent of the tax paid. If 20 percent or more of the permanent, full time employees of the business are residents of an enterprise zone the refund will be no more than the lesser of \$10,000 or 97 percent of the tax paid per parcel.
- Business Property Used in Enterprise Zones:¹⁰ Provides a refund for sales taxes paid on the purchase of certain equipment (tangible personal property such as office equipment, warehouse equipment, and some industrial machinery and equipment), up to \$5,000 or 97 percent of the sales tax paid. If 20 percent or more of the permanent, full time employees of the business are residents of an enterprise zone the refund will be no more than the lesser of 97 percent of the sales tax paid on the business property or \$10,000. The property must be used exclusively in the enterprise zone for at least 3 years.
- Enterprise Zone Jobs Credit against Sales Tax (Rural):¹¹ For businesses located within a rural enterprise zone, this incentive provides a sales and use tax credit for 30 percent of the actual monthly wages paid to new employees who live within a rural county. If more than 20 percent of the employees are residents of an enterprise zone, the credit is 45 percent of the actual monthly wages paid.
- Enterprise Zone Jobs Credit against Sales Tax (Urban):¹² For businesses located within an enterprise zone, this incentive provides a sales and use tax credit for 20 percent of the actual monthly wages paid to new employees who live within the enterprise zone. If more than 20 percent of the employees are residents of an enterprise zone, the credit is 30 percent of the actual monthly wages paid.
- Community Contribution Tax Credit:¹³ Provides 50 percent sales tax refund for donations made to local community development projects.
- Electrical Energy Used in an Enterprise Zone:¹⁴ Provides 50 percent sales tax exemption to qualified businesses located within an enterprise zone on the purchase of electrical energy. The exemption is only available if the municipality in which the business is located has passed an ordinance to exempt qualified enterprise zone businesses from 50 percent of the municipal utility tax.

⁹ Section 212.08(5)(g), F.S.

¹⁰ Section 212.08(5)(h), F.S.

¹¹ Section 212.096(2), F.S.

¹² See s. 212.096, F.S.

¹³ Section 212.08(5)(p), F.S.

¹⁴ Section 212.08(15), F.S.

B. State Corporate Income Tax Incentives

Available state corporate income tax incentives for enterprise zones include:

- Enterprise Zone Jobs Credit against Corporate Income Tax (Urban and Rural):¹⁵ Provides a sales and use tax credit to qualified businesses located in an enterprise zone for 20 percent of the actual monthly wages paid to new employees who live within the enterprise zone. The percentage of the actual monthly wages paid could be greater than 20 percent under certain circumstances or if the business is located in a rural enterprise zone.
- Enterprise Zone Property Tax Credit:¹⁶ Provides a credit against Florida corporate income tax equal to 96 percent of ad valorem taxes paid on the new or improved property.
- Community Contribution Tax Credit:¹⁷ Provides a 50-percent credit on Florida corporate income tax or insurance premium tax, or a sales tax refund, for donations made to local community development projects.

C. Local Incentives

In addition to state incentives, some local governments offer the following local incentives as part of the Enterprise Zone Development Plan:¹⁸

- Reduction of occupational license fees.
- Ad valorem tax exemption on improved property.
- Local option economic development property tax exemption.
- Utility tax abatement.
- Façade/Commercial Rehabilitation Grants or Loans.
- Local funds for capital projects.
- Reduced building permit fees or land development fees.
- Reduction of specific local government regulations in the area.

Approximately \$19.975 million worth of local incentives were provided between October 2009 and September 2010. This amount represents an increase of approximately \$8.397 million more than the previous reporting period.¹⁹

Revenue Sources Available to Fund Local Infrastructure

Additional revenue sources available to fund local infrastructure include (A) impact fees, (B) special assessments, (C) Local Discretionary Sales Surtaxes, and (D) local option fuel taxes:²⁰

¹⁵ Section 220.181, F.S.

¹⁶ Section 220.182, F.S.

¹⁷ Sections 220.183, F.S. See also s. 624.5105, F.S.

¹⁸ Executive Office of the Governor, Office of Tourism, Trade & Economic Development, *Florida Enterprise Zone Annual Report, October 1, 2009 – September 30, 2010* (March 2011), at 15 (available at <http://floridaenterprisezones.com/Zones/Org1/uploads/2011EZAnnualReport.pdf>) see also s. 290.0135, F.S.

¹⁹ *Id.*

²⁰ Florida Legislature, Office of Economic and Demographic Research, *Economic Development Financial Reference Manual* (Jan. 11, 2012), at 5-8 (available at <http://edr.state.fl.us/Content/presentations/local-government/2012economicdevelopmentfinancialreferencemanual.pdf>).

A. *Impact Fees*²¹

- Charges imposed by local governments against new development to provide for capital facilities' costs made necessary by population growth.
- The majority of county and municipal government-imposed impact fees generate revenues to fund physical environment and transportation infrastructure.
- Revenue collections have decreased significantly in recent years due to the housing bust and local governments' efforts to freeze, reduce, or repeal impact fees in light of economic conditions.

B. *Special Assessments*²²

- Charges imposed by local governments against property to fund the construction and maintenance of capital facilities and certain services.
- The majority of county and municipal government-imposed special assessments generate revenues to fund local services rather than capital facilities.
- Although still trending positive, revenue collections have slowed in recent years.

C. *Local Discretionary Sales Surtaxes*²³

- Eight separate levies that can be imposed by county governments or school districts to fund a variety of local infrastructure, public health, or public safety needs depending on the particular levy. The total tax rate varies by county from 1.5 percent to 3.5 percent.
- Proceeds from the following surtaxes generate revenues to fund physical environment and transportation infrastructure:
 - Charter County and Regional Transportation System Surtax.
 - Local Government Infrastructure Surtax.
 - Small County Surtax.
 - School Capital Outlay Surtax.
- As a sole method of authorization for several different surtaxes, voter approval in a countywide referendum may limit increased utilization of this funding.

D. *Local Option Fuel Taxes*²⁴

- Three separate levies, totaling a maximum of 12 cents per gallon on motor fuel (i.e., gasoline), that can be imposed by county governments to fund transportation infrastructure needs.

Revenue Sources Available to Fund Local Economic Development Efforts

Other revenue sources are available to fund local economic development efforts, including (A) convention development taxes, (B) local business tax, and (C) local option tourist development tax:²⁵

A. *Convention Development Taxes*²⁶

²¹ *Id.* at 5.

²² *Id.* at 6.

²³ *Id.* at 7 (citing s. 212.055, F.S.).

²⁴ *Id.* at 8 (citing ss. 336.021 and 336.025, F.S.).

²⁵ *Id.* at 9-11.

- Three county governments (Duval, Miami-Dade, and Volusia) are eligible to levy a tax on transient rental transactions. The maximum tax rates are either 2 or 3 percent depending on the particular levy.
- Generally, the tax proceeds may be used for capital construction of convention centers and other tourist-related facilities as well as tourism promotion. However, the authorized uses vary by levy.

*B. Local Business Tax*²⁷

- County and municipal governments are eligible to levy the tax for the privilege of engaging in or managing any business, profession, or occupation within their respective jurisdictions.
- Although the tax proceeds are considered general revenue for the county or municipality, county business tax revenues may be used for overseeing and implementing a comprehensive economic development strategy.²⁸

*C. Local Option Tourist Development Tax*²⁹

- Eligible county government may impose up to five separate taxes on transient rental transactions. The ordinance levying and imposing the tax must be approved in a referendum election by a majority of the electors voting in such election.
- Generally, the tax proceeds may be used for capital construction of tourist-related facilities, tourist promotion, and beach and shoreline maintenance. However, the authorized uses vary by levy.

Economic Development Incentives Report - Annual Survey of Local Governments

In 2010,³⁰ the Legislature required local governments that have granted economic incentives in excess of \$25,000 during the local fiscal year to report to the Legislative Committee on Intergovernmental Relations or its successor,³¹ annually by January 15, the economic incentives given to businesses during the local fiscal year. Municipalities having annual revenues less than \$250,000 are exempt from this requirement.

According to the Office of Economic and Demographic Research (EDR), 38 counties and 36 municipalities completed the survey for local FY 2009-10.³² The survey results are as follows:

- Reporting counties issued \$84.4 million in incentives for economic development (\$29.6 million in direct incentives³³ to 125 businesses; \$40.5 million in indirect incentives³⁴ to 62

²⁶ *Id.* at 9 (citing ss. 212.0305(4)(a) and 212.0305(4)(c)-(e), F.S.).

²⁷ *Id.* at 10 (citing ch. 205, F.S. and reporting that several bills (SB 760, HB 1063, and HB 4025) have been filed for the 2012 legislative session that would repeal the local business tax effective July 1, 2012).

²⁸ *Id.* (citing s. 205.033(7), F.S.).

²⁹ *Id.* at 11 (citing 212.0104(3), F.S.).

³⁰ Chapter 201-147, ss. 1 and 2, L.O.F. (codified at ss. 125.045(5) and 166.021(8)(e), F.S.).

³¹ The Legislative Committee on Intergovernmental Relations was not funded in FY 2010-11 and the committee ceased operations on June 30, 2010. Several of the committee's work products regarding local government finance have been continued by the Office of Economic and Demographic Research (EDR). Florida Legislature, Online Sunshine (available at http://www.leg.state.fl.us/cgi-bin/View_Page.pl?Directory=committees/joint/lcir/&File=index_css.html&Tab=committees).

³² See Florida Legislature, Office of Economic and Demographic Research, *Economic Development Incentives*, available at <http://edr.state.fl.us/Content/local-government/economic-development-incentives/index.cfm>.

businesses; \$12.7 million in fee or tax based incentives to 111 businesses; and \$1.5 million in below market leases/deeds).

- Reporting municipalities issued \$60.7 million in incentives for economic development (\$9.0 million in direct incentives to 71 businesses; \$1.5 million in indirect incentives to 29 businesses; \$36.8 million in fee or tax based incentives to 185 businesses; and \$13.3 million in below market leases/deeds to 45 businesses).
- Indirect incentives given to local government entities or organizations supporting and promoting business investment or development in the amount of \$40.5 million were the most popular incentive issued by counties.
- Municipalities issued the most incentives in the form of fee and tax credits in the amount of \$36.8 million.

Municipal Revenue Sharing Program

The Revenue Sharing Act of 1972, located in Part II of ch. 218, F.S., was enacted to ensure a minimum level of revenue parity across units of local government. The act created the Revenue Sharing Trust Fund for Municipalities (trust fund), which currently receives:

- 1.3409 percent of sales and use tax collections = 71.86 percent of total program funding.³⁵
- The net collections from the one-cent municipal fuel tax on motor fuel = 28.11 percent of total program funding.³⁶
- 12.5 percent of the state alternative fuel user decal fee collections = 0.03 percent of total program funding.³⁷

An allocation formula serves as the basis for the distribution of these revenues to each municipality that meets strict eligibility requirements. Municipalities must use the funds derived from the one-cent municipal fuel tax for transportation-related expenditures. Additionally, there are statutory limitations on the use of the funds as a pledge for bonded indebtedness.

Program Administration

The program is administered by DOR. Monthly distributions must be made to eligible municipal governments as prescribed in ss. 218.215 and 218.23, F.S. The program is comprised of state sales taxes, municipal fuel taxes, and state alternative fuel user decal fees that are collected and transferred to the trust fund.

Once each fiscal year, DOR must compute apportionment factors for use during the fiscal year.³⁸ The computation must be made prior to July 25 of each fiscal year and must be based upon

³³ “Direct incentives” are monetary assistance provided to a business from the county or municipality or through an organization authorized by the county or municipality. Such incentives include, but are not limited to, grants, loans, equity investments, loan insurance and guarantees, and training subsidies. Sections 125.045(5)(a)1. and 166.021(8)(e)1.a., F.S.

³⁴ “Indirect incentives” are in the form of grants and loans provided to businesses and community organizations that provide support to businesses or promote business investment or development. Sections 125.045(5)(a)2. and 166.021(8)(e)1.b., F.S.

³⁵ Florida Legislature, Office of Economic and Demographic Research, *2011 Local Government Financial Information Handbook* (Oct. 2011), at 79 (citing s. 212.20(6)(d)5., F.S.) (available at <http://edr.state.fl.us/content/local-government/reports/lgfih11.pdf>).

³⁶ *Id.* (citing s. 206.605(1), F.S.).

³⁷ *Id.* (citing s. 206.879(1), F.S.).

³⁸ *Id.* at 80 (citing s. 218.26, F.S.).

information submitted and certified to DOR before June 1. Except in the case of error, the apportionment factors must remain in effect for the fiscal year. It is the duty of the local government to submit the certified information required for the program's administration to DOR in a timely manner. A local government's failure to provide timely information authorizes DOR to utilize the best information available or, if no such information is available, to take any necessary action, including partial or entire disqualification. Additionally, the local government waives its right to challenge DOR's determination as to the jurisdiction's share of program revenues.

Section 218.23(1), F.S., sets forth the requirements for a municipal government to be eligible to participate in revenue sharing beyond the minimum entitlement in a fiscal year.

Distribution of Proceeds

Subsection (3) of s. 218.23, F.S., provides a distribution formula for determining the amount of distribution to a unit of local government. The distribution formula is as follows:

- First - A municipal government's entitlement shall be computed on the basis of the "apportionment factor" provided in s. 218.245, F.S., which shall apply to all trust fund receipts available for distribution.
- Second - The revenue to be shared via the formula in any fiscal year is adjusted so that no municipality receives less than its guaranteed entitlement, which is equal to the aggregate amount received from the state in fiscal year 1971-72 under then-existing statutory provisions.
- Third - the revenue to be shared via the formula in any fiscal year is adjusted so that no county receives less than its guaranteed entitlement plus the second guaranteed entitlement for counties (this step is not applicable to municipalities).
- Fourth - The revenue to be shared via the formula in any fiscal year is adjusted so that all municipalities receive at least their minimum entitlement, which means the amount of revenue necessary for a municipality to meet its obligations as the result of pledges, assignments, or trusts entered into that obligated trust fund monies.³⁹
- Fifth - Any remaining trust fund monies shall be distributed to eligible municipalities that qualify to receive additional monies beyond the guaranteed entitlement in proportion to the total remainder.⁴⁰

Additional distributions are provided under ss. 212.20(6) and 218.245(3), F.S.

Authorized Use of Funds

Several statutory restrictions exist regarding the authorized use of municipal revenue sharing proceeds. Funds derived from the municipal fuel tax on motor fuel shall be used only for the purchase of transportation facilities and road and street rights-of-way; construction, reconstruction, and maintenance of roads, streets, bicycle paths, and pedestrian pathways; adjustment of city-owned utilities as required by road and street construction; and construction, reconstruction, transportation related public safety activities, maintenance, and operation of transportation facilities. Municipalities are authorized to expend these funds in conjunction with other municipalities, counties, state government, or the federal government in joint projects.

³⁹ Section 218.21(7), F.S.

⁴⁰ 2011 Local Government Financial Information Handbook, at 82.

According to DOR, municipalities may assume that 28.11 percent of their estimated 2012 fiscal year distribution is derived from the municipal fuel tax. Therefore, at least that proportion of each municipality’s revenue sharing distribution must be expended on the transportation-related purposes discussed above.⁴¹

Municipalities are restricted as to the amount of program funds that can be assigned, pledged, or set aside as a trust for the payment of principal or interest on bonds, tax anticipation certificates, or any other form of indebtedness, and there shall be no other use restriction on these shared revenues.⁴² Municipalities may assign, pledge, or set aside as trust for the payment of principal or interest on bonds, tax anticipation certificates, or any other form of indebtedness, an amount up to 50 percent of the funds received in the prior year.⁴³ Consequently, it is possible that some portion of a municipality’s growth monies will become available as a pledge for bonded indebtedness.

According to DOR, the following is the estimated statewide distributions to municipal governments under the Municipal Revenue Sharing Program for FY 2011-12:⁴⁴

	Guaranteed	Distributions s. 212.20(6)(d)5., F.S.	Growth Money	Distributions s. 218.245(3), F.S	Yearly Total
Statewide Totals	\$124,683,365	\$122,327,637	\$24,800,089	\$45,800,000	\$317,611,090

III. Effect of Proposed Changes:

Section 1 amends subparagraph 212.20(6)(d)5., F.S., to state that the amounts required under s. 290.0138(2), F.S., as created in the CS, shall also be distributed monthly to the Revenue Sharing Trust Fund for Municipalities (trust fund).

Section 2 creates paragraph 218.23(3)(e), F.S., relating to the distribution formula, to require adjustments for municipalities that have a sales tax increment financing (TIF) area and are eligible for distribution under ss. 290.0137 and 290.0138, F.S., prior to the final adjustment.

Section 3 amends s. 290.004, F.S., to provide definitions for the following terms: “base year,” “bond,” “compliance period,” “retail development project,” “retail development project developer,” “sales tax TIF area,” “tax increment revenues,” and “TIF.”

Section 4 creates subsection 290.0056(11), F.S., to authorize a governing body or the enterprise zone development agency to exercise additional powers for the purpose of financing public improvements that will foster job growth and enhance the base of retailers within an enterprise zone, unless otherwise prohibited by ordinance. These additional powers include:

- Entering into cooperative contracts and agreements with a county, municipality, or governmental agency for services and assistance;

⁴¹ *Id.*

⁴² *Id.* at 83 (citing s. 218.25(1), F.S.).

⁴³ *Id.* (citing s. 218.25(4), F.S.).

⁴⁴ *Id.* at 90.

- Expending tax increment revenues to acquire, own, convey, construct, maintain, improve, and manage property and facilities, and grant and acquire licenses, easements, and options with respect to such property;
- Expending tax increment revenues to complete public improvements within the sales tax TIF area, including (but not limited to) the construction of streetscape improvements; installation of landscaping enhancements within the public right-of-way; construction of street lighting systems; installation of water and sewer service mains; and construction of on-street and off-street public parking facilities; and
- Entering into a retail development agreement with a retail project developer to underwrite public improvements or services identified above.

Section 5 amends s. 290.007, F.S., which addresses state incentives that are available in enterprise zones to encourage revitalization, to include the designation of a sales tax TIF area.

The Municipal Revitalization Act

Section 6 creates s. 290.01351, F.S., to establish the Municipal Revitalization Act (act), which shall include ss. 290.0136-290.01391, F.S., as created in the CS.

Legislative Intent

Section 7 creates s. 290.0136, F.S., to provide that the legislative intent of this act is to foster the revitalization of counties and municipalities and support job-creating retail development projects within enterprise zones by authorizing the governing bodies to designate sales tax TIF areas subject to the review and approval of the Department of Economic Opportunity. By so authorizing the governing bodies, the counties or municipalities may receive from the state a portion of an annual increase in sales tax collections generated by the development of a retail development project and will further the revitalization of such counties and municipalities. By authorizing such receipt of funds, the Legislature intends to provide financing for public improvements that will foster job growth for the residents of economically distressed areas and enhance the base of retailers operating within the enterprise zone and serving local residents and international visitors.

Designation of Sales Tax TIF Area

Section 8 creates s. 290.0137, F.S., to authorize by resolution the designation of a sales tax TIF area within municipalities that have a population of at least 300,000 residents and that are located within a designated enterprise zone, or a county population of at least 1,200,000 in the case of a county and one or more municipalities having been designated an enterprise zone.

The resolution creating a sales tax TIF area must include findings that the designation of the sales tax TIF area is essential to furthering a retail development project; will provide needed retail amenities within the enterprise zone; will result in the development of a retail development project that will create no fewer than 500 new jobs and at least \$1 million in sales tax increment revenue annually; and will enhance health and general welfare of the residents of the subject enterprise zone. The resolution must also fix the geographic boundaries of the sales tax TIF area within which the governing body may expend tax increment revenues; establish the term of the life of the sales tax TIF area (which term may not extend more than 40 years after the date the sales tax TIF area is approved by DEO); and establish the base year for determination of sales tax receipts.

No more than two sales tax TIF areas may be designated in any one eligible municipality, and no more than four in any eligible county. Municipal sales tax TIF areas shall count against the maximum number of county sales tax TIF areas. A sales tax TIF area may not be located within one-quarter mile of any other designated sales tax TIF area, and may not exceed 5 square miles in total land mass.

A designated sales tax TIF area may not include areas designated or to be designated as an “urban infill and redevelopment area” or “community redevelopment area”; any facility financed or partially financed with bonds whose debt is serviced with proceeds collected under the authority of the tourist development tax; or any facility conducting gaming activities.

The powers conferred by the act upon counties without a home rule charter may not be exercised within the boundaries of a municipality within such county unless the governing body of the municipality expresses its consent by a specifically enumerated resolution. In any county that has a home rule charter, the powers conferred by the act shall be exercised exclusively by the governing body of the county, but the county may by specifically enumerated resolution delegate those powers to the governing body of a municipality within the county.

Before the governing body adopts any resolution designating a sales tax TIF area, it must provide public notice. A copy of the resolution must be transmitted to DEO, which shall determine whether the designation complies with the requirements of the act. In so doing, DEO must consider whether the designation captures taxable spending that would not otherwise occur in the community rather than redistributing current spending; supports and enhances the tourism industry; and supports a retail development project that will meet the jobs, taxes, and fees requirements. If DEO determines compliance with the requirements, it must provide written notice to the local governing body, which in turn must remit a copy of its resolution and DEO’s notice to DOR.

Distribution Percentage & DOR Duties

Section 9 creates s. 290.0138, F.S., to address the calculation of tax increment revenue contributions to eligible governing bodies. The governing body is eligible for distribution from the Revenue Sharing Trust Fund for Municipalities in the amount of the increased collections of the state tax on sales, use, and other transactions realized during any month by the municipality over the same monthly period of the base year, as follows:

- 85 percent of the increased collections of \$85,000 or less;
- 75 percent of the increased collections greater than \$85,000 but \$425,000 or less;
- 50 percent of the increased collections greater than \$425,000 but \$675,000 or less; and
- 25 percent of the increased collections greater than \$675,000 but \$1 million or less.

DOR must determine monthly the specific amount payable to each eligible governing body and the aggregate amount of sales tax revenue that is required for distribution, and to transfer that amount from the General Revenue Fund to the Revenue Sharing Trust Fund for Municipalities, in accordance with s. 212.20(6)(d)5., F.S., created in the CS. All amounts transferred must be distributed as provided in s. 218.23(3)(e), F.S., created in the CS. The total distribution provided to an eligible governing body may not exceed the total tax increment revenue contribution set forth in the retail development project agreement, as specified in s. 290.0139, F.S.

Percentage distributions to each governing body are contingent upon a contribution by the local governing body equal to 30 percent of the percent of distributions of sales tax revenues discussed immediately above. Such matching contribution may be provided by a cash deposit to the local redevelopment trust fund, a commitment to underwrite any project within the sales tax TIF area; or approval of an economic development ad valorem tax exemption. The percentage distributions are also contingent on the total private investment in a retail development project equal to an amount not less than three times the state contribution, and an annual transmittal of an employment certificate by the retail development project developer to DEO and DOR attesting to the total number of full-time and part-time jobs created by the project (with certain requirements and conditions). Each governing body receiving a percentage distribution must establish a separate redevelopment trust fund for each designated sales tax TIF area. Funds allocated to and deposited in this fund may only be used to underwrite any eligible public improvements approved by the enterprise zone governing body.

Retail Development Project Agreement

Section 10 creates s. 290.0139, F.S., to provide that a retail development project developer proposing to use tax increment revenues to expend tax increment revenues on behalf of a governing body or enterprise zone development agency may enter into a retail development project agreement with the governing body. The agreement must set forth the goals and objectives of the project; requirements for leasing retail space within the project which will advance the governing body's or enterprise zone development agency's goals and objectives; the terms and conditions to which tax increment revenue or bond proceeds will be advanced to pay for costs incurred in the sales tax TIF area; goals for the hiring of enterprise zone residents for the new jobs created by the project; such matters as may be required in connection with the issuance of bonds to support the project; and such other matters as the governing body may determine to be necessary and appropriate.

A retail project development agreement must be approved by resolution of the governing body following a public hearing advertised in a newspaper not less than 10 days before the date of the hearing. It also must be transmitted to DEO for review and determination that it complies with the requirements of the act.

Issuance of Bonds

Section 11 creates s. 290.01391, F.S., to authorize the governing body, if authorized or approved by resolution after a public hearing, to use tax increment revenues to support the issuance of sales tax increment revenue bonds to finance the authorized public improvements. Such bonds may not be committed for any projects identified following the tenth year after the established base year. Any such bonds or other obligations issued to finance a project must mature by the end of the fortieth fiscal year after the fiscal year in which sales tax increment revenues are first deposited into the local sales tax TIF area trust fund or at the expiration of any agreement between the governing body and the retail project developer, whichever is later. However, any refunding bonds may not mature later than the final maturity date of any bonds or other obligations being paid or retired with the proceeds of such refunding bonds.

Bonds issued under the act may not be deemed to constitute a debt, liability, obligation, or pledge of the faith and credit of the public body or the state or any political subdivision thereof, but shall be payable solely from the revenues provided therefor. All such bonds must contain on

their face a statement to that effect. They must be authorized by resolution of the governing body and may:

- Be issued in one or more series and may bear such date or dates;
- Be payable upon demand or mature at such time or times;
- Bear interest at such rate or rates;
- Be in such denomination or denominations;
- Be in such form either with or without coupon or registered;
- Carry such conversion or registration privileges;
- Have such rank or priority;
- Be executed in such manner;
- Be payable in such medium of payment at such place or places;
- Be subject to such terms of redemption (with or without premium);
- Be secured in such manner; and
- Have such other characteristics as may be provided by the resolution or ordinance authorizing their issuance.

These bonds may be sold either at a public or private sale and for such price as the designated governing body may determine will effectuate the purposes of this section. If the public officials whose signatures appear on any bond or coupons issued under the act cease to be such officials before the delivery of such bonds, the signatures are nevertheless valid and sufficient for all purposes.

Bonds issued under the act are declared to be issued for an essential public and governmental purpose. In any suit, action, or proceeding involving the validity or enforceability of these bonds, any bond that recites in substance that it has been issued by the governing body for a purpose authorized under this section is conclusively presumed to have been issued for that purpose. Further, any project financed by the bond is also conclusively presumed to have been planned and carried out in accordance with the intended purposes of this section.

If the enterprise zone program is not extended beyond the date set forth in s. 290.016, F.S. (i.e., December 31, 2015), and bonds issued pursuant to this section remain outstanding, DOR must continue to collect and remit tax increment revenues generated by the retail development project to service the outstanding bond obligations.

Section 12 provides that the act shall take effect on July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. **Trust Funds Restrictions:**

Any annual increases in sales tax collections in a designated sales tax TIF area that are shared with the state shall be transferred from the General Revenue Fund to the Revenue Sharing Trust Fund for Municipalities for distribution to eligible governing bodies as provided in the CS. Such distributions are contingent upon, among other things, a 30 percent match by the local governing body.

Each governing body receiving distributions under this act is required to establish a separate redevelopment trust fund for each designated sales tax TIF area. Those funds may only be used to underwrite any eligible public improvements approved by the enterprise zone governing body.

V. **Fiscal Impact Statement:**

A. **Tax/Fee Issues:**

Any increase in sales tax collections shared by a governing body will be transferred from the General Revenue Fund to the Revenue Sharing Trust Fund for Municipalities and distributed to eligible designated governing bodies in an amount determined by DOR.

The Revenue Estimating Conference has not yet determined the impact of this CS though it is scheduled for discussion at the February 10, 2012 meeting.

B. **Private Sector Impact:**

One industry analyst estimates that, given the CS's population and geographic parameters, it would allow for the creation of a total of up to 18 sales tax TIF areas (4 each in Broward, Miami-Dade, and Palm Beach Counties; an additional 4 in Hillsborough County and the City of Tampa combined; and two in the city of Jacksonville). Assuming all 18 areas were created and all received a maximum monthly contribution of \$533,500 under the CS, their trust funds would receive a total of \$115,236,000 annually. The state would retain \$100,764,000 of the first \$1 million of the incremental sales tax revenues collected monthly in each area and all of any incremental sales tax revenues collected over \$1 million monthly.⁴⁵

However, based on a number of factors, the analyst suggests that only between 4 and 6 sales tax TIF areas would actually be created (3 in Miami-Dade County, and possibly one each in Broward County and the cities of Tampa and Jacksonville). Assuming the creation of 4 to 6 areas, the maximum amount of the incremental revenues deposited into their trust funds on an annual basis would be in the range of \$25,736,000 to \$38,412,000, while the state would retain from \$25,504,000 to \$33,588,000. The state would also retain all incremental revenues generated that exceed \$1 million per month.⁴⁶

⁴⁵ Miami Economic Associates, Inc., *Financial Impact on the State of Florida—Proposed Municipal Revitalization Act* (Jan. 2012), at 4 (on file with the Senate Committee on Community Affairs).

⁴⁶ *Id.* at 4-5.

C. Government Sector Impact:

Certain local entities with a specified population that are located within a designated enterprise zone will be authorized to designate a sales tax TIF area by resolution. The governing body designating a sales tax TIF area is granted certain additional powers, including the power to issue bonds to finance authorized public improvements.

DOR will be required to determine monthly, the specific amount payable to each eligible governing body and the aggregate amount of sales tax revenue that is required for distribution, and transfer that amount from the General Revenue Fund to the Revenue Sharing Trust Fund for Municipalities. (*See Related Issues section below.*)

DEO will be required to review and approve the designation of a sales tax TIF area.

VI. Technical Deficiencies:

The following technical deficiencies will need to be addressed:

- Terminology used in the CS should be reviewed to provide consistent use throughout. For example, variations of the terms “retail development project agreement” and “retail development project developer” appear throughout the CS.
- The provisions applying to counties (e.g., lines 347-48 of the CS) are potentially unclear. If the intent of the CS is to allow the provisions herein to apply to municipalities and counties, then amendments may be needed to address possible distributions into the Revenue Sharing Trust Fund for Counties (as opposed to only the Revenue Sharing Trust Fund for Municipalities). Should this be the case, both the title of the CS and the act created therein may need to be amended.

VII. Related Issues:

The CS requires DOR to determine the monthly aggregate amount of sales tax revenue that is required for distribution to an eligible governing body. DOR has expressed concern that Florida businesses may currently file and pay sales and use tax using a single tax return for each location or by filing one tax return for each county in which the business is located, and that businesses with locations in multiple counties may use a consolidated tax return reporting tax collections for each county in which the business operates. DOR does not currently collect tax information at a boundary level lower than a county (within a city or within an enterprise zone), and does not collect sales tax information necessary to calculate the “increased sale tax collections” within a municipality as proposed by the CS.⁴⁷ DOR states that this issue cannot be resolved through rulemaking.⁴⁸

⁴⁷ DOR, *SB 1022 Agency Analysis* (Dec. 29, 2011), at 5-6 (on file with the Senate Committee on Community Affairs).

⁴⁸ *Id.* at 6-7.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Commerce and Tourism on February 2, 2012:

The committee substitute does the following:

- Requires state and local safeguards to accompany tax increment revenue contributions to the governing body of a designated TIF area, including:
 1. A 30 percent match of state funds by local governing body;
 2. A review of designation by DEO to confirm that it:
 - a. Captures new taxable spending (to avoid cannibalization of existing sales and revenues);
 - b. Supports the tourism industry; and
 - c. Supports the retail development project that will generate not less than 500 full-time jobs and \$1 million in new sales tax revenues;
 3. Public advertising and notice requirements prior to designation or issuance of bonds whose debt service is paid with sales tax increment; and
 4. Use of proceeds limited to public infrastructure investment.
- Requires minimum private sector expenditure of three times the state contribution;
- Precludes areas/projects accessing other public incentives from utilizing this financing mechanism, for example:
 1. Gaming facilities;
 2. Facilities receiving professional sports facilities franchise tax proceeds; and
 3. Ad valorem CRAs.
- Provides further limits on fiscal impact through:
 1. Increases to population eligibility thresholds:
 - a. County population threshold now 1.2 million residents (previously 1.1 million); and
 - b. City population threshold now 300,000 residents (previously 250,000);
 2. Limits on number of sales TIF areas that can be designated:
 - a. County, maximum of four; and
 - b. City, maximum of two (count against the county cap where eligible city located in eligible county);
 3. Introduces a proximity limitation; and
 4. Limits on period when sales tax increment revenues can be bonded.
- Introduces accountability provisions to ensure that job commitments are met:
 1. Reporting requirement by retail project developer; and
 2. Penalty for failure to achieve minimum job target.

- B. **Amendments:**

None.