

The 2019 Florida Statutes

Title XIV
TAXATION AND FINANCE

Chapter 196
EXEMPTION

196.1995 Economic development ad valorem tax exemption.—

(1) The board of county commissioners of any county or the governing authority of any municipality shall call a referendum within its total jurisdiction to determine whether its respective jurisdiction may grant economic development ad valorem tax exemptions under s. 3, Art. VII of the State Constitution if:

- (a) The board of county commissioners of the county or the governing authority of the municipality votes to hold such referendum;
- (b) The board of county commissioners of the county or the governing authority of the municipality receives a petition signed by 10 percent of the registered electors of its respective jurisdiction, which petition calls for the holding of such referendum; or
- (c) The board of county commissioners of a charter county receives a petition or initiative signed by the required percentage of registered electors in accordance with the procedures established in the county's charter for the enactment of ordinances or for approval of amendments of the charter, if less than 10 percent, which petition or initiative calls for the holding of such referendum.

(2) The ballot question in such referendum shall be in substantially the following form:

Shall the board of county commissioners of this county (or the governing authority of this municipality, or both) be authorized to grant, pursuant to s. 3, Art. VII of the State Constitution, property tax exemptions to new businesses and expansions of existing businesses that are expected to create new, full-time jobs in the county (or municipality, or both)?

Yes—For authority to grant exemptions.

No—Against authority to grant exemptions.

(3) The board of county commissioners or the governing authority of the municipality that calls a referendum within its total jurisdiction to determine whether its respective jurisdiction may grant economic development ad valorem tax exemptions may vote to limit the effect of the referendum to authority to grant economic development tax exemptions for new businesses and expansions of existing businesses located in an enterprise zone or a brownfield area, as defined in s. 376.79(5). If an area nominated to be an enterprise zone pursuant to s. 290.0055 has not yet been designated pursuant to s. 290.0065, the board of county commissioners or the governing authority of the municipality may call such referendum prior to such designation; however, the authority to grant economic development ad valorem tax exemptions does not apply until such area is designated pursuant to s. 290.0065. The ballot question in such referendum shall be in

substantially the following form and shall be used in lieu of the ballot question prescribed in subsection (2):

Shall the board of county commissioners of this county (or the governing authority of this municipality, or both) be authorized to grant, pursuant to s. 3, Art. VII of the State Constitution, property tax exemptions for new businesses and expansions of existing businesses that are located in an enterprise zone or a brownfield area and that are expected to create new, full-time jobs in the county (or municipality, or both)?

Yes—For authority to grant exemptions.

No—Against authority to grant exemptions.

(4) A referendum pursuant to this section may be called only once in any 12-month period.

(5) Upon a majority vote in favor of such authority, the board of county commissioners or the governing authority of the municipality, at its discretion, by ordinance may exempt from ad valorem taxation up to 100 percent of the assessed value of all improvements to real property made by or for the use of a new business and of all tangible personal property of such new business, or up to 100 percent of the assessed value of all added improvements to real property made to facilitate the expansion of an existing business and of the net increase in all tangible personal property acquired to facilitate such expansion of an existing business. To qualify for this exemption, the improvements to real property must be made or the tangible personal property must be added or increased after approval by motion or resolution of the local governing body, subject to ordinance adoption on or after the day the ordinance is adopted. However, if the authority to grant exemptions is approved in a referendum in which the ballot question contained in subsection (3) appears on the ballot, the authority of the board of county commissioners or the governing authority of the municipality to grant exemptions is limited solely to new businesses and expansions of existing businesses that are located in an area which was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, or in a brownfield area. New businesses and expansions of existing businesses located in an area that was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, but is not in a brownfield area, may qualify for the ad valorem tax exemption only if approved by motion or resolution of the local governing body, subject to ordinance adoption, or by ordinance, enacted before December 31, 2015. Property acquired to replace existing property shall not be considered to facilitate a business expansion. All data center equipment for a data center shall be exempt from ad valorem taxation for the term of the approved exemption. The exemption applies only to taxes levied by the respective unit of government granting the exemption. The exemption does not apply, however, to taxes levied for the payment of bonds or to taxes authorized by a vote of the electors pursuant to s. 9(b) or s. 12, Art. VII of the State Constitution. Any such exemption shall remain in effect for up to 10 years with respect to any particular facility, or up to 20 years for a data center, regardless of any change in the authority of the county or municipality to grant such exemptions or the expiration of the Enterprise Zone Act pursuant to chapter 290. The exemption shall not be prolonged or extended by

granting exemptions from additional taxes or by virtue of any reorganization or sale of the business receiving the exemption.

(6) With respect to a new business as defined by s. 196.012(14)(c), the municipality annexing the property on which the business is situated may grant an economic development ad valorem tax exemption under this section to that business for a period that will expire upon the expiration of the exemption granted by the county. If the county renews the exemption under subsection (7), the municipality may also extend its exemption. A municipal economic development ad valorem tax exemption granted under this subsection may not extend beyond the duration of the county exemption.

(7) The authority to grant exemptions under this section expires 10 years after the date such authority was approved in an election, but such authority may be renewed for subsequent 10-year periods if each 10-year renewal is approved in a referendum called and held pursuant to this section.

(8) Any person, firm, or corporation which desires an economic development ad valorem tax exemption shall, in the year the exemption is desired to take effect, file a written application on a form prescribed by the department with the board of county commissioners or the governing authority of the municipality, or both. The application shall request the adoption of an ordinance granting the applicant an exemption pursuant to this section and shall include the following information:

- (a) The name and location of the new business or the expansion of an existing business;
- (b) A description of the improvements to real property for which an exemption is requested and the date of commencement of construction of such improvements;
- (c) A description of the tangible personal property for which an exemption is requested and the dates when such property was or is to be purchased;
- (d) Proof, to the satisfaction of the board of county commissioners or the governing authority of the municipality, that the applicant is a new business or an expansion of an existing business, as defined in s. 196.012;
- (e) The number of jobs the applicant expects to create along with the average wage of the jobs and whether the jobs are full-time or part-time;
- (f) The expected time schedule for job creation; and
- (g) Other information deemed necessary or appropriate by the department, county, or municipality.

(9) Before it takes action on the application, the board of county commissioners or the governing authority of the municipality shall deliver a copy of the application to the property appraiser of the county. After careful consideration, the property appraiser shall report the following information to the board of county commissioners or the governing authority of the municipality:

(a) The total revenue available to the county or municipality for the current fiscal year from ad valorem tax sources, or an estimate of such revenue if the actual total revenue available cannot be determined;

(b) Any revenue lost to the county or municipality for the current fiscal year by virtue of exemptions previously granted under this section, or an estimate of such revenue if the actual revenue lost cannot be determined;

(c) An estimate of the revenue which would be lost to the county or municipality during the current fiscal year if the exemption applied for were granted had the property for which the exemption is requested otherwise been subject to taxation; and

(d) A determination as to whether the property for which an exemption is requested is to be incorporated into a new business or the expansion of an existing business, as defined in s. 196.012, or into neither, which determination the property appraiser shall also affix to the face of the application. Upon the request of the property appraiser, the department shall provide to him or her such information as it may have available to assist in making such determination.

(10) In considering any application for an exemption under this section, the board of county commissioners or the governing authority of the municipality must take into account the following:

(a) The total number of net new jobs to be created by the applicant;

(b) The average wage of the new jobs;

(c) The capital investment to be made by the applicant;

(d) The type of business or operation and whether it qualifies as a targeted industry as may be identified from time to time by the board of county commissioners or the governing authority of the municipality;

(e) The environmental impact of the proposed business or operation;

(f) The extent to which the applicant intends to source its supplies and materials within the applicable jurisdiction; and

(g) Any other economic-related characteristics or criteria deemed necessary by the board of county commissioners or the governing authority of the municipality.

(11) An ordinance granting an exemption under this section shall be adopted in the same manner as any other ordinance of the county or municipality and shall include the following:

(a) The name and address of the new business or expansion of an existing business to which the exemption is granted;

(b) The total amount of revenue available to the county or municipality from ad valorem tax sources for the current fiscal year, the total amount of revenue lost to the county or municipality for the current fiscal year by virtue of economic development ad valorem tax exemptions currently in effect, and the estimated revenue loss to the county or municipality for the current fiscal year attributable to the exemption of the business named in the ordinance;

(c) The period of time for which the exemption will remain in effect and the expiration date of the exemption, which may be any period of time up to 10 years, or up to 20 years for a data center; and

(d) A finding that the business named in the ordinance meets the requirements of s. 196.012(14) or (15).

(12) Upon approval of an application for a tax exemption under this section, the board of county commissioners or the governing authority of the municipality and the applicant may enter into a written tax exemption agreement, which may include performance criteria and must be consistent with the requirements of this section or other applicable laws. The agreement must require the applicant to report at a specific time before the expiration of the exemption the actual number of new, full-time jobs created and their actual average wage. The agreement may provide the board of county commissioners or the governing authority of the municipality with authority to revoke, in whole or in part, the exemption if the applicant fails to meet the expectations and representations described in subsection (8).

History.—s. 2, ch. 80-347; s. 1, ch. 83-141; s. 30, ch. 84-356; s. 11, ch. 86-300; s. 1, ch. 90-57; s. 68, ch. 94-136; s. 1477, ch. 95-147; s. 57, ch. 95-280; s. 110, ch. 99-251; s. 5, ch. 2006-291; s. 3, ch. 2010-147; s. 2, ch. 2011-182; s. 6, ch. 2013-77; s. 1, ch. 2014-40; s. 5, ch. 2016-184; s. 3, ch. 2016-220.

¹**Note.**—Section 14, ch. 2014-40, provides that “[a] local ordinance enacted pursuant to s. 196.1995, Florida Statutes, before the effective date of this act shall not be invalidated on the ground that improvements to real property were made or that tangible personal property was added or increased before the date that such ordinance was adopted, as long as the local governing body acted substantially in accordance with s. 196.1995(5), Florida Statutes, as amended by this act.”

