



Economic Development & Tourism Subcommittee

Wednesday, April 10, 2013
11:30 AM – 12:30 PM
Reed Hall (102 HOB)

Meeting Packet

Will Weatherford
Speaker

Carlos Trujillo
Chair



The Florida House of Representatives
Economic Development and Tourism Subcommittee

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Meeting Agenda
Wednesday, April 10, 2013
Reed Hall, Room 102, House Office Building
11:30 a.m. – 12:30 p.m.

- I. Call to Order**
- II. Roll Call**
- III. HB 391 – Exemptions from Tax On Sales, Use, & Other Transactions**
- IV. HB 1199 – Black Cultural Tourism Enhancement Commission**
- V. HB 1219 – Office of Faith-Based and Community Initiatives**
- VI. Adjournment**

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 391 Exemptions from Tax On Sales, Use, & Other Transactions

SPONSOR(S): Magar and others

TIED BILLS: IDEN./SIM. BILLS: CS/SB 518

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Economic Development & Tourism Subcommittee		Tecler <i>AT</i>	West <i>RW</i>
2) Finance & Tax Subcommittee			
3) Economic Affairs Committee			

SUMMARY ANALYSIS

In order to encourage capital investment and new job opportunities in Florida's manufacturing sector, HB 391 streamlines industrial machinery and equipment sales or use tax exemptions provided under current law. Specifically, the bill expands eligibility for these exemptions by removing productive output requirements related to machinery and equipment purchased and used to manufacture items for sale or to meet the production quota of a federal procurement contract. Taken together, the provisions of this bill may reduce the tax burden of manufacturers expanding operations and upgrading machinery and equipment within this state.

The Revenue Estimating Conference has not yet scored the provisions of HB 391. However, the bill may have a recurring negative impact on state revenue and local government.

The bill provides an effective date of upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

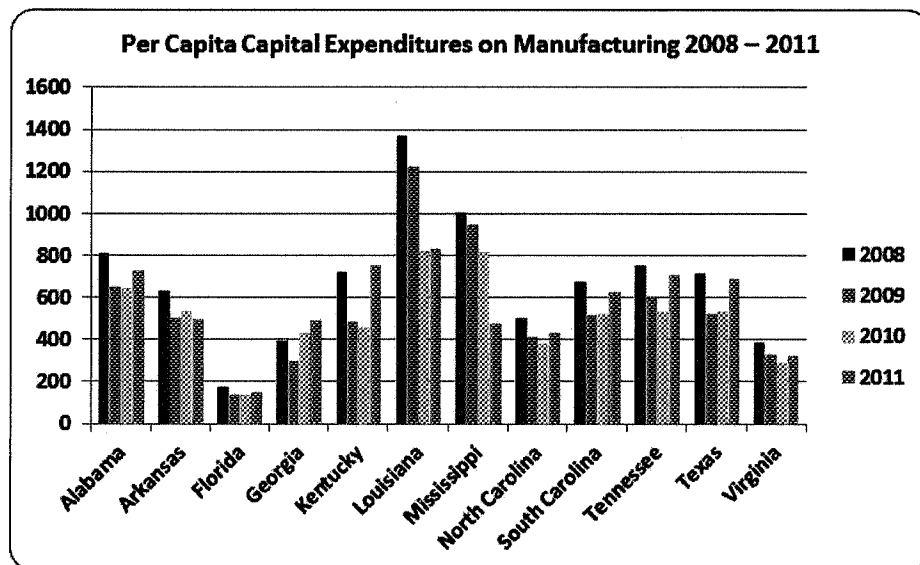
Present Situation

Florida has a diverse manufacturing sector that encompasses traditional industries, such food and beverage processing, and technology-driven industries that produce medical devices, pharmaceuticals, and aerospace equipment. The sector is comprised of more than 18,000 employers and 315,300 workers,¹ with nearly 53 percent of all manufacturers in the state operating as small businesses with less than 20 employees.² Workers employed in Florida's manufacturing sector earn an average annual wage of \$52,372, which is more than \$10,000 above the average annual wage for all private non-agricultural sectors.³

Capital investment in the manufacturing sector

In order to remain competitive, manufacturing companies must regularly upgrade or acquire new fixed assets such as property, plant, machinery and equipment. As demand and variable costs fluctuate, investments in machinery and equipment are made to expand production or improve operational efficiency. Over the long term, investments in fixed assets may lead to a higher demand for labor and higher wages for employees.

Industries such as manufacturing, chemical production and mineral extraction, are defined as capital intensive because substantial investments in technology and equipment are required before production is initiated or transitioned to different purposes. As fixed costs cannot be removed or reduced during times of market decline, such industries are sensitive to taxes assessed on property, machinery and equipment. Capital intensive industries generate a higher rate of economic output and increase the productivity of labor, which may provide a higher standard of living for state economies.



¹ Current Employment Statistics, Florida Department of Economic Opportunity, December of 2012, <http://www.floridajobs.org/labor-market-information/data-center/statistical-programs/current-employment-statistics>, last visited April 8, 2013.

² Manufacturing and Trade Data by State, National Association of Manufacturers, <http://www.nam.org/Statistics-And-Data/State-Manufacturing-Data/Manufacturing-by-State.aspx>, last visited April 8, 2013.

³ Occupational Employment Statistics and Wages, Florida Department of Economic Opportunity, 2012, <http://www.floridajobs.org/labor-market-information/data-center/statistical-programs/occupational-employment-statistics-and-wages>, last visited April 8, 2013.

⁴ Chart and data related to Per Capita Capital Expenditures on Manufacturing was provided by Florida TaxWatch.

In recent years, Florida's competitor states have worked to intensify and diversify their manufacturing sectors. If capital intensity is measured by capital expenditures per capita (see Chart pg. 2), Florida manufacturers have invested in less fixed assets per capita than any other southern state.⁵

Taxation of machinery and equipment

Florida is one of only four southern states that imposes a tax on the sale or use of machinery and equipment. The state provides several exemptions from this tax; however, current law may require an existing manufacturer to meet one of the following requirements, in order to qualify for an exemption:

- Expand current business operations.
(Florida and Kentucky are the only states in the south with this requirement)
- Increase the level of productive output.
(Florida is the only state in south with this requirement)
- Purchase machinery and equipment used to produce energy, facilitate research and development, or manufacture products related to aerospace, semiconductors, national defense or pollution control.

When upgrades to machinery and equipment are related to the production of a non-qualifying good or directed at improving the operational efficiency of an existing facility, a manufacturer may no longer be exempt from this tax. This additional tax burden increases the costs of replacing fixed assets and may contribute to the low level of capital investment seen in the state's manufacturing sector.⁶ Overtime, higher costs and insufficient capital investment may reduce the competitiveness of Florida's existing manufacturers and discourage prospective manufacturers from expanding operations to the state.

Competitor States

Among the twelve southern states, Arkansas, Georgia, Louisiana, North Carolina, South Carolina, Tennessee, Texas and Virginia exempt machinery and equipment purchases from the state sales tax. Three states, Alabama, Kentucky and Mississippi, tax the sale of machinery and equipment used in the manufacturing process, but at rates far below the general sales tax. The chart below indicates the sale tax rate and whether a full machinery and equipment exemption is provided.

State Sales Tax Rates and Machinery & Equipment Exemptions⁷												
	FL	AR	GA	LA ⁸	NC ⁹	SC	TN	TX	VA ¹⁰	AL ¹¹	MS ¹²	KY ¹³
M&E Sales/Use Tax Rate	6.0%	6.0%	4.0%	4.0%	4.75%	6.0%	7.0%	6.25%	4.0%	1.5%	1.5%	0.15%
Full M&E Exemption	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No	No

⁵ Data provided by Florida Taxwatch. It should be noted that Federal and state disaster recovery incentives in Louisiana and Mississippi may have front-loaded capital expenditures that would have otherwise been delayed to future years.

⁶ Manufacturing: An Economic Driver for Jobs and Florida's Future, Florida TaxWatch, August 2011.

⁷ Data compiled from state tax collection agencies and on file with the Economic Development and Tourism Subcommittee.

⁸ Localities in Louisiana may impose a local option sales tax on machinery and equipment.

⁹ Certain machinery and equipment in North Carolina are subject to a 1% excise tax with a maximum of \$80 per item.

¹⁰ Localities in Virginia may impose a local option sales tax on machinery and equipment.

¹¹ The general sales tax rate in Alabama is 4.0%. Machinery and equipment purchases may also qualify for the state's tax abatement program.

¹² The general sales tax rate in Mississippi is 7.0%. Machinery and equipment purchased by ship manufacturers are tax exempt.

¹³ The general sales tax rate in Kentucky is 6.0%. Machinery and equipment purchased by new or expanding manufacturers are tax exempt.

Florida's tax exempt machinery & equipment

Unless the transaction is exempt, each sale, admission charge, storage, or rental is taxable under ch. 212, F.S. Generally, the sales tax is added to the price of a taxable good and collected from the purchaser at the time of sale. As a complement to the sales tax, the state levies a use tax on transactions not otherwise exempt or taxed at the time of sale.

Current law provides exemptions for purchased machinery and equipment used in industrial production, research and development, power generation, aviation, and pollution control. The chart below lists the exemptions that are available for industrial machinery and equipment and applicability of such exemptions to various points in a business growth cycle. Taken together, these exemptions are generally more available to new and expanding businesses.

Current Industrial Machinery & Equipment Sales Tax Exemptions			
Applicability by Business Growth Cycle			
Exemption	New Business	Expanding Business	Upgrading Business
M&E used to manufacture, process, compound, or produce for sale items of tangible personal property.	Qualified	Qualified, but requires a 5% increase in productive output	Not qualified
M&E used in spaceport activities	Qualified	Qualified	Not qualified
M&E used under federal procurement contracts	Not qualified	Qualified, but requires a 10% increase in productive output	Not qualified
M&E used in semiconductor, defense, or space technology production	Meet application, certification, and permit requirements of two or more agencies.	Meet application, certification, and permit requirements of two or more agencies	Meet application, certification, and permit requirements of two or more agencies

- *Industrial M&E used to increase productive output*

Section 212.08(5)(b), F.S., exempts industrial machinery and equipment purchased and used exclusively for spaceport activities or to manufacture, process, compound, or produce for sale items of tangible personal property.¹⁴ This exemption is limited to new or expanding businesses.¹⁵ A new business must purchase machinery and equipment before the initiation of productive operations. Delivery of such items must be made within 12 months of that date. However, an expanding business not engaged in spaceport activities, must demonstrate to the Department of Revenue (DOR) that it has increased the productive output of a facility by at least 5 percent.¹⁶

¹⁴ "Industrial Machinery and Equipment" means tangible personal property or other property that has a depreciable life of 3 years or more and is used as an integral part in the manufacturing, processing, compounding, or production of tangible personal property for sale or is exclusively used in spaceport activities. Buildings, structural components, and heating and air-conditioning systems, generally do not meet the definition of industrial machinery and equipment unless closely related to the industrial machinery and equipment that it houses, supports, or such building or structural component can be expected to be replaced when the machinery and equipment are replaced. Heating and air-conditioning systems are not industrial machinery and equipment unless the sole justification for their installation is to meet the requirements of the production process. The term may include parts and accessories that are consistent with the exemption provided in s. 212.08, F.S.

"Spaceport Activities" means activities directed or sponsored by Space Florida on spaceport territory pursuant to its powers and responsibilities under the Space Florida Act.

¹⁵ This exemption does not apply to industrial machinery or equipment purchased or used by electric utility companies, communications companies, oil or gas exploration or production operations, publishing firms that do not export at least 50 percent of their finished product out of the state, or any firm subject to regulation by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation.

¹⁶ Productive output is determined by dividing the output for 12 continuous months (after completion of the installation of purchased machinery or equipment) by the output for the 12 continuous months immediately preceding the installation. The time period for measuring productive output must begin no later than 2 years after completion of the installation of the new machinery and equipment. In 2012, the Legislature reduced the productive output requirement from 10 percent to 5 percent (See HB 7087, Chapter No. 2012-32 L.O.F.).

In order to receive the exemption a business must apply to DOR to request the issuance of a temporary tax exemption permit. The permit must be returned to DOR after all the machinery and equipment is purchased. In cases where a business is denied a temporary tax exemption permit, a business may later receive a refund on taxes paid if such business is found to have met the requirements for an exemption. DOR may conduct audits to enforce exemption requirements.

- *Industrial M&E used under federal procurement contracts*

Section 212.08(5)(d), F.S., exempts industrial machinery and equipment purchased by an expanding business, which manufactures tangible personal property in accordance with federal procurement regulations.¹⁷ This exemption is limited to an expanding business that increases implicit productive output by at least 10 percent.¹⁸ Currently, a new business is not eligible for this exemption.

Eligible machinery or equipment purchases must be related to production contracts with the United States Department of Defense and Armed Forces, the National Aeronautics and Space Administration, and other federal agencies for which the contracts are classified for national security reasons. The amount of the exemption is reduced or offset by business's percentage of gross receipts attributable to cost-reimbursement contracts. DOR issues the exemption as a refund on taxes paid.

- *Industrial M&E used in semiconductor, defense, or space technology production*

Section 212.08(5)(j), F.S., exempts industrial machinery and equipment purchased and used to manufacture, process, compound or produce semiconductor, defense or space technology products for sale or for use by qualifying facilities.¹⁹ A business certified to receive this exemption may elect to designate one or more state universities or community colleges as the recipients of the refund. In order to qualify, a business must submit an application to Enterprise Florida, receive a two-year certification issue by DEO, and receive a business a tax exemption permit issued by DOR.

Effect of proposed changes

HB 391 streamlines industrial machinery and equipment sales or use tax exemptions provided under current law. Specifically, the bill expands eligibility for these exemptions by removing the productive output requirements related to machinery and equipment purchased and used to manufacture, process, compound, or produce tangible items for sale or to meet the production quota of a federal procurement contract. If enacted into law, the bill's provisions may reduce the tax burden of manufacturers expanding operations and upgrading machinery and equipment within this state. The bill does not reduce the applicability of the exemption when industrial machinery and equipment are purchased and used in spaceport activities.

Related to the federal procurement contracts exemption, a business utilizing this provision will no longer have the amount of such exemption reduced or offset by the percentage of gross receipts attributable to cost-reimbursement contracts. The bill will allow a business to claim the exemption "up front" and not as a refund on taxes paid, which is the process currently provided under existing law. The bill may also allow a new business to claim a federal procurement contract exemption.

¹⁷ Exempt purchases are limited to machinery and equipment as defined by s. 212.08(5)(d), F.S. This exemption does not apply to industrial machinery or equipment purchased or used by businesses listed in s. 212.08(5)(b)5., F.S. or any business that can measure an increase in productive output as provided in s. 212.08(5)(b)6., F.S.

¹⁸ The percentage of increase is measured by calculating the deflated implicit productive output for the calendar year during which the installation of the machinery or equipment is completed or during which commencement of production utilizing such items is begun divided by the implicit productive output for the preceding calendar year. Commencement of production must begin no later than two years following completion of installation of the machinery or equipment.

¹⁹ This exemption also applies to building materials purchased to manufacture or expand clean room facilities.

The bill eliminates the processing requirements related to applying for and receiving a tax exemption permit issued by DOR. However, DOR under rule making authority provided in ch. 212, F.S., may adopt rules to implement this exemption. The bill also makes a conforming change to the tax code and renames the title of the exemption. The chart below provides the cumulative effect of HB 391 on exemption eligibility.

Exemption Eligibility Under HB 391 by Business Growth Cycle			
M&E Exemptions	New Business	Expanding Business	Upgrading Business
M&E used to manufacture, process, compound, or produce for sale items of tangible personal property.	Qualified	Qualified	Qualified
M&E used in spaceport activities	Qualified	Qualified	Qualified
M&E used under federal procurement contracts	Qualified	Qualified	Qualified
Additional Requirements			
Productive output requirement	Eliminated	Eliminated	Eliminated
Statutory process for issuing a tax exemption permit.	Eliminated	Eliminated	Eliminated

The bill provides an effective date of upon becoming a law.

B. SECTION DIRECTORY:

Section 1: Amends paragraphs (b), (d), and (h) in s. 212.08(5), F.S., revising limitations, conditions, criteria, and definitions related to machinery and equipment exempt from the tax imposed by ch. 212, F.S.; and conforming cross-references.

Section 2: Provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference has not yet scored the provisions of HB 391. However, the Department of Economic Opportunity found that the elimination of the requirement that items of tangible personal property acquired by expanding facilities increase productive output by not less than 5 percent will have a negative fiscal impact on state revenues. This bill projects a \$57.7 million revenue reduction in 2013-14, \$115.3 million reduction each year thereafter for the State.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has not yet scored the provisions of HB 391. However, the bill may have a recurring negative fiscal impact on local government.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

By reducing the tax burden of existing manufacturers, the bill may encourage capital investment and new job opportunities in Florida's manufacturing sector. The bill may also encourage prospective manufacturers to relocate to the state.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill may reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

Subsection (d) provides an exemption from this prohibition. Laws determined to have an insignificant fiscal impact, which means an amount not greater than the average statewide population for the applicable fiscal year times \$0.10 (which is \$1.9 million for FY 2012-2013), are exempt.

The Revenue Estimating Conference has not evaluated the fiscal impact of this bill. As such, it is indeterminate whether the bill will have a significant impact on the ability of counties and municipalities to generate and share tax revenues.

If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide additional rule-making authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Regarding the exemption provided in s. 212.08(5)(b), F.S., the bill removes the requirement that qualified industrial machinery equipment purchases must be used within the state. It is unclear if removing this requirement will allow tax-exempt machinery and equipment purchased in Florida to be used by a business outside of Florida.

The bill also removes provisions related the Department of Revenue's authority to issue exemption permits to qualified businesses. Sellers of industrial machinery and equipment may not know if their items are tax exempt without a permit issued by the Department and presented by the purchaser.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to exemptions from the tax on sales,
 3 use, and other transactions; amending s. 212.08, F.S.;
 4 revising limitations, conditions, criteria, and
 5 definitions relating to exempting certain business
 6 purchases of industrial machinery and equipment from
 7 the sales tax; exempting from the sales tax industrial
 8 machinery and equipment purchased for exclusive use in
 9 certain spaceport activities or use in businesses that
 10 manufacture, process, compound, or produce for sale
 11 items of tangible personal property at fixed
 12 locations; deleting limitations and restrictions
 13 relating to an exemption for machinery and equipment
 14 used under a federal procurement contract; conforming
 15 cross-references; providing an effective date.

16
 17 Be It Enacted by the Legislature of the State of Florida:

18
 19 Section 1. Paragraphs (b), (d), and (h) of subsection (5)
 20 of section 212.08, Florida Statutes, are amended to read:

21 212.08 Sales, rental, use, consumption, distribution, and
 22 storage tax; specified exemptions.—The sale at retail, the
 23 rental, the use, the consumption, the distribution, and the
 24 storage to be used or consumed in this state of the following
 25 are hereby specifically exempt from the tax imposed by this
 26 chapter.

27 (5) EXEMPTIONS; ACCOUNT OF USE.—

28 (b) Industrial machinery and equipment used exclusively in

29 spaceport activities or used by manufacturers to increase
 30 productive output.—

31 1. Industrial machinery and equipment purchased for
 32 exclusive use ~~by a new business~~ in spaceport activities directed
 33 or sponsored by Space Florida on spaceport territory pursuant to
 34 its powers and responsibilities under the Space Florida Act as
 35 ~~defined by s. 212.02~~ or for use in new businesses that
 36 manufacture, process, compound, or produce for sale items of
 37 tangible personal property at fixed locations are exempt from
 38 the tax imposed by this chapter ~~upon an affirmative showing by~~
 39 ~~the taxpayer to the satisfaction of the department that such~~
 40 ~~items are used in a new business in this state. Such purchases~~
 41 ~~must be made before the date the business first begins its~~
 42 ~~productive operations, and delivery of the purchased item must~~
 43 ~~be made within 12 months after that date.~~

44 2. ~~Industrial machinery and equipment purchased for~~
 45 ~~exclusive use by an expanding facility which is engaged in~~
 46 ~~spaceport activities as defined by s. 212.02 or for use in~~
 47 ~~expanding manufacturing facilities or plant units which~~
 48 ~~manufacture, process, compound, or produce for sale items of~~
 49 ~~tangible personal property at fixed locations in this state are~~
 50 ~~exempt from any amount of tax imposed by this chapter upon an~~
 51 ~~affirmative showing by the taxpayer to the satisfaction of the~~
 52 ~~department that such items are used to increase the productive~~
 53 ~~output of such expanded facility or business by not less than 5~~
 54 ~~percent.~~

55 3.a. ~~To receive an exemption provided by subparagraph 1.~~
 56 ~~or subparagraph 2., a qualifying business entity shall apply to~~

57 ~~the department for a temporary tax exemption permit. The~~
 58 ~~application shall state that a new business exemption or~~
 59 ~~expanded business exemption is being sought. Upon a tentative~~
 60 ~~affirmative determination by the department pursuant to~~
 61 ~~subparagraph 1. or subparagraph 2., the department shall issue~~
 62 ~~such permit.~~

63 ~~b. The applicant shall maintain all necessary books and~~
 64 ~~records to support the exemption. Upon completion of purchases~~
 65 ~~of qualified machinery and equipment pursuant to subparagraph 1.~~
 66 ~~or subparagraph 2., the temporary tax permit shall be delivered~~
 67 ~~to the department or returned to the department by certified or~~
 68 ~~registered mail.~~

69 ~~e. If, in a subsequent audit conducted by the department,~~
 70 ~~it is determined that the machinery and equipment purchased as~~
 71 ~~exempt under subparagraph 1. or subparagraph 2. did not meet the~~
 72 ~~criteria mandated by this paragraph or if commencement of~~
 73 ~~production did not occur, the amount of taxes exempted at the~~
 74 ~~time of purchase shall immediately be due and payable to the~~
 75 ~~department by the business entity, together with the appropriate~~
 76 ~~interest and penalty, computed from the date of purchase, in the~~
 77 ~~manner prescribed by this chapter.~~

78 ~~d. If a qualifying business entity fails to apply for a~~
 79 ~~temporary exemption permit or if the tentative determination by~~
 80 ~~the department required to obtain a temporary exemption permit~~
 81 ~~is negative, a qualifying business entity shall receive the~~
 82 ~~exemption provided in subparagraph 1. or subparagraph 2. through~~
 83 ~~a refund of previously paid taxes. No refund may be made for~~
 84 ~~such taxes unless the criteria mandated by subparagraph 1. or~~

85 ~~subparagraph 2. have been met and commencement of production has~~
 86 ~~occurred.~~

87 ~~4. The department shall adopt rules governing applications~~
 88 ~~for, issuance of, and the form of temporary tax exemption~~
 89 ~~permits; provisions for recapture of taxes; and the manner and~~
 90 ~~form of refund applications, and may establish guidelines as to~~
 91 ~~the requisites for an affirmative showing of increased~~
 92 ~~productive output, commencement of production, and qualification~~
 93 ~~for exemption.~~

94 ~~2.5.~~ The exemptions provided in subparagraph ~~subparagraphs~~
 95 ~~1. and 2.~~ do not apply to machinery or equipment purchased or
 96 used by electric utility companies, communications companies,
 97 oil or gas exploration or production operations, publishing
 98 firms that do not export at least 50 percent of their finished
 99 product out of the state, any firm subject to regulation by the
 100 Division of Hotels and Restaurants of the Department of Business
 101 and Professional Regulation, or any firm that does not
 102 manufacture, process, compound, or produce for sale items of
 103 tangible personal property or that does not use such machinery
 104 and equipment in spaceport activities as required by this
 105 paragraph. The exemptions provided in subparagraph ~~subparagraphs~~
 106 ~~1. and 2. shall~~ apply to machinery and equipment purchased for
 107 use in phosphate or other solid minerals severance, mining, or
 108 processing operations.

109 ~~3.6.~~ For the purposes of the exemptions provided in
 110 subparagraph 1., the term ~~subparagraphs 1. and 2., these terms~~
 111 ~~have the following meanings:~~

112 a. "industrial machinery and equipment" means tangible

113 personal property or other property that has a depreciable life
 114 of 3 years or more and that is used as an integral part in the
 115 manufacturing, processing, compounding, or production of
 116 tangible personal property for sale or is exclusively used in
 117 spaceport activities as described in subparagraph 1. A building
 118 and its structural components are not industrial machinery and
 119 equipment unless the building or structural component is so
 120 closely related to the industrial machinery and equipment that
 121 it houses or supports that the building or structural component
 122 can be expected to be replaced when the machinery and equipment
 123 are replaced. Heating and air-conditioning systems are not
 124 industrial machinery and equipment unless the sole justification
 125 for their installation is to meet the requirements of the
 126 production process, even though the system may provide
 127 incidental comfort to employees or serve, to an insubstantial
 128 degree, nonproduction activities. The term includes parts and
 129 accessories only to the extent that the exemption thereof is
 130 consistent with the provisions of this paragraph.

131 ~~b. "Productive output" means the number of units actually~~
 132 ~~produced by a single plant, operation, or product line in a~~
 133 ~~single continuous 12-month period, irrespective of sales.~~
 134 ~~Increases in productive output shall be measured by the output~~
 135 ~~for 12 continuous months selected by the expanding business~~
 136 ~~after completion of the installation of such machinery or~~
 137 ~~equipment over the output for the 12 continuous months~~
 138 ~~immediately preceding such installation. However, in no case may~~
 139 ~~such time period begin later than 2 years after completion of~~
 140 ~~the installation of the new machinery and equipment. The units~~

141 ~~used to measure productive output shall be physically comparable~~
 142 ~~between the two periods, irrespective of sales.~~

143 (d) Machinery and equipment used under federal procurement
 144 contract.—

145 1. Industrial machinery and equipment purchased by a ~~an~~
 146 ~~expanding~~ business which manufactures tangible personal property
 147 pursuant to federal procurement regulations at fixed locations
 148 in this state are exempt from the tax imposed in this chapter
 149 ~~upon an affirmative showing by the taxpayer to the satisfaction~~
 150 ~~of the department that such items are used to increase the~~
 151 ~~implicit productive output of the expanded business by not less~~
 152 ~~than 10 percent. The percentage of increase is measured as~~
 153 ~~deflated implicit productive output for the calendar year during~~
 154 ~~which the installation of the machinery or equipment is~~
 155 ~~completed or during which commencement of production utilizing~~
 156 ~~such items is begun divided by the implicit productive output~~
 157 ~~for the preceding calendar year. In no case may the commencement~~
 158 ~~of production begin later than 2 years following completion of~~
 159 ~~installation of the machinery or equipment.~~

160 2. ~~The amount of the exemption allowed shall equal the~~
 161 ~~taxes otherwise imposed by this chapter on qualifying industrial~~
 162 ~~machinery or equipment reduced by the percentage of gross~~
 163 ~~receipts from cost reimbursement type contracts attributable to~~
 164 ~~the plant or operation to total gross receipts so attributable,~~
 165 ~~accrued for the year of completion or commencement.~~

166 3. ~~The exemption provided by this paragraph shall inure to~~
 167 ~~the taxpayer only through refund of previously paid taxes. Such~~
 168 ~~refund shall be made within 30 days of formal approval by the~~

169 ~~department of the taxpayer's application, which application may~~
 170 ~~be made on an annual basis following installation of the~~
 171 ~~machinery or equipment.~~

172 4. ~~For the purposes of this paragraph, the term:~~

173 a. ~~"Cost reimbursement type contracts" has the same~~
 174 ~~meaning as in 32 C.F.R. s. 3-405.~~

175 b. ~~"Deflated implicit productive output" means the product~~
 176 ~~of implicit productive output times the quotient of the national~~
 177 ~~defense implicit price deflator for the preceding calendar year~~
 178 ~~divided by the deflator for the year of completion or~~
 179 ~~commencement.~~

180 c. ~~"Eligible costs" means the total direct and indirect~~
 181 ~~costs, as defined in 32 C.F.R. ss. 15-202 and 15-203, excluding~~
 182 ~~general and administrative costs, selling expenses, and profit,~~
 183 ~~defined by the uniform cost accounting standards adopted by the~~
 184 ~~Cost Accounting Standards Board created pursuant to 50 U.S.C. s.~~
 185 ~~2168.~~

186 d. ~~"Implicit productive output" means the annual eligible~~
 187 ~~costs attributable to all contracts or subcontracts subject to~~
 188 ~~federal procurement regulations of the single plant or operation~~
 189 ~~at which the machinery or equipment is used.~~

190 e. As used in this paragraph, the term "industrial
 191 machinery and equipment" means tangible personal property or
 192 other property that has a depreciable life of 3 years or more,
 193 that qualifies as an eligible cost under federal procurement
 194 regulations, and that is used as an integral part of the process
 195 of production of tangible personal property. A building and its
 196 structural components are not industrial machinery and equipment

197 unless the building or structural component is so closely
 198 related to the industrial machinery and equipment that it houses
 199 or supports that the building or structural component can be
 200 expected to be replaced when the machinery and equipment are
 201 replaced. Heating and air-conditioning systems are not
 202 industrial machinery and equipment unless the sole justification
 203 for their installation is to meet the requirements of the
 204 production process, even though the system may provide
 205 incidental comfort to employees or serve, to an insubstantial
 206 degree, nonproduction activities. The term includes parts and
 207 accessories only to the extent that the exemption of such parts
 208 and accessories is consistent with the provisions of this
 209 paragraph.

210 ~~f. "National defense implicit price deflator" means the~~
 211 ~~national defense implicit price deflator for the gross national~~
 212 ~~product as determined by the Bureau of Economic Analysis of the~~
 213 ~~United States Department of Commerce.~~

214 2.5- The exclusions provided in subparagraph (b)2. ~~(b)5-~~
 215 apply to this exemption. This exemption applies only to
 216 machinery or equipment purchased pursuant to production
 217 contracts with the United States Department of Defense and Armed
 218 Forces, the National Aeronautics and Space Administration, and
 219 other federal agencies for which the contracts are classified
 220 for national security reasons. ~~In no event shall the provisions~~
 221 ~~of this paragraph apply to any expanding business the increase~~
 222 ~~in productive output of which could be measured under the~~
 223 ~~provisions of sub-subparagraph (b)6.b. as physically comparable~~
 224 ~~between the two periods.~~

225 (h) Business property used in an enterprise zone.—
 226 1. Business property purchased for use by businesses
 227 located in an enterprise zone which is subsequently used in an
 228 enterprise zone shall be exempt from the tax imposed by this
 229 chapter. This exemption inures to the business only through a
 230 refund of previously paid taxes. A refund shall be authorized
 231 upon an affirmative showing by the taxpayer to the satisfaction
 232 of the department that the requirements of this paragraph have
 233 been met.
 234 2. To receive a refund, the business must file under oath
 235 with the governing body or enterprise zone development agency
 236 having jurisdiction over the enterprise zone where the business
 237 is located, as applicable, an application which includes:
 238 a. The name and address of the business claiming the
 239 refund.
 240 b. The identifying number assigned pursuant to s. 290.0065
 241 to the enterprise zone in which the business is located.
 242 c. A specific description of the property for which a
 243 refund is sought, including its serial number or other permanent
 244 identification number.
 245 d. The location of the property.
 246 e. The sales invoice or other proof of purchase of the
 247 property, showing the amount of sales tax paid, the date of
 248 purchase, and the name and address of the sales tax dealer from
 249 whom the property was purchased.
 250 f. Whether the business is a small business as defined by
 251 s. 288.703.
 252 g. If applicable, the name and address of each permanent

253 employee of the business, including, for each employee who is a
 254 resident of an enterprise zone, the identifying number assigned
 255 pursuant to s. 290.0065 to the enterprise zone in which the
 256 employee resides.

257 3. Within 10 working days after receipt of an application,
 258 the governing body or enterprise zone development agency shall
 259 review the application to determine if it contains all the
 260 information required pursuant to subparagraph 2. and meets the
 261 criteria set out in this paragraph. The governing body or agency
 262 shall certify all applications that contain the information
 263 required pursuant to subparagraph 2. and meet the criteria set
 264 out in this paragraph as eligible to receive a refund. If
 265 applicable, the governing body or agency shall also certify if
 266 20 percent of the employees of the business are residents of an
 267 enterprise zone, excluding temporary and part-time employees.
 268 The certification shall be in writing, and a copy of the
 269 certification shall be transmitted to the executive director of
 270 the Department of Revenue. The business shall be responsible for
 271 forwarding a certified application to the department within the
 272 time specified in subparagraph 4.

273 4. An application for a refund pursuant to this paragraph
 274 must be submitted to the department within 6 months after the
 275 tax is due on the business property that is purchased.

276 5. The amount refunded on purchases of business property
 277 under this paragraph shall be the lesser of 97 percent of the
 278 sales tax paid on such business property or \$5,000, or, if no
 279 less than 20 percent of the employees of the business are
 280 residents of an enterprise zone, excluding temporary and part-

281 time employees, the amount refunded on purchases of business
 282 property under this paragraph shall be the lesser of 97 percent
 283 of the sales tax paid on such business property or \$10,000. A
 284 refund approved pursuant to this paragraph shall be made within
 285 30 days after formal approval by the department of the
 286 application for the refund. A refund may not be granted under
 287 this paragraph unless the amount to be refunded exceeds \$100 in
 288 sales tax paid on purchases made within a 60-day time period.

289 6. The department shall adopt rules governing the manner
 290 and form of refund applications and may establish guidelines as
 291 to the requisites for an affirmative showing of qualification
 292 for exemption under this paragraph.

293 7. If the department determines that the business property
 294 is used outside an enterprise zone within 3 years from the date
 295 of purchase, the amount of taxes refunded to the business
 296 purchasing such business property shall immediately be due and
 297 payable to the department by the business, together with the
 298 appropriate interest and penalty, computed from the date of
 299 purchase, in the manner provided by this chapter.

300 Notwithstanding this subparagraph, business property used
 301 exclusively in:

- 302 a. Licensed commercial fishing vessels,
- 303 b. Fishing guide boats, or
- 304 c. Ecotourism guide boats

305 that leave and return to a fixed location within an area
 306 designated under s. 379.2353, Florida Statutes 2010, are
 307 eligible for the exemption provided under this paragraph if all
 308 requirements of this paragraph are met. Such vessels and boats

309 must be owned by a business that is eligible to receive the
 310 exemption provided under this paragraph. This exemption does not
 311 apply to the purchase of a vessel or boat.

312 8. The department shall deduct an amount equal to 10
 313 percent of each refund granted under this paragraph from the
 314 amount transferred into the Local Government Half-cent Sales Tax
 315 Clearing Trust Fund pursuant to s. 212.20 for the county area in
 316 which the business property is located and shall transfer that
 317 amount to the General Revenue Fund.

318 9. For the purposes of this exemption, "business property"
 319 means new or used property defined as "recovery property" in s.
 320 168(c) of the Internal Revenue Code of 1954, as amended, except:

321 a. Property classified as 3-year property under s.
 322 168(c)(2)(A) of the Internal Revenue Code of 1954, as amended;

323 b. Industrial machinery and equipment as defined in
 324 subparagraph (b)3. ~~sub-subparagraph (b)6.a.~~ and eligible for
 325 exemption under paragraph (b);

326 c. Building materials as defined in sub-subparagraph
 327 (g)8.a.; and

328 d. Business property having a sales price of under \$5,000
 329 per unit.

330 10. This paragraph expires on the date specified in s.
 331 290.016 for the expiration of the Florida Enterprise Zone Act.

332 Section 2. This act shall take effect upon becoming a law.



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COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Economic Development &
 2 Tourism Subcommittee
 3 Representative Magar offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

7 Section 1. Paragraphs (e) through (q) of subsection (5) of
 8 section 212.08, Florida Statutes, are redesignated as paragraphs
 9 (d) through (p), respectively, and paragraphs (b), (d), and (h)
 10 of that subsection and paragraph (f) of subsection (15) of that
 11 section are amended, to read:

12 212.08 Sales, rental, use, consumption, distribution, and
 13 storage tax; specified exemptions.—The sale at retail, the
 14 rental, the use, the consumption, the distribution, and the
 15 storage to be used or consumed in this state of the following
 16 are hereby specifically exempt from the tax imposed by this
 17 chapter.

18 (5) EXEMPTIONS; ACCOUNT OF USE.—

19 (b) Machinery and equipment used by manufacturers ~~to~~
 20 ~~increase productive output.~~—



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21 1. Industrial machinery and equipment purchased for
22 ~~exclusive use in this state by a new business in spaceport~~
23 ~~activities as defined by s. 212.02 or for use in new businesses~~
24 ~~that manufacture, process, compound, or produce for sale items~~
25 ~~of tangible personal property at fixed locations are exempt from~~
26 ~~the tax imposed by this chapter if, at the time of purchase, the~~
27 ~~purchaser furnishes the seller with a signed certificate stating~~
28 ~~that the items to be exempted are for exclusive use as provided~~
29 ~~in this paragraph. The certificate relieves the seller of the~~
30 ~~responsibility of collecting the tax on the sale of such items~~
31 ~~and the department shall look solely to the purchaser for~~
32 ~~recovery of the tax if it determines that the purchaser was not~~
33 ~~entitled to the exemption upon an affirmative showing by the~~
34 ~~taxpayer to the satisfaction of the department that such items~~
35 ~~are used in a new business in this state. Such purchases must be~~
36 ~~made before the date the business first begins its productive~~
37 ~~operations, and delivery of the purchased item must be made~~
38 ~~within 12 months after that date.~~

39 ~~2. Industrial machinery and equipment purchased for~~
40 ~~exclusive use by an expanding facility which is engaged in~~
41 ~~spaceport activities as defined by s. 212.02 or for use in~~
42 ~~expanding manufacturing facilities or plant units which~~
43 ~~manufacture, process, compound, or produce for sale items of~~
44 ~~tangible personal property at fixed locations in this state are~~
45 ~~exempt from any amount of tax imposed by this chapter upon an~~
46 ~~affirmative showing by the taxpayer to the satisfaction of the~~
47 ~~department that such items are used to increase the productive~~



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48 ~~output of such expanded facility or business by not less than 5~~
49 ~~percent.~~

50 ~~3.a. To receive an exemption provided by subparagraph 1.~~
51 ~~or subparagraph 2., a qualifying business entity shall apply to~~
52 ~~the department for a temporary tax exemption permit. The~~
53 ~~application shall state that a new business exemption or~~
54 ~~expanded business exemption is being sought. Upon a tentative~~
55 ~~affirmative determination by the department pursuant to~~
56 ~~subparagraph 1. or subparagraph 2., the department shall issue~~
57 ~~such permit.~~

58 ~~b. The applicant shall maintain all necessary books and~~
59 ~~records to support the exemption. Upon completion of purchases~~
60 ~~of qualified machinery and equipment pursuant to subparagraph 1.~~
61 ~~or subparagraph 2., the temporary tax permit shall be delivered~~
62 ~~to the department or returned to the department by certified or~~
63 ~~registered mail.~~

64 ~~c. If, in a subsequent audit conducted by the department,~~
65 ~~it is determined that the machinery and equipment purchased as~~
66 ~~exempt under subparagraph 1. or subparagraph 2. did not meet the~~
67 ~~criteria mandated by this paragraph or if commencement of~~
68 ~~production did not occur, the amount of taxes exempted at the~~
69 ~~time of purchase shall immediately be due and payable to the~~
70 ~~department by the business entity, together with the appropriate~~
71 ~~interest and penalty, computed from the date of purchase, in the~~
72 ~~manner prescribed by this chapter.~~

73 ~~d. If a qualifying business entity fails to apply for a~~
74 ~~temporary exemption permit or if the tentative determination by~~
75 ~~the department required to obtain a temporary exemption permit~~



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76 ~~is negative, a qualifying business entity shall receive the~~
77 ~~exemption provided in subparagraph 1. or subparagraph 2. through~~
78 ~~a refund of previously paid taxes. No refund may be made for~~
79 ~~such taxes unless the criteria mandated by subparagraph 1. or~~
80 ~~subparagraph 2. have been met and commencement of production has~~
81 ~~occurred.~~

82 ~~4. The department shall adopt rules governing applications~~
83 ~~for, issuance of, and the form of temporary tax exemption~~
84 ~~permits; provisions for recapture of taxes; and the manner and~~
85 ~~form of refund applications, and may establish guidelines as to~~
86 ~~the requisites for an affirmative showing of increased~~
87 ~~productive output, commencement of production, and qualification~~
88 ~~for exemption.~~

89 ~~2.5. The exemption does exemptions provided in~~
90 ~~subparagraphs 1. and 2. do not apply to machinery or equipment~~
91 ~~purchased or used by electric utility companies, communications~~
92 ~~companies, oil or gas exploration or production operations,~~
93 ~~publishing firms that do not export at least 50 percent of their~~
94 ~~finished product out of the state, any firm subject to~~
95 ~~regulation by the Division of Hotels and Restaurants of the~~
96 ~~Department of Business and Professional Regulation, or any firm~~
97 ~~that does not manufacture, process, compound, or produce for~~
98 ~~sale items of tangible personal property or that does not use~~
99 ~~such machinery and equipment in spaceport activities as required~~
100 ~~by this paragraph. The exemption applies exemptions provided in~~
101 ~~subparagraphs 1. and 2. shall apply to machinery and equipment~~
102 ~~purchased for use in phosphate or other solid minerals~~
103 ~~severance, mining, or processing operations.~~



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104 ~~3.6.~~ For the purposes of the exemption, the term
105 ~~exemptions provided in subparagraphs 1. and 2., these terms have~~
106 ~~the following meanings:~~

107 a. "Industrial machinery and equipment" means tangible
108 personal property or other property that has a depreciable life
109 of 3 years or more and ~~that~~ is used as an integral part in the
110 manufacturing, processing, compounding, or production of
111 tangible personal property for sale ~~or is exclusively used in~~
112 ~~spaceport activities.~~ A building and its structural components
113 are not industrial machinery and equipment unless the building
114 or structural component is so closely related to the industrial
115 machinery and equipment that it houses or supports that the
116 building or structural component can be expected to be replaced
117 when the machinery and equipment are replaced. Heating and air-
118 conditioning systems are not industrial machinery and equipment
119 unless the sole justification for their installation is to meet
120 the requirements of the production process, even though the
121 system may provide incidental comfort to employees or serve, to
122 an insubstantial degree, nonproduction activities. The term
123 includes parts and accessories for industrial machinery and
124 equipment ~~only to the extent that the exemption thereof is~~
125 ~~consistent with the provisions of this paragraph.~~

126 b. ~~"Productive output" means the number of units actually~~
127 ~~produced by a single plant, operation, or product line in a~~
128 ~~single continuous 12-month period, irrespective of sales.~~
129 ~~Increases in productive output shall be measured by the output~~
130 ~~for 12 continuous months selected by the expanding business~~
131 ~~after completion of the installation of such machinery or~~



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132 ~~equipment over the output for the 12 continuous months~~
133 ~~immediately preceding such installation. However, in no case may~~
134 ~~such time period begin later than 2 years after completion of~~
135 ~~the installation of the new machinery and equipment. The units~~
136 ~~used to measure productive output shall be physically comparable~~
137 ~~between the two periods, irrespective of sales.~~

138 ~~(d) Machinery and equipment used under federal procurement~~
139 ~~contract.—~~

140 ~~1. Industrial machinery and equipment purchased by an~~
141 ~~expanding business which manufactures tangible personal property~~
142 ~~pursuant to federal procurement regulations at fixed locations~~
143 ~~in this state are exempt from the tax imposed in this chapter~~
144 ~~upon an affirmative showing by the taxpayer to the satisfaction~~
145 ~~of the department that such items are used to increase the~~
146 ~~implicit productive output of the expanded business by not less~~
147 ~~than 10 percent. The percentage of increase is measured as~~
148 ~~deflated implicit productive output for the calendar year during~~
149 ~~which the installation of the machinery or equipment is~~
150 ~~completed or during which commencement of production utilizing~~
151 ~~such items is begun divided by the implicit productive output~~
152 ~~for the preceding calendar year. In no case may the commencement~~
153 ~~of production begin later than 2 years following completion of~~
154 ~~installation of the machinery or equipment.~~

155 ~~2. The amount of the exemption allowed shall equal the~~
156 ~~taxes otherwise imposed by this chapter on qualifying industrial~~
157 ~~machinery or equipment reduced by the percentage of gross~~
158 ~~receipts from cost reimbursement type contracts attributable to~~



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159 ~~the plant or operation to total gross receipts so attributable,~~
160 ~~accrued for the year of completion or commencement.~~

161 ~~3. The exemption provided by this paragraph shall inure to~~
162 ~~the taxpayer only through refund of previously paid taxes. Such~~
163 ~~refund shall be made within 30 days of formal approval by the~~
164 ~~department of the taxpayer's application, which application may~~
165 ~~be made on an annual basis following installation of the~~
166 ~~machinery or equipment.~~

167 ~~4. For the purposes of this paragraph, the term:~~

168 ~~a. "Cost reimbursement type contracts" has the same~~
169 ~~meaning as in 32 C.F.R. s. 3-405.~~

170 ~~b. "Deflated implicit productive output" means the product~~
171 ~~of implicit productive output times the quotient of the national~~
172 ~~defense implicit price deflator for the preceding calendar year~~
173 ~~divided by the deflator for the year of completion or~~
174 ~~commencement.~~

175 ~~c. "Eligible costs" means the total direct and indirect~~
176 ~~costs, as defined in 32 C.F.R. ss. 15-202 and 15-203, excluding~~
177 ~~general and administrative costs, selling expenses, and profit,~~
178 ~~defined by the uniform cost accounting standards adopted by the~~
179 ~~Cost Accounting Standards Board created pursuant to 50 U.S.C. s.~~
180 ~~2168.~~

181 ~~d. "Implicit productive output" means the annual eligible~~
182 ~~costs attributable to all contracts or subcontracts subject to~~
183 ~~federal procurement regulations of the single plant or operation~~
184 ~~at which the machinery or equipment is used.~~

185 ~~e. "Industrial machinery and equipment" means tangible~~
186 ~~personal property or other property that has a depreciable life~~



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187 ~~of 3 years or more, that qualifies as an eligible cost under~~
188 ~~federal procurement regulations, and that is used as an integral~~
189 ~~part of the process of production of tangible personal property.~~
190 ~~A building and its structural components are not industrial~~
191 ~~machinery and equipment unless the building or structural~~
192 ~~component is so closely related to the industrial machinery and~~
193 ~~equipment that it houses or supports that the building or~~
194 ~~structural component can be expected to be replaced when the~~
195 ~~machinery and equipment are replaced. Heating and air-~~
196 ~~conditioning systems are not industrial machinery and equipment~~
197 ~~unless the sole justification for their installation is to meet~~
198 ~~the requirements of the production process, even though the~~
199 ~~system may provide incidental comfort to employees or serve, to~~
200 ~~an insubstantial degree, nonproduction activities. The term~~
201 ~~includes parts and accessories only to the extent that the~~
202 ~~exemption of such parts and accessories is consistent with the~~
203 ~~provisions of this paragraph.~~

204 ~~f. "National defense implicit price deflator" means the~~
205 ~~national defense implicit price deflator for the gross national~~
206 ~~product as determined by the Bureau of Economic Analysis of the~~
207 ~~United States Department of Commerce.~~

208 ~~5. The exclusions provided in subparagraph (b)5. apply to~~
209 ~~this exemption. This exemption applies only to machinery or~~
210 ~~equipment purchased pursuant to production contracts with the~~
211 ~~United States Department of Defense and Armed Forces, the~~
212 ~~National Aeronautics and Space Administration, and other federal~~
213 ~~agencies for which the contracts are classified for national~~
214 ~~security reasons. In no event shall the provisions of this~~



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215 ~~paragraph apply to any expanding business the increase in~~
216 ~~productive output of which could be measured under the~~
217 ~~provisions of sub-subparagraph (b)6.b. as physically comparable~~
218 ~~between the two periods.~~

219 ~~(g)(h)~~ Business property used in an enterprise zone.-

220 1. Business property purchased for use by businesses
221 located in an enterprise zone which is subsequently used in an
222 enterprise zone is ~~shall be~~ exempt from the tax imposed by this
223 chapter. This exemption inures to the business only through a
224 refund of previously paid taxes. A refund shall be authorized
225 upon an affirmative showing by the taxpayer, to the satisfaction
226 of the department, that the requirements of this paragraph have
227 been met.

228 2. To receive a refund, the business must file ~~under oath~~
229 with the governing body or enterprise zone development agency
230 that has ~~having~~ jurisdiction over the enterprise zone where the
231 business is located, as applicable, an application, under oath,
232 which includes:

233 a. The name and address of the business claiming the
234 refund.

235 b. The identifying number assigned pursuant to s. 290.0065
236 to the enterprise zone in which the business is located.

237 c. A specific description of the property for which a
238 refund is sought, including its serial number or other permanent
239 identification number.

240 d. The location of the property.

241 e. The sales invoice or other proof of purchase of the
242 property, showing the amount of sales tax paid, the date of



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243 purchase, and the name and address of the sales tax dealer from
244 whom the property was purchased.

245 f. Whether the business is a small business as defined by
246 s. 288.703.

247 g. If applicable, the name and address of each permanent
248 employee of the business, including, for each employee who is a
249 resident of an enterprise zone, the identifying number assigned
250 pursuant to s. 290.0065 to the enterprise zone in which the
251 employee resides.

252 3. Within 10 working days after receipt of an application,
253 the governing body or enterprise zone development agency shall
254 review the application to determine if it contains all the
255 information required pursuant to subparagraph 2. and meets the
256 criteria set out in this paragraph. The governing body or agency
257 shall certify all applications that contain the information
258 required pursuant to subparagraph 2. and meet the criteria set
259 out in this paragraph as eligible to receive a refund. If
260 applicable, the governing body or agency shall also certify if
261 20 percent of the employees of the business are residents of an
262 enterprise zone, excluding temporary and part-time employees.
263 The certification must ~~shall~~ be in writing, and a copy of the
264 certification must ~~shall~~ be transmitted to the executive
265 director of the Department of Revenue. The business is ~~shall be~~
266 responsible for forwarding a certified application to the
267 department within the time specified in subparagraph 4.

268 4. An application for a refund pursuant to this paragraph
269 must be submitted to the department within 6 months after the
270 tax is due on the business property that is purchased.



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271 5. The amount refunded on purchases of business property
272 under this paragraph shall be the lesser of 97 percent of the
273 sales tax paid on such business property or \$5,000, or, if ~~no~~
274 ~~less than~~ 20 percent or more of the employees of the business
275 are residents of an enterprise zone, excluding temporary and
276 part-time employees, the amount ~~refunded on purchases of~~
277 ~~business property under this paragraph~~ shall be the lesser of 97
278 percent of the sales tax paid on such business property or
279 \$10,000. A refund must ~~approved pursuant to this paragraph~~ shall
280 be made within 30 days after formal approval by the department
281 of the application for the refund. A refund may not be granted
282 ~~under this paragraph~~ unless the amount to be refunded exceeds
283 \$100 in sales tax paid on purchases made within a 60-day time
284 period.

285 6. The department shall adopt rules governing the manner
286 and form of refund applications and may establish guidelines as
287 to the requisites for an affirmative showing of qualification
288 for exemption under this paragraph.

289 7. If the department determines that the business property
290 is used outside an enterprise zone within 3 years after ~~from~~ the
291 date of purchase, the amount of taxes refunded to the business
292 purchasing such business property is ~~shall~~ immediately ~~be~~ due
293 and payable to the department by the business, together with the
294 appropriate interest and penalty, computed from the date of
295 purchase, in the manner provided by this chapter.

296 Notwithstanding this subparagraph, business property used
297 exclusively in:

298 a. Licensed commercial fishing vessels,



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299 b. Fishing guide boats, or

300 c. Ecotourism guide boats

301

302 that leave and return to a fixed location within an area
303 designated under s. 379.2353, Florida Statutes 2010, are
304 eligible for the exemption ~~provided under this paragraph~~ if all
305 requirements of this paragraph are met. Such vessels and boats
306 must be owned by a business that is eligible to receive the
307 exemption ~~provided under this paragraph~~. This exemption does not
308 apply to the purchase of a vessel or boat.

309 8. The department shall deduct an amount equal to 10
310 percent of each refund granted under this paragraph from the
311 amount transferred into the Local Government Half-cent Sales Tax
312 Clearing Trust Fund pursuant to s. 212.20 for the county area in
313 which the business property is located and shall transfer that
314 amount to the General Revenue Fund.

315 9. For the purposes of this exemption, the term "business
316 property" means new or used property defined as "recovery
317 property" in s. 168(c) of the Internal Revenue Code of 1954, as
318 amended, except:

319 a. Property classified as 3-year property under s.
320 168(c)(2)(A) of the Internal Revenue Code of 1954, as amended;

321 b. Industrial machinery and equipment as defined in
322 subparagraph (b)3. ~~sub-subparagraph (b)6.a.~~ and eligible for
323 exemption under paragraph (b);

324 c. Building materials as defined in sub-subparagraph
325 (g)8.a.; and



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326 d. Business property having a sales price of under \$5,000
327 per unit.

328 10. This paragraph expires on the date specified in s.
329 290.016 for the expiration of the Florida Enterprise Zone Act.

330 (15) ELECTRICAL ENERGY USED IN AN ENTERPRISE ZONE.—

331 (f) For the purpose of the exemption provided in this
332 subsection, the term "qualified business" means a business that
333 which is:

334 1. First occupying a new structure to which electrical
335 service, other than that used for construction purposes, has not
336 been previously provided or furnished;

337 2. Newly occupying an existing, remodeled, renovated, or
338 rehabilitated structure to which electrical service, other than
339 that used for remodeling, renovation, or rehabilitation of the
340 structure, has not been provided or furnished in the three
341 preceding billing periods; or

342 3. Occupying a new, remodeled, rebuilt, renovated, or
343 rehabilitated structure for which a refund has been granted
344 pursuant to paragraph (5)(f) ~~(5)(g)~~.

345 Section 2. Section 212.0602, Florida Statutes, is amended
346 to read:

347 212.0602 Education; limited exemption.—To facilitate
348 investment in education and job training, there is also exempt
349 from the taxes levied under this chapter, subject to the
350 provisions of this section, the purchase or lease of materials,
351 equipment, and other items or the license in or lease of real
352 property by any entity, institution, or organization that is
353 primarily engaged in teaching students to perform any of the



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354 activities or services described in s. 212.031(1)(a)9., that
355 conducts classes at a fixed location located in this state, that
356 is licensed under chapter 1005, and that has at least 500
357 enrolled students. Any entity, institution, or organization
358 meeting the requirements of this section shall be deemed to
359 qualify for the exemptions under ~~in~~ ss. 212.031(1)(a)9. and
360 212.08(5)(e) ~~212.08(5)(f)~~ and (12), and to qualify for an
361 exemption for its purchase or lease of materials, equipment, and
362 other items used for education or demonstration of the school's
363 curriculum, including supporting operations. ~~Nothing in This~~
364 section does not shall preclude an entity described in this
365 section from qualifying for any other exemption provided under
366 ~~for in~~ this chapter.

367 Section 3. Paragraph (c) of subsection (1) of section
368 220.183, Florida Statutes, is amended to read:

369 220.183 Community contribution tax credit.—

370 (1) AUTHORIZATION TO GRANT COMMUNITY CONTRIBUTION TAX
371 CREDITS; LIMITATIONS ON INDIVIDUAL CREDITS AND PROGRAM
372 SPENDING.—

373 (c) The total amount of tax credit which may be granted
374 for all programs approved under this section, s. 212.08(5)(o)
375 ~~212.08(5)(p)~~, and s. 624.5105 is \$10.5 million annually for
376 projects that provide homeownership opportunities for low-income
377 households or very-low-income households as those terms are
378 defined in s. 420.9071~~(19)~~ and ~~(28)~~ and \$3.5 million annually
379 for all other projects.

380 Section 4. Paragraph (a) of subsection (9) of section
381 290.0056, Florida Statutes, is amended to read:



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382 290.0056 Enterprise zone development agency.—

383 (9) The following powers and responsibilities shall be
384 performed by the governing body creating the enterprise zone
385 development agency acting as the managing agent of the
386 enterprise zone development agency, or, contingent upon approval
387 by such governing body, such powers and responsibilities shall
388 be performed by the enterprise zone development agency:

389 (a) To review, process, and certify applications for state
390 enterprise zone tax incentives pursuant to ss. 212.08(5)(f), (g)
391 ~~212.08(5)(g), (h)~~, and (15); 212.096; 220.181; and 220.182.

392 Section 5. Subsections (4) and (5) of section 290.007,
393 Florida Statutes, are amended to read:

394 290.007 State incentives available in enterprise zones.—
395 The following incentives are provided by the state to encourage
396 the revitalization of enterprise zones:

397 (4) The sales tax exemption for building materials used in
398 the rehabilitation of real property in enterprise zones provided
399 in s. 212.08(5)(f) ~~212.08(5)(g)~~.

400 (5) The sales tax exemption for business equipment used in
401 an enterprise zone provided in s. 212.08(5)(g) ~~212.08(5)(h)~~.

402 Section 6. Paragraph (c) of subsection (1) of section
403 624.5105, Florida Statutes, is amended to read:

404 624.5105 Community contribution tax credit; authorization;
405 limitations; eligibility and application requirements;
406 administration; definitions; expiration.—

407 (1) AUTHORIZATION TO GRANT TAX CREDITS; LIMITATIONS.—

408 (c) The total amount of tax credit which may be granted
409 for all programs approved under this section and ss.



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410 212.08(5)(o) ~~212.08(5)(p)~~ and 220.183 is \$10.5 million annually
 411 for projects that provide homeownership opportunities for low-
 412 income households or very-low-income households as those terms
 413 are defined in s. 420.9071~~(19)~~ and ~~(28)~~ and \$3.5 million
 414 annually for all other projects.

415 Section 7. Subsection (1) of section 1011.94, Florida
 416 Statutes, is amended to read:

417 1011.94 University Major Gifts Program.—

418 (1) The ~~There is established~~ a University Major Gifts
 419 Program is established. The purpose of the program is to enable
 420 each university to provide donors with an incentive in the form
 421 of matching grants for donations for the establishment of
 422 permanent endowments and sales tax exemption matching funds
 423 received pursuant to s. 212.08(5)(i) ~~212.08(5)(j)~~, which must be
 424 invested, with the proceeds of the investment used to support
 425 libraries and instruction and research programs, as defined by
 426 the Board of Governors.

427 Section 8. This act shall take effect upon becoming a law.
 428
 429
 430
 431

T I T L E A M E N D M E N T

434 Remove everything before the enacting clause and insert:
 435 An act relating to exemptions from the tax on sales, use, and
 436 other transactions; amending s. 212.08, F.S.; revising the sales
 437 tax exemption for certain business purchases of industrial



Amendment No.

438 machinery and equipment; deleting certain limitations on, and
439 procedural requirements relating to, the exemption; deleting the
440 sales tax exemption for machinery and equipment used for certain
441 federal procurement contracts; conforming cross-references;
442 amending ss. 212.0602, 220.183, 290.0056, 290.007, 627.5105, and
443 1011.94, F.S.; conforming cross-references; providing an
444 effective date

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1199 Black Cultural Tourism Enhancement Commission
SPONSOR(S): Stewart and others
TIED BILLS: IDEN./SIM. **BILLS:** CS/CS/SB 442

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Economic Development & Tourism Subcommittee		Duncan	West RW
2) Transportation & Economic Development Appropriations Subcommittee		<i>pdd</i>	
3) Economic Affairs Committee			

SUMMARY ANALYSIS

The bill creates the Black Cultural Tourism Enhancement Commission (commission) administratively housed within the Department of State (DOS) operating as an independent entity in the exercise of its powers and duties. However, DOS is required to provide administrative and staff support services to the commission. The bill directs the commission to carry out specific duties including:

- Providing financial and technical support services to facilities and events that have the potential to expand tourism, create jobs, and stimulate economic development by marketing the state's black cultural sites.
- Serving as a resource for the Florida Tourism Industry Marketing Corporation (VISIT Florida) in order to expand cultural tourism in the state.

Commission members must serve without composition, but are entitled to reimbursement for per diem travel expenses.

The commission is authorized to establish or designate a direct-support organization for the purpose of receiving grants, bequests, and other resources to support the state's black cultural sites and other functions performed by the commission.

The fiscal impact to the state is unknown at this time.

The bill provides an effective date of July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

State Cultural Programs

The Florida Arts and Culture Act (Act)¹ provides that the state will provide support for, and gain national and international recognition of, the efforts, works, and performances of Florida artists, art agencies, museums, and nonprofit organizations. Furthermore, it is the intent of the Legislature to foster and ensure, through the state arts administrative agency programs, that arts and culture have a significant and positive effect on Florida residents.²

The Act also provides that the Secretary of State is the chief cultural officer of the state. The Division of Cultural Affairs (Division) is designated as the state arts administrative agency and is overseen by a Director who serves at the pleasure of the secretary.³ The Division is required to directly administer and oversee all of the programs authorized by the Act and is directed to:⁴

- Accept and administer state and federal funds appropriated by the Legislature, or funds from other public or private sources;
- Enter into agreements for awarding grants or other contracts with any person, firm, performing arts company, educational institution, arts organization, corporation, or governmental agency as may be necessary to carry out the functions under the Act;
- Accept on behalf of the state donations or money, property, art objects, and antiquities;
- Sponsor performances and exhibits; promote and encourage the study and appreciation of arts and culture; and collect, publish, and print pamphlets, papers, newsletters, and other materials relating to arts and cultural programs available throughout the state;
- Conduct and support cultural programs and cultural exchanges in conjunction with the appropriate state agencies and other organizations; and
- Adopt rules pursuant to ss. 120.536(1) and 120.54, F. S., to implement provisions of law.

The grants and award programs administered by the Division include:

Cultural Endowment Program – The purpose of this program is to create an endowment matching funds provide operating resources to participating cultural organizations. Organizations eligible to be designated a Cultural Sponsoring Organization must meet requirements of the Division.⁵ Eligible organizations may receive a \$240,000 state matching share of funding, which must be approved by the Legislature. This program has not been funded since 2002.⁶

Cultural Facilities Program - The purpose of this program is to coordinate and guide the state's support and funding of renovation, new construction, or acquisition of cultural facilities. The Florida Council on Arts and Culture ranks the applicants and forwards the list to the Secretary of State who reviews and

¹ Section 265.81, F.S.

² Section 265.282, F.S.

³ Section 265.284(1) and (20, F.S.

⁴ Section 265.284(3), F.S.

⁵ Florida Department of State, Division of Cultural Affairs, *Cultural Endowment Program, Guidelines and Application*, available at <http://www.florida-arts.org/documents/guidelines/EndowmentGuidelines07.pdf>.

⁶ Florida Department of State, Division of Cultural Affairs, *2013-2014 Cultural Endowment, Priority List for State Matching Share*, available at <http://www.florida-arts.org/documents/grantreports/lists/2014.endowment-ranked-list.cfm> (last visited April 8, 2013).

approves the ranked list to be included the Department of State's legislative budget request.⁷ To date, \$3,630,822 has been awarded.⁸

General Program Support Grants – This program is designed to support the general program activities of an organization that is realizing its stated mission and furthering the state's cultural objectives by conducting, creating, producing, presenting or sponsoring cultural exhibits, performances, educational programs, or events; or providing services as a State Service Organization or Local Arts Agency.⁹ The Florida Council on Arts and Culture ranks the applicants and forwards the list to the Secretary of State who reviews and approves the ranked list to be included the Department of State's legislative budget request.¹⁰ To date, \$5 million has been awarded.¹¹

Specific Cultural Project Grants – This grant is designed to fund a cultural project, program, exhibition, or series taking place within the grant period (July 1 through June 30). The grant activities must support the mission of the organization and further the state's cultural objectives. The four project types are: Arts in Education; Discipline-Based; Culture Builds Florida; and Underserved Cultural Community Development.¹² The Florida Council on Arts and Culture ranks the applicants and forwards the list to the Secretary of State who reviews and approves the ranked list to be included the Department of State's legislative budget request.¹³ No awards have been made to date.¹⁴

State Touring Program – The purpose of the Program is to bring live performances to the state. Florida-based artists or companies that are available for touring apply to be on the roster. A peer review panel meets every two years to select a new roster.¹⁵ Awards for funding this program during FY 2012-2013 have not yet been determined.¹⁶

Individual Artist Fellowship – This grant supports individuals of exceptional talent and demonstrated ability. Fellowship awards support the general artistic and career advancement of the artist.¹⁷ Awards for funding this program during FY 2012-2013 have not yet been determined.¹⁸

Florida Council on Arts and Culture

The Florida Council on Arts and Culture (Council) is a 15-member advisory body created within the Department of State body that reviews and makes recommendations for the award of grants. The Council consists of 15 members as follows.¹⁹

- Seven members appointed by the Governor;
- Four members appointed by the President of the Senate; and
- Four members appointed by the Speaker of the House of Representatives.

⁷ Florida Department of State, Division of Cultural Affairs, *2014-2015 Cultural Facilities Grant Guidelines*, available at <http://www.florida-arts.org/documents/guidelines/2014-2015.cf.guidelines.cfm#purpose> (last visited April 8, 2013).

⁸ Florida Department of State, Division of Cultural Affairs, *Grant Awards and Recommendations* available at <http://www.florida-arts.org/resources/awards/> (last visited April 8, 2013).

⁹ Florida Department of State, Division of Cultural Affairs, *General Program Support*, available at <http://www.florida-arts.org/programs/gps/> (last visited April 8, 2013).

¹⁰ Florida Department of State, Division of Cultural Affairs, *2014-2015 General Program Support Grant Guidelines*, available at <http://www.florida-arts.org/documents/guidelines/2014-2015.gps.guidelines.cfm> (last visited April 8, 2013).

¹¹ *Supra* Note 8.

¹² Florida Department of State, Division of Cultural Affairs, *Specific Cultural Project*, available at <http://www.florida-arts.org/programs/scp/> (last visited April 8, 2013).

¹³ Florida Department of State, Division of Cultural Affairs, *2013-2014 Specific Cultural Project Grant Guidelines*, available at <http://www.florida-arts.org/documents/guidelines/2013-2014.scp.guidelines.cfm> (last visited April 8, 2013).

¹⁴ *Supra* note 8.

¹⁵ Florida Department of State, Division of Cultural Affairs, *State Touring*, available at <http://www.florida-arts.org/programs/touring/> (last visited April 8, 2013).

¹⁶ *Supra* note 8.

¹⁷ Florida Department of State, Division of Cultural Affairs, *Individual Artist Fellowship*, available at <http://www.florida-arts.org/programs/fellowship/> (last visited April 8, 2013).

¹⁸ *Supra* note 8.

¹⁹ Section 265.285, F.S.

Members appointed should have a substantial history of community service in the performing or visual arts. In addition, it is desirable that members have successfully served on boards of cultural institutions such as museums and performing arts centers or are recognized as patrons of the arts.²⁰

The specific duties of the Council include:²¹

- Advocating for arts and culture by encouraging the study and presentation of arts and cultural activities that are of public interest;
- Advising the Secretary of State in all matters pertaining to arts and cultural programs;
- Encouraging the participation in and appreciation of the arts to meet the needs and aspirations of persons in all parts of the state;
- Advising the Secretary of State in all matters concerning the awarding of grants;
- Promoting the enhancement and beautification of the interiors of the Capitol Building and other public buildings; and
- Reviewing applications for grants for the acquisition, renovation, or construction of cultural facilities and make recommendations for the award of such grants.

In 2005, the Council published "Culture Builds Florida"²² a strategic plan for continuing the development of arts and culture in the state and the benefits they bring to the state's economy. The plan focused on four key areas: strengthening the economy, learning and wellness, design and development, and leadership.²³

Florida Tourism Promotion

Florida's tourism promotion and marketing services, functions, and programs are carried out by VISIT Florida in conjunction with Enterprise Florida, Inc.'s, Division of Tourism Marketing.²⁴ The Florida Tourism Industry Marketing Corporation, known as VISIT Florida, is a public-private partnership, operating as a direct-support organization under contract with Enterprise Florida, Inc.²⁵ VISIT Florida is overseen by a 31-member board of directors, appointed by Enterprise Florida, Inc., and the Department of Economic Opportunity, who are tourism-industry professionals from regions across the state.²⁶

VISIT Florida and Enterprise Florida, Inc.'s, Division of Tourism Marketing are jointly responsible for developing a 4-year marketing plan for the purposes of marketing the state's tourism assets. The marketing plan must address the following:²⁷

- Continuation of overall tourism growth;
- Expansion to new or under-represented tourist markets;
- Maintenance of traditional and loyal tourist markets;
- Coordination of efforts with county destination marketing organizations, other local government marketing groups, privately owned attractions and designations, and other private sector partners to create a four-season advertising campaign;
- Development of innovative techniques or promotions to build repeat visitation by targeted segments of the tourist population;
- Consideration of innovative sources of state funding for tourism marketing;
- Promotion of nature-based tourism and heritage tourism; and
- Development of a component to address emergency response to natural and manmade disasters from a marketing standpoint.

²⁰ *Id.*

²¹ Section 265.285(2), F.S.

²² Florida Department of State, Division of Cultural Affairs, *Culture Builds Florida*, available at <http://www.florida-arts.org/documents/CBFFvisioningbook.pdf>.

²³ Florida Department of State, Division of Cultural Affairs, *Our Strategic Plan*, available at <http://www.florida-arts.org/about/strategicplan/> (last visited April 8, 2013).

²⁴ Section 288.923, F.S.

²⁵ Section 288.1226, F.S.

²⁶ Section 288.1226(4), F.S.

²⁷ Section 288.923(4)(c), F.S.

The plan must be annual in construction and ongoing in nature. The plan must also include recommendations for specific performance standards and measurable outcomes for the divisions and direct-support organization.²⁸

Effect of Proposed Changes

The bill creates the Black Cultural Tourism Enhancement Commission (commission) administratively housed within the Department of State (DOS) operating as an independent entity in the exercise of its powers and duties. However, DOS is required to provide administrative and staff support services to the commission. The bill directs the commission to:

- Provide financial and technical support services to facilities and events that have the potential to expand tourism, create jobs, and stimulate economic development by marketing the state's black cultural sites.
- Provide training and technical assistance for staff at the state's black cultural tourism sites in order to develop tour guides and tour operators for the sites.
- Provide resources and technical assistance to educators for teaching black history, promoting the state's black cultural sites as historic venues, and supporting tourism through student tours of black cultural and historical sites.
- Serve as a resource for the Florida Tourism Industry Marketing Corporation (VISIT Florida) in order to expand cultural tourism in the state.

The commission is composed of 13 members and includes the following:

- Three members appointed by the Governor.
- Two members appointed by the President of the Senate.
- Two members appointed by the Speaker of the House of Representatives.
- Two members appointed by the Secretary of State.
- Two members appointed by the Commissioner of Education.
- Two members appointed by the Florida Conference of Black State Legislators.

Commission members must serve without composition, but are entitled to reimbursement for per diem travel expenses.

The commission is authorized to establish or designate a direct-support organization for the purpose of receiving grants, bequests, and other resources to support the state's black cultural sites and other functions performed by the commission.

B. SECTION DIRECTORY:

Section 1: Creates the 13-member Black Cultural Tourism Enhancement Commission administratively housed within the Department of State.

Section 2: Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

²⁸ Section 288.923(4)(c)2., F.S.
STORAGE NAME: h1199.EDTS.DOCX
DATE: 4/8/2013

The impact to the Department of State depends upon how often the commission meets, as well as the location, types of meetings, and the staff required to support the commission's activities.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill does not provide the terms or reappointment of the commission members.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

29 (b) Provide training and technical assistance for staff
 30 members of the state's black cultural sites in order to develop
 31 tour guides and tour operators for the sites.

32 (c) Provide resources and technical assistance for
 33 educators of the state related to the teaching of black history,
 34 promote the state's black cultural sites as historical venues,
 35 and support tourism in the state through student tours of the
 36 sites.

37 (d) Serve as a resource for the Florida Tourism Industry
 38 Marketing Corporation in order to expand cultural tourism in the
 39 state.

40 (3) The commission is composed of the following members:

41 (a) Three members appointed by the Governor.

42 (b) Two members appointed by the President of the Senate.

43 (c) Two members appointed by the Speaker of the House of
 44 Representatives.

45 (d) Two members appointed by the Secretary of State.

46 (e) Two members appointed by the Commissioner of
 47 Education.

48 (f) Two members appointed by the Florida Conference of
 49 Black State Legislators.

50 (4) Members of the commission shall serve without
 51 compensation but are entitled to reimbursement for per diem and
 52 travel expenses as provided in s. 112.061, Florida Statutes.

53 (5) The commission may establish or designate a direct-
 54 support organization that may receive grants, bequests, and
 55 other resources to support the state's black cultural sites and
 56 the functions of the commission.

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2013

57

Section 2. This act shall take effect July 1, 2013.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1219 Office of Faith-Based and Community Initiatives
SPONSOR(S): Bracy
TIED BILLS: IDEN./SIM. **BILLS:** SB 1158

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Economic Development & Tourism Subcommittee		Collins DC	West RW
2) Transportation & Economic Development Appropriations Subcommittee			
3) Economic Affairs Committee			

SUMMARY ANALYSIS

House Bill 1219 creates the Office of Faith-Based and Community Initiatives within the Department of Economic Opportunity (DEO).

See Fiscal Comments.

This bill has an effective date of July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida Faith-Based and Community-Based Advisory Council

The Florida Faith-Based and Community-Based Advisory Council (council)¹ was created by Executive Order of the Governor in November 2004 to help state government coordinate to efforts to partner with faith-based and community-based organizations to address social needs within Florida communities.² The Legislature codified this order in 2006.³

The council consists of a 25-member board of advisors which may include representatives from various faiths, faith-based organizations, foundations, corporations and municipalities. The Governor is responsible for appointing 17 members; the Speaker of the House of Representatives appoints 4 members; and the President of the Senate appoints 4 members. The council is required to meet at least once per quarter to review and recommend in a report to the Governor and the Legislature:

- How faith-based and community-based organizations can best compete with other organizations for the delivery of state services, regardless of an organization's orientation, whether faith-based or secular.
- How best to develop and coordinate activities of faith-based and community-based programs and initiatives, enhance such efforts in communities, and seek such resources, legislation, and regulatory relief as may be necessary to accomplish these objectives.
- How best to ensure that state policy decisions take into account the capacity of faith-based and other community-based initiatives to assist in the achievement of state priorities.
- How best to identify and promote best practices across state government relating to the delivery of services by faith-based and other community based organizations.
- How best to coordinate public awareness of faith-based and community nonprofit initiatives, such as demonstration pilot programs or projects, public-private partnerships, volunteerism, and special projects.
- How best to encourage private charitable giving to support faith-based and community-based initiatives.
- How best to bring concerns, ideas, and policy options to the Governor and Legislature for assisting, strengthening, and replicating successful faith-based and other community-based programs.
- How best to develop and implement strategic initiatives to strengthen the institutions of families and communities in this state.
- How best to showcase and herald innovative grassroots nonprofit organizations and civic initiatives.
- How best to eliminate unnecessary legislative, regulatory, and other bureaucratic barriers that impede effective faith-based and other community-based efforts to address social problems.
- How best to monitor implementation of state policy affecting faith-based and other community-based organizations.
- How best to ensure that the efforts of faith-based and other community-based organizations meet objective criteria for performance and accountability.

¹ Section 14.31, Florida Statutes

² Executive Order No. 04-245, November 18, 2004

³ Laws of Florida, Ch. 2006-9

A report is due to the Governor, Speaker of the House of Representatives, and President of the Senate by February 1 of each year by the council that contains an accounting of its activities and recommends policies, priorities, and objectives for the state's comprehensive effort to enlist, equip, enable, empower, and expand the work of faith-based, volunteer, and other community-based organizations. The council may not make any recommendations, however, that conflict with the Establishment Clause of the First Amendment to the United States Constitution or the public funding provision of s. 3, Art. I of the State Constitution.

In 2011, the Legislature passed SB 898 repealing the portion of the law which would allow the council to sunset on June 30, 2011.⁴

The White House Office of Faith-Based and Neighborhood Partnerships

The White House Office of Faith-Based and Neighborhood Partnerships (OFBNP) is responsible for building bridges between the federal government and nonprofit organizations, both secular and faith-based, to better serve Americans in need. This mission is advanced through the 11 Agency Centers across government and a Strategic Advisor at the Corporation for National and Community Service.

Originally known as the White House Office of Faith-Based and Community Initiatives, this office was created by executive order by President George W. Bush on January 29, 2001. It is presently managed by Joshua DuBois, Executive Director, and operates with a 15-member advisory council appointed by the President for one year terms. The OFBNP works with state offices for faith-based and neighborhood partnerships in 24 states and the District of Columbia. In Florida, OFBNP works with the Volunteer Florida Foundation, a non-profit charity established, organized, and operated exclusively as a direct support organization to support and assist the Governor's Commission on Volunteerism and Community Service.⁵

Effect of Proposed Changes

The bill creates the Office of Faith-Based and Community Initiatives (office) within DEO. The purpose of the office is to:

- Promote and coordinate community service and volunteer participation in faith-based and community-based organizations throughout the state.
- Identify and removed unnecessary administrative barriers to create greater access for partnership and enhance the capacity of faith-based and community-based organizations to implements successful programs.
- Develop strategies to eliminate barriers to funding and other resource opportunities for faith-based and community-based organizations.

The office will be provided administrative and staff support from DEO.

B. SECTION DIRECTORY:

Section 1: Creates the Office of Faith-Based and Community-Initiatives within the Department of Economic Opportunity.

Section 2: Provides an effective date of July 1, 2013.

⁴ Laws of Florida, Ch. 2011-155

⁵ The Governor's Commission on Volunteerism and Community Service was created in 1994 by the Legislature to administer grants under the National and Community Service Trust Act of 1993.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

DEO has not determined the fiscal impact of this bill on the department. The cost to provide administrative and staff support is indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

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 require a reduction of 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 CHANGES

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A bill to be entitled
An act relating to the Office of Faith-Based and
Community Initiatives; creating the office within the
Department of Economic Opportunity; directing the
department to provide administrative and staff support
services for the office; providing the duties of the
office; providing an effective date.

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

Section 1. Office of Faith-Based and Community
Initiatives.-

(1) There is created the Office of Faith-Based and
Community Initiatives within the Department of Economic
Opportunity. Department staff shall provide administrative and
staff support services for the office.

(2) The office shall:

(a) Promote and coordinate community service and volunteer
participation in faith-based and community-based organizations
throughout the state.

(b) Identify and remove unnecessary administrative
barriers to create greater access for partnership and enhance
the capacity of faith-based and community-based organizations to
implement successful programs.

(c) Develop strategies to eliminate barriers to funding
and other resource opportunities for faith-based and community-
based organizations.

Section 2. This act shall take effect July 1, 2013.