

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB FTC 10-11 Economic Development

SPONSOR(S): Finance & Tax Council; Bogdanoff

TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Finance & Tax Council	11 Y, 0 N	Wilson	Langston
1)				
2)				
3)				
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SUMMARY ANALYSIS

This bill amends, refines, creates and funds an assortment of economic development measures.

This bill amends s. 212.031, F.S., providing a partial exemption from sales tax for renting, leasing, letting, or the granting a license for the use of real property to a person providing telecommunications, data systems management, or Internet services at a publically or privately owned convention hall, civic center, or meeting space at a public lodging establishment. This amendment is intended to be clarifying and remedial, and will apply retroactively.

This bill enhances the current sales tax exemption for machinery and equipment purchases by expanding spaceport and manufacturing businesses found in s. 212.08(5)(b)6.b., F.S., by redefining the word “productive output” to include units produced in a single product line. This provision also allows greater flexibility in choosing the time periods used to assess whether or not productive output has actually expanded, thereby making it easier to qualify for the exemption.

This bill also amends s. 212.08(5)(g), F.S., to exclude condominium parcels or condominium property from the definition of “real property” for purposes of qualifying for refunds of sales taxes paid on building materials used in the construction and rehabilitation of real property located within in an enterprise zone.

This bill creates s. 288.0659, F.S., providing for a Local Government Distressed Area Matching Grant Program. These grants, which will be administered by the Office of Tourism, Trade, and Economic Development within the Governor’s Office (Office), will match expenditures by local governments to attract and retain business in Florida. The bill further provides qualifying and evaluation criteria for the matching grant to be reviewed by the Office, with priority given to businesses located in economically distressed areas. A nonrecurring \$2 million General Revenue appropriation is provided to fund the program.

This bill provides a \$5 million nonrecurring and \$5 million recurring General Revenue appropriation to Space Florida to address financing, business development, and infrastructure needs to assist in the continued development of the aerospace industry in Florida. The bill also provides a \$3.2 million nonrecurring General Revenue Fund appropriation to the Office exclusively for Space Florida to retrain workers due to the retirement of the Space Shuttle Program.

The bill includes several provisions with revenue impacts, some positive and some negative. The combined FY 2010-2011 impacts of these provisions, as adopted by the 2010 Revenue Estimating Conference, are: +\$1.3 million General Revenue (\$11.5 million recurring); positive insignificant to state trust funds; +\$1.0 million to local governments (\$4.7 million recurring).

This act shall take effect July 1, 2010.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: pcb11a.FTC.doc
DATE: 3/26/2010

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Sales Tax Exemptions

Present Situation

Tax on Rental or License Fee for Use of Real Property

Section 212.031, F.S., provides that every person is exercising a taxable privilege when they engage in the business of renting, leasing, letting, or granting a license for the use of any real property in Florida. This section also provides various sales tax exemptions for the use of real property such as, but not limited to; property assessed as agriculture under s. 193.461, property used exclusively as dwelling units, public street or road used for transportation, certain airport property, property used at an port authority, property rented, leased, subleased, or licensed to a concessionaire, property used or occupied predominantly for space flight business.¹ The tax of 6 percent is levied on the total rent or license charged for real property by the person charging or collecting the rental or license fee. The total rent charged for such real property shall include base rent, percentage rents, or similar charges.

Manufacturing Machinery Equipment

Florida is home to nearly 17,000 manufacturing establishments that employ more than 388,000 people earning more than \$18.4 billion annually, for an average annual wage of approximately \$47,457.² Under certain conditions, the purchase of manufacturing or industrial machinery and equipment is exempt from the sales and use tax. Those exemptions include provisions in s. 212.08(5)(b), F.S., for:

- Manufacturing machinery and equipment purchased for exclusive use by a new business in spaceport activities or for use in new businesses that manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations in this state, and
- Manufacturing machinery and equipment purchased for exclusive use by an expanding facility engaged in spaceport activities or for use in expanding manufacturing facilities or plant units that manufacture, process, compound, or produce for sale items of tangible personal property at fixed locations in this state, when the machinery and equipment are used to increase the productive

¹ Section 212.031(1)(a)13., F.S., defines "space flight business".

² U.S. Department of Labor, Bureau of Labor Statistics, cited by Enterprise Florida, Inc.

<http://www.eflorida.com/Manufacturing.aspx?id=7960>. Last visited March 24, 2010.

output of the expanded facility or business by not less than 10 percent. To determine whether or not the 10 percent threshold has been reached, “productive output” after the installment of machinery and equipment must be compared to output before installation. Productive output means the number of units produced by a single plant or operation.

Enterprise Zones

The Florida Enterprise Zone Program was created to encourage economic development in economically distressed areas of the state by providing incentives and inducing private investment. Currently, Florida has 57 enterprise zones. Florida’s enterprise zones qualify for various incentives from corporate income tax and sales and use tax liabilities.

Between October 1, 2007, and September 30, 2008, new businesses numbering 2,719 moved into or were created in enterprise zones and 9,600 new jobs were created by businesses in enterprise zones.³ More than \$40.3 million in state and nearly \$22.5 million in local-government financial incentives were approved during that same period.

Available state sales tax incentives for enterprise zones include:

- Building Materials Used in the Rehabilitation of Real Property Located in an Enterprise Zone.
- Business Equipment Used in Enterprise Zones.
- Rural Enterprise Zone Jobs Credit against Sales Tax.
- Urban Enterprise Zone Jobs Credit against Sales Tax.
- Business Property Used in an Enterprise Zone.
- Community Contribution Tax Credit.
- Electrical Energy Used in an Enterprise Zone.

By far the most popular of the state enterprise zone incentives is the building materials tax refund; in FY 07-08, \$25.6 million of the \$40.3 million in state incentives paid was for building material refunds. This trend appears to be continuing, even in a down year statewide for construction: more than \$38.6 million in state sales tax refunds have been applied for in the first 6 months of FY 09-10.⁴ As in years past, condominium construction/rehabilitation accounts for the majority of building materials tax refunds – \$37.2 million of the \$38.6 million already claimed.⁵

Effect of Proposed Changes

This bill amends s. 213.031, F.S., providing for a partial exemption from tax for renting, leasing, letting, or the granting a license for the use of real property to a person providing telecommunications, data systems management, or Internet services at a publically or privately owned convention hall, civic center, or meeting space at a public lodging establishment.⁶ This partial exemption will only apply to the portion of the rental, lease, or license payment that is based on a percentage of sales, revenue sharing, or royalty payment. This exemption will not apply to a fixed base price. This bill provides that this exemption is intended to be clarifying and remedial, and will apply retroactively. Further, this exemption will not provide a basis for any assessment of any tax not paid, or create a right to refund any tax paid, pursuant to s. 213.031(1)(a)14., F.S., before July 1, 2010.

This bill amends s. 212.08(5)(b)6.b., F.S., relating to the sales tax exemption for machinery and equipment purchased by certain expanding businesses, redefining the word “productive output” to include units produced in a single product line. This provision also allows greater flexibility in choosing the time periods used to assess whether or not productive output has actually expanded, thereby making it easier to qualify for the exemption.

³ Florida Enterprise Zone Program Annual Report, October 1, 2007 - September 30, 2008. Published March 1, 2009.

⁴ Data provided by the Department of Revenue at the February 26, 2010 Revenue Estimating Conference.

<http://edr.state.fl.us/conferences/revenueimpact/pdf/page%2084-86.pdf>

⁵ Ibid.

⁶ Section 509.013, F.S., provides the definition of a “public lodging establishment”.

This bill also amends s. 212.08(5)(g), F.S., to exclude condominium parcels or condominium property from the definition of “real property” for purposes of qualifying for refunds of sales taxes paid on building materials used in the construction and rehabilitation of real property located within in an enterprise zone.

Local Government Distressed Areas Matching Grants

Present Situation

Chapter 125, F.S., provides the legislature finds that the state faces increasing competition from other states and countries for the location of private enterprise. The chapter also provides that the legislature understand the need to enhance and expand economic activity in our counties in order to provide job opportunities and improve the welfare of all Floridians.⁷

Commercial development and capital improvement programs found in ch. 288, F.S., provide various tools to local government to partner with the state for strategic economic initiatives. These resources will further develop long term growth within local communities and further assist communities in critical need.

Effect of Proposed Changes

This bill creates s. 288.0659, F.S., creating a Local Government Distressed Area Matching Grants Program. These grants, which will be administered by the Office of Tourism, Trade, and Economic Development within the Governor’s Office (Office), will match expenditures by local governments to attract and retain business in Florida. This bill establishes that local governments may apply for grants to match “qualified business assistance.” This qualified business assistance includes waiver or reduction of impact and permit fees, direct incentive payments, expenditures for infrastructure improvements benefiting a site redevelopment for a business, or construction or renovation of a building for a specific business. The bill also authorizes that the qualifying matching grants are to be reviewed by the Office, giving priority to the following evaluation criteria:

- Presence and degree of pervasive poverty, unemployment, and general distress;
- Reliance on the local government expenditure as and inducement for the business’s location decision;
- Number of new full time jobs created;
- Average hourly wage for jobs created;
- Amount of capital investment to be made by the business;

The bill states that in evaluating grant requests, the Office will take into consideration the need for grant assistance as it relates to a local government’s general fund balance, as well as local incentive programs that are already in existence. The matching grants funds may not be utilized to relocate a business from one community to another, unless the Office determines the business will otherwise leave the state or has a compelling economic rationale for relocating. The funds may also not be used to supplant matching commitments required of the local government for other state or federal government incentives.

The bill provides that grant allocations will be 50 percent of a government’s qualified expenditures or 50 thousand dollars, whichever is less. The Office will provide a final grant award when the local government provides sufficient information to determine the actual qualified expenditures. The Office will make final grant awards to the extent funds are appropriated from the Legislature.

This bill further provides an appropriation of \$2 million in nonrecurring General Revenue to the Office to pay grants. The Office is allowed to retain up to 2 percent of the appropriation for administration of the program. This bill also provides that any funds remaining from this appropriation, notwithstanding s.

⁷ Section 125.045, F.S.

216.301, F.S, and pursuant to s. 216.351. F.S., as of June 30, 2011, shall remain available to carry out the program.

Space Florida

Present Situation

Space Florida is responsible for promoting the growth and development of a sustainable aerospace industry, space infrastructure, and educational opportunities for people interested in working in the space and aerospace industry. Commercial space flight is an important part of Space Florida's vision for space and aerospace operations for Florida's future. Space Florida's 2010 Spaceport Master Plan details the current commercial space flight landscape in the state. "Over the past ten years about 32% of all successful commercial orbital launches in the world occurred within the US. In the same time only 37% of all successful orbital commercial launches from the US occurred in Florida."⁸ Space Florida believes the state is uniquely positioned to become a more dominant player in the commercial space industry.

However, numerous changes have occurred in the space industry as NASA has begun to move towards the end of the space shuttle program. Members of Congress, the Governor, Space Florida, Brevard County, economic development organizations, as well as many others have been looking for solutions to alleviate the possibility that many Florida aerospace jobs and businesses could be lost.

Effect of Proposed Changes

This bill provides an appropriation of \$5 million in nonrecurring and \$5 million in recurring General Revenue to Space Florida to address financing, business development, and infrastructure needs to assist in the continued development of the aerospace industry in this state and management of state-of-the-art facilities for space business that will create high-technology, high-wage-earning jobs.

This bill further provides an appropriation of \$3.2 million in nonrecurring General Revenue to the Office exclusively for Space Florida to retrain workers due to the retirement of the Space Shuttle Program.

B. SECTION DIRECTORY:

Section 1: Amends 212.031, F.S., providing a partial tax exemption for renting, leasing, letting, or the granting of a license for the use of real property under certain circumstances.

Section 2: Amends s. 212.08(5)(b)6.b., F.S., redefining the word "productive output." Amends s. 21.08(5)(g), F.S., redefining the word "real property".

Section 3: Creates s. 288.0659, F.S., establishing the Local Government Distressed Area Matching Grants Program.

Section 4: Provides an appropriation to the Office for the development and management of facilities for space businesses, further creating high-technology, high-wage-earning jobs. The bill also provides an appropriation to the Office for Space Florida to retrain works due to the retirement of the Space Shuttle Program. The bill further provides an appropriation to the Office for the Local Government Distressed Area Matching Grants Program created in s. 288.0659, F.S.

Section 5: This act shall take effect July 1, 2010.

⁸ Space Florida 2010 Spaceport Master Plan. Found at:

http://www.spaceflorida.gov/index.php?option=com_content&view=article&id=111 (last visited 3/24/2010)

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS.

2. Expenditures:

This bill provides the following appropriations:

- \$5 million in nonrecurring and \$5 million in recurring General Revenue to Space Florida to address financing, business development, and infrastructure needs to assist in the continued development of the aerospace industry in this state and management of state-of-the-art facilities for space business that will create high-technology, high-wage-earning jobs.
- \$3.2 million in nonrecurring General Revenue to the Office exclusively for Space Florida to retrain workers due to the retirement of the Space Shuttle Program.
- \$2 million in nonrecurring General Revenue to the Office for the Local Government Distressed Area Matching Grants Program, pursuant to s. 288.0659, F.S.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See FISCAL COMMENTS.

2. Expenditures:

See FISCAL COMMENTS.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will reduce costs for certain expanding manufacturing and space-related businesses, and will provide additional resources to develop and attract business in Florida.

D. FISCAL COMMENTS:

- On February 26, 2010, the Revenue Estimating Conference adopted that the narrowing of the “real property” definition for enterprise zone exemptions would increase General Revenue collections by \$3.3 million in FY 2010-2011 (+\$13.2 million recurring), and local government revenues by \$1.3 million (+\$5.0 million recurring).
- On March 18, 2010, the Revenue Estimating Conference adopted that the enhancements to the machinery and equipment exemption (212.08(5)(b)) would reduce General Revenue by \$0.5 million in FY 2010-2011 (\$0.5 million recurring), and local government revenue by \$0.1 million (\$0.1 million recurring).
- On March 20, 2010, the Revenue Estimating Conference adopted that the partial exemption provided to the portion of rent, lease, or license payment is based on a percentage of sales, revenue sharing or royalty payment (212.031(1)(a)14.) would reduce General Revenue by -\$1.5 million in FY 2010-2011 (-\$1.2million recurring), and local government revenue by -\$0.2 million (-\$0.2 million recurring)

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 25, 2010, the Finance & Tax Council adopted 3 amendments, which:

- Amended s. 212.031, F.S., providing for a partial exemption from tax for renting, leasing, letting, or the granting a license for the use of real property to a person providing telecommunications, data systems management, or Internet services at a publically or privately owned convention hall, civic center, or meeting space at a public lodging establishment.⁹ This partial exemption will only apply to the portion of the rental, lease, or license payment that is based on a percentage of sales, revenue sharing, or royalty payment. This amendment is intended to clarify and be remedial, and will apply retroactively.
- Amended s. 288.0659, F.S., removing the term “qualified expenditure” and replacing it with “qualified business assistance”, further providing a definition. This amendment also removed the term land purchase from the definition of “qualified business assistance”. The amendment also added that matching grant request evaluations will take into consideration local government’s general fund balance as well as local incentive programs already in existence. This amendment also clarified the grant allocation will be contingent on entering into a contract with the Office. This contract will set forth both grant terms and conditions. The contract will include a time frame for the final grant allocation. This amendment further changes that only 2 percent of the appropriation provided to the Office can be utilized for administrative costs.
- Amended the appropriations language to clarify that the \$5 million in nonrecurring and \$5 million in recurring General Revenue will be provided to Space Florida to address financing, business development, and infrastructure needs to assist in the continued development of the aerospace industry in this state and management of state-of-the-art facilities for space business that will create high-technology, high-wage-earning jobs. This amendment also amended the appropriation languages to clarify that any funds remaining from \$2 million in nonrecurring General Revenue provided to the Local Government Distressed Area Matching Grants Program, as of June 30, 2011, shall remain available to carrying out the program.

The analysis has been updated to reflect the above changes.

⁹ Section 509.013, F.S., provides the definition of a “public lodging establishment”.