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District No. 5 - Scarlet P. Frisina



BOARD OF COUNTY COMMISSIONERS • COLUMBIA COUNTY

October 20, 2010

M E M O

TO: Board of County Commissioners

FR: Dale Williams, County Manager

RE: Proposed "Economic Development Ad Valorem Tax Exemption" Ordinance –

As requested in the Board of County Commissioners/IDA joint workshop on October 5, 2010, please find attached proposed language for an "Economic Development Ad Valorem Tax Exemption" ordinance. The proposed language includes the parameters discussed at the joint workshop.

It became necessary to include language that provides tax exemptions for other than manufacturing as such exemptions are provided for by statute. These exemptions were not specifically discussed in the joint workshop; therefore, they need to be reviewed. These exemptions can be found in (6) a. ii, iii, b and (8) a. ii, iii, iv.

I have attached a copy of Columbia County's "Local Economic Development Incentive Program" Ordinance. This program was created to provide assistance to businesses that do not qualify for tax abatement. As the proposed "Economic Ad Valorem Tax Exemption" ordinance provides for different parameters (i.e. \$250,000 minimum in capital improvements versus \$500,000), the Board may wish to consider changes. This program was not discussed in the joint workshop.

DW/cnb

BOARD MEETS FIRST THURSDAY AT 7:00 P.M.
AND THIRD THURSDAY AT 7:00 P.M.

ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION

Short title.

This Ordinance shall be known as the "Economic Development Ad Valorem Tax Exemption Ordinance of Columbia County, Florida."

Enactment authority.

Article VII, section 3, of the state constitution, and F.S. § 196.1995, empowers the county to grant economic development ad valorem tax exemptions after the electors of the county, voting on the question in a referendum, authorize such exemptions. In a referendum held on November 7, 2000, the voters of the county authorized the board of county commissioners to grant economic development ad valorem tax exemptions.

Intent and declaration.

[(a)] It is the intent of the board of county commissioners (hereinafter the "board") in enacting this article to provide an incentive to those new or expanded businesses which make a positive contribution to the economy of the county in terms of new jobs and improvements to real and personal property.

[(b)] The intent of the board is to promote the economy by creating jobs in the county in such a way so as not to disadvantage existing businesses while recognizing that productive completion assists in economic growth.

[(c)] The board desires to provide incentives to businesses of diverse industries, with the exception of retail operations, having a positive impact on the economy of the county. The board declares that the provision of ad valorem tax exemptions pursuant to this article serves the public purpose of fostering economic growth in the county, all to the benefit of the county's residents and visitors.

[(d)] The granting of, or the denial of, exemptions will be conducted on a rational, nonarbitrary, nondiscriminatory basis by the board, in furtherance of the economic development goals of the county. Any and all exemptions granted must result in an economic benefit to the county. To this end, prior to any grant of an exemption, the board will take into full consideration the factors set forth in "Application for Exemption" of this ordinance. Since the intent of the board is to promote economic growth through attracting businesses and encouraging expansions that support the county and its existing businesses, these factors will be considered on a case-by-case basis to determine that the economic benefit test is met. In addition to these factors, the board is interested in the purchasing power created by the new business as it desires to prompt other sales in the county resulting in an increase in income, all to the benefit of the public of the county.

Definitions.

The following words, phrases, and terms shall have the same meanings attributed to them in current Florida Statutes and the Florida Administrative Code, except where the context clearly indicates otherwise:

- (1) *Applicant*: Any person, firm, partnership, or corporation who files an application with the board seeking an economic development ad valorem tax exemption.
- (2) *Board*: The board of county commissioners.
- (3) *Business*: Any activity engaged in by any person, firm, partnership, corporation, or other business organization or entity, with the object of private or public gain, benefit, or advantage, either direct or indirect.
- (4) *Department*: The Florida Department of Revenue
- (5) *Enterprise zone*: An area designated as an enterprise zone pursuant to F.S. § 290.0065.
- (6) *Expansion of an existing business*: An expansion of an existing business means:
 - a.
 - i. A business establishing ten or more jobs to employ ten or more full-time employees in this state, which manufactures, processes, compounds, fabricates, or produces for sale items of tangible personal property at a fixed location and which comprises an industrial, manufacturing, or processing plant;
 - ii. Any business establishing 25 or more jobs to employ 25 or more full-time employees in this state, whose sales factor of which, as defined by F.S. § 220.15(5), for the facility with respect to which it requests an economic development ad valorem tax exemption is less than 0.50 for each year the exemption is claimed; provided that such business increases operations on a site collocated with a commercial or industrial operation owned by the same business, resulting in a net increase in employment of not less than ten percent or an increase in productive output of not less than ten percent;
 - iii. Any business located in an enterprise zone that increases operations on a site collocated with a commercial or industrial operation owned by the same business; or

- b. Any expansion of an existing business must increase operations on a site collocated with a commercial or industrial operation owned by the same business, resulting in a net increase in employment of not less than ten percent of said collocated site or an increase in productive output of not less than ten percent of the said collocated site. The ten percent requirement does not apply to enterprise zones.
- (7) *Improvements*: Physical changes made to raw land, and structures placed on or under the land surface.
- (8) *New business*: A new business means:
 - a.
 - i. A business establishing ten or more jobs to employ ten or more full-time employees in this state, which manufactures, processes, compounds, fabricates, or produces for sale items of tangible personal property at a fixed location and which comprises an industrial or manufacturing plant;
 - ii. A business establishing 25 or more jobs to employ 25 or more full-time employees in this state, the sales factor of which, as defined by F.S. § 220.15(5), for the facility with respect to which it requests an economic development ad valorem tax exemption is less than 0.50 for each year the exemption is claimed;
 - iii. An office space in this state owned and used by a corporation newly domiciled in this state; provided such office space houses 50 or more full-time employees of such corporation; provided that such business or office first begins operation on a site clearly separate from any other commercial or industrial operation owned by the same business; or
 - iv. Any business located in an enterprise zone that first begins operation on a site clearly separate from any other commercial or industrial operation owned by the same business.
- (9) *Sale factor*: As defined in F.S. § 220.15(5), the sales factor is a fraction the numerator of which is the total sales of the taxpayer in this state during the taxable year or period and the denominator of which is the total sales of the taxpayer everywhere during the taxable year or period.

- (10) *Retail operation*: A business regularly engaged in, and whose business consists to a substantial extent of, selling goods to a buyer, not principally for the purposes of resale.
- (11) *Goods*: All personalty when purchased primarily for personal, family, or household use, but not including personalty sold for commercial or industrial use.

Economic development ad valorem tax exemption established.

(a) There is herein established an economic development ad valorem tax exemption (hereinafter the “exemption”). The exemption is a local option tax incentive for new or expanding businesses which may be granted or refused at the sole discretion of the board.

(b) The exemptions shall not accrue to improvements to real property made by or for the use of new or expanding businesses when such improvements have been assessed and included on the tax rolls of the calendar year preceding the effective date of the ordinance specifically granting a business an exemption as provided in “Board of County Commissioners Consideration of Application” herein.

(c) Any exemption granted may apply 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. Property acquired to replace existing property shall not be considered to facilitate a business expansion.

(d) The exemption may be for a period up to ten years from the date the board adopts the ordinance granting the exemption.

(e) No exemption shall be granted for the land upon which new or expanded businesses are to be located.

(f) No exemption shall be granted for improvements to real property made or tangible personal property added before the board adopts an ordinance granting such exemption. The ordinance shall include a time limit for the creation of jobs necessary to establish eligibility.

(g) No exemption shall be granted to any retail operation.

(h) The exemption applies only to taxes levied by the county. The exemption does not apply to taxes levied by a municipality, school district, or water management district, or to taxes levied for the payment of bonds or taxes authorized by a vote of the electors pursuant to section 9 and section 12, article VII of the state constitution.

(i) The ability to receive an exemption for the period granted is conditioned upon the applicant's ability to maintain the new business or the expansion of an existing business as defined herein throughout the entire period. The applicant shall be required to submit a report on an annual basis by March 1 of each year to the board evidencing satisfaction of this condition. In addition, any business granted an exemption shall furnish to the board or its designee, such information, [and] report as the board or its designee may reasonably deem necessary for the purpose of determining continued performance by the business of the conditions stated in this article and the representations made in the application process. An exemption shall not be transferrable.

Application for exemption.

(a) Any eligible person, firm, partnership or corporation which desires an exemption shall file with the board a written application prescribed by the board, an initial model of which is attached as exhibit A.

(b) The application shall request that the board adopt an ordinance granting the applicant the exemption and shall include, at a minimum, the following:

- (1) The name and location of the new business or the expansion of an existing business;
- (2) A description of the improvements to the real property for which an exemption is requested and the date of commencement of construction [is] of such improvement;
- (3) 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;
- (4) Proof, to the satisfaction of the board, that the applicant meets the criteria for a new business or for an expansion of all existing business as defined hereof;
- (5) The following information:
 - a. The anticipated number of employees;
 - b. The expected number of employees who will reside in the county;
 - c. The average wage of the employees;
 - d. The type of industry or business;
 - e. The environmental impact of the business;
 - f. The anticipated volume of business or production;

- g. Whether relocation or expansion would occur without the exemption;
 - h. The cost and demand for services;
 - i. The source of supplies (local or otherwise); and
 - j. Whether the business will be/is located in a community redevelopment area or enterprise zone; and
- (6) Other information deemed necessary by the board.
- (c) The application may be filed at any time.
- (d) Upon submittal of the application, the manager or his designee shall forward the application to the Columbia County Property Appraiser for review and comment.

Board of county commissioners' consideration of application.

- (a) The board shall take action on the application, including the enactment of the required ordinance should the board decide to grant the application, within 90 days from the date a fully completed application is received. During this 90-day period, interested agencies and parties shall have an opportunity to review and comment on the application. Time is of the essence in consideration of the application.
- (b) The threshold for eligibility is whether the business meets the definition of a new or expanded business and one which is not an ineligible business or industry as defined in paragraph (d) of this section.
- (c) The next level to determine eligibility is the board's consideration of the information in the application to determine whether the economic benefit test is met.
- (d) Any business presently in material violation of any federal, state, or local law or regulation governing environmental matters is not eligible for an exemption.
- (e) Before the board takes action on an application, the property appraiser shall report to the board the fiscal impact of granting the exemption.
- (f) The property appraiser's report shall include the following:
 - (1) The total revenue available to the county for the current fiscal year from ad valorem tax sources, or an estimate of such revenue if the actual total available revenue cannot be determined;

- (2) The amount of revenue lost to the county for the current fiscal year by virtue of exemptions previously granted, or an estimate of such revenue if the actual revenue lost cannot be determined;
- (3) An estimate of the amount of revenue which would be lost to the county for the current fiscal year if the exemption applied for was granted had the property for which the exemption is requested otherwise been subject to taxation; and
- (4) 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, or into neither, which determination the property appraiser shall also affix to the face of the application. Upon request, the department will provide the property appraiser such information as it may have available to assist in making this determination.

(g) After consideration of the application and the report of the property appraiser on the application, the board may choose to adopt an ordinance granting the exemption to a new or expanding business. If granted, the ordinance shall include the following information:

- (1) The name and address of the new business or expansion of an existing business;
- (2) The total amount of revenue available to the county from ad valorem tax sources for the current fiscal year, the total amount of the revenue lost to the county for the current fiscal year by virtue of exemptions currently in effect, and the estimated amount of revenue attributable to the exemption granted to the new or expanding business;
- (3) The expiration date of the exemption, which is ten years or less (depending upon the duration of the exemption granted) from the date the board enacts the ordinance granting the exemption; and
- (4) A finding that the business meets the definition of a new business or an expansion of an existing business.

(h) No precedent shall be implied or inferred by the granting of exemption to a new or expanding business. Applications for exemptions shall be considered by the board on a case-by-case basis for each application, after consideration of the application and the property appraiser's report on the application.

Revocation of exemption; recovery of funds.

Should any new business or expansion of an existing business fail to file the annual report or any other report required by the county or fail to continue to meet the definition of a new business or an expansion of an existing business, and/or fail to fulfill any other representation made to the board during the application process, the board may adopt an

ordinance revoking the ad valorem tax exemption effective the end of the current year said ordinance is adopted. Further, the board may recover any taxes waived. Nothing herein shall prohibit a business from reapplying for an ad valorem tax exemption pursuant to state law.

Appeals.

The decision of the board not to grant an exemption to a particular business is subject only to judicial review.

Applicability.

This article shall be applicable in all areas of the county where the county is the taxing authority.

Sec. 34-174. Preservation of the fund.

(a) *Expenditures.* All monies and other assets placed in the fund shall be expended exclusively for the purposes of the fund.

(b) *Revenues deemed trust funds.* All revenues received by the county from the management or sale of assets held in the fund shall be deemed trust funds and shall be returned to and maintained within the fund to be used again for the purposes of the fund.

(c) *Perpetual.* The fund shall be a perpetual fund, and the assets and monies therein shall be maintained, invested, and reinvested by the board of county commissioners in furtherance of the purposes of the fund set forth herein.
(Ord. No. 89-2, § 5, 2-16-1989)

Sec. 34-175. Private contributions to the fund.

The board of county commissioners may accept private contributions to the fund for purposes consistent with those set forth herein. Such private contributions may be made for restricted use or purpose. Contributions made for restricted use, after acceptance by the board, shall be expended solely in accordance with such restrictions.
(Ord. No. 89-2, § 6, 2-16-1989)

Sec. 34-176. Termination of fund.

Should this fund be terminated by amendment or repeal of this division, all monies or other assets remaining in the fund shall be distributed to the county industrial development authority for use consistent with the purposes set forth in section 34-172(c).
(Ord. No. 89-2, § 7, 2-16-1989)

Secs. 34-177—34-210. Reserved.

ARTICLE V. PROMOTION, DEVELOPMENT AND ADVERTISING OF COUNTY

Sec. 34-211. Purpose and intent of article.

The purpose and intent of this article is to make funds available to the board of county

commissioners. Said funds shall be used for the promotion, development and advertising of the county.

(Ord. No. 72-1, § I, 2-1-1972)

Sec. 34-212. Authority to make appropriations, donations and payments.

(a) The board of county commissioners are hereby empowered and authorized to make appropriations, donations and payments for the purpose of promoting, developing and advertising the county.

(b) All appropriations, donations and payments may be paid from the general fund, or from any other fund in the county that may be available in any manner that the board of county commissioners may deem advisable; that the same are hereby declared to be county purposes.
(Ord. No. 72-1, §§ II, III, 2-1-1972)

Secs. 34-213—34-240. Reserved.

ARTICLE VI. LOCAL ECONOMIC DEVELOPMENT INCENTIVE PROGRAM

Sec. 34-241. Creation of county local economic development incentive program.

The board of county commissioners ("the board") hereby creates the county local economic development incentive program.

- (1) *Minimum requirements.* The minimum criteria for eligibility for the program will include the following:
 - a. The business is not eligible for any state-sponsored incentives.
 - b. The business must have its principal place of business located in the county.
 - c. The business must have been in existence and operational for a minimum of five years.
 - d. The business must create at least ten new jobs as a result of its expansion within the county.
 - e. The new jobs created by the business must pay at least 125 percent of the

local average wage for the county in existence at the time the business qualifies for the program.

- f. The business must offer a benefit plan that includes group healthcare insurance and retirement or other comparable fringe benefits to the employees.
- g. The business must invest a minimum of \$500,000.00 in documented capital improvements in conjunction with the expansion of the existing business.
- h. The county may require such other or additional eligibility criteria as it may deem in the best interest of the county as a requirement to qualify for the program.

(2) *Guidelines and requirements.*

- a. In the event the qualified jobs drops below the minimum of ten qualified jobs after the implementation period, the incentive program contract becomes null and void, regardless of any tax credit due.
- b. Ad valorem tax rebates may not be transferred if the business is sold.
- c. In the event the number of qualified jobs created exceeds the number initially planned, the business will receive credit for those additional jobs under the same guidelines.
- d. The methodology of the yearly job count will be handled on a business case-by-case basis that must be approved by the county auditor and the executive director of the industrial development authority (IDA) based upon the business' payroll system.
- e. The qualifying business must provide a written business plan that will include the following:
 - 1. Description of the business expansion;

- 2. Description and budget for proposed improvement with appropriate documentation; and
- 3. Time line for completion of project and staff increase.

(Ord. No. 2004-24, § 1, 11-4-2004)

Sec. 34-242. Administrative procedures.

(a) A business desiring to participate in this program should deliver to the executive director of the IDA the following documentation:

- (1) A complete description of the business expansion project.
- (2) A description and budget of proposed capital improvements, including detailed documentation of project costs.
- (3) A brief business plan documenting feasibility of expanded business and creation of estimated number of qualifying jobs.
- (4) Evidence that the business is headquartered in the county and has been in continuous operation in the county for at least five years.
- (5) Evidence of employee benefit plan, or proposed plan if not yet in effect.
- (6) Evidence of financial capability to make proposed improvements and to fund business expansion.
- (7) Financial statements or income tax returns filed for the business for the past three years.

(b) Once the information package is complete and submitted, the IDA executive director will review the documentation and report to the IDA regarding application, including eligibility and potential feasibility, for the proposed project. During this process, the IDA may request additional information from the applicant, to adequately evaluate the potential merits of the project:

- (1) Based upon this review, the IDA will either approve the applicant for participation to the board of county commissioners, or will disapprove the application for par-

ticipation. If the application is disapproved, the reasons therefor will be furnished to the applicant in writing.

- (2) All approved applications will be recommended to the board for final approval. In evaluating the recommended applications, the board may request additional information or clarification from the IDA on the application.
- (3) Once approved by the board, an incentive program contract will be entered into with the applicant.
- (4) Annual monitoring of each incentive program will be the responsibility of the executive director of the IDA. All incentive rebates will be calculated and approved by the IDA and forwarded to the board for final approval and subsequent payment.

(Ord. No. 2004-24, § 2 11-4-2004)

Sec. 34-243. Business incentives.

Incentives available to a business qualifying for the program shall include the follows:

- (1) Annual rebate of the county's portion of the ad valorem taxes paid by the business following the business' qualification. This credit would be given as \$2,000.00 per qualifying job created credit, not to exceed the business' ad valorem tax for the county for that year.
- (2) The duration of this credit will be determined by the board based upon the level of new investment and number of qualifying jobs created, as follows:
 - a. Investment by business of \$200,000.00 to \$1,000,000.00:
 1. The job count begins one year after completion of the project as elected by the business.
 2. The minimum of ten new jobs must be maintained by the second year of participation.
 3. The job count will continue for three years.

4. Once earned, the credits can be used into the future as long as the minimum number of new qualified jobs are maintained and until the dollar amount of the credit is fully applied.
 5. The credit will be applied as a rebate for the taxes paid on behalf of the county to the board.
- b. Investment by business of \$1,000,000.00 to \$2,000,000.00:
 1. The job count can begin up to two years after completion of the project as elected by the business.
 2. The minimum of ten new jobs must be attained by the second year of participation.
 3. The job count will continue for four years on a cumulative net increase basis.
 4. Once earned, credits can be used into the future as long as the minimum number of new qualified jobs are maintained and until the dollar amount of the credit is fully applied.
 5. The credit will be applied as a rebate for the taxes paid on behalf of the county to the board.
 - c. Investment by business of \$2,000,000.00 or more.
 1. The job count can begin up to three years after completion of the project as elected by the business.
 2. The minimum of ten new jobs must be attained by the second year of participation.
 3. The job count will continue for five years on a cumulative net increase basis.
 4. Once earned, credits can be used into the future as long as the minimum number of new qual-

ified jobs are maintained and until the dollar amount of the credit is fully applied.

5. The credit will be applied as a rebate for the taxes paid on behalf of the county to the board.
- (3) The county's IDA annual budget will include a projected amount for potential tax rebate for each fiscal year.
- (4) A business' failure to meet any of the requirements would make it ineligible for an ad valorem tax rebate for that year; and future eligibility would be contingent upon the business' subsequent performance and compliance with the program.

(Ord. No. 2004-24, § 3, 11-4-2004)

Sec. 34-244. Increased revenue sharing rebate.

(a) Businesses may receive a percentage of the verified increase in tax revenue generated from the small county surtax and the half-cent sales tax allocable to the board. The percentage of rebate and years of participation will be based on the following levels of capital investment:

- (1) Investment by business of \$200,000.00 to \$1,000,000.00:
 - a. All criteria for ad valorem tax rebate must be met for utilization of the increased revenue sharing rebate.
 - b. The base year is defined as the 12 months of sales tax returns prior to the completion of the expansion project, and beginning date of the job count.
 - c. The rebate will be applied for five years based upon the chart set forth in subsection (b) of this section.
- (2) Investment by business of \$1,000,000.00 to \$2,000,000.00:
 1. All criteria for the ad valorem tax rebate must be met for consideration of the increased revenue sharing rebate.

2. The base year is defined as the 12 months of sales tax returns prior to the completion of the expansion project, and beginning date of the job count.

3. The rebate will be applied for eight years based upon the chart set forth in subsection (b) of this section.

(3) Investment by business of \$2,000,000.00 or more:

1. All criteria for the ad valorem tax rebate must be met for consideration of the increased revenue sharing rebate.

2. The base year is defined as the 12 months of sales tax returns prior to the completion of the expansion project, and beginning date of the job count.

3. The rebate will be applied for ten years based upon the chart set forth in subsection (b) of this section.

(b) The yearly percentage of rebates would be as follows:

Year 1	50 percent of verified increase over base year.
Year 2	40 percent of verified cumulative increase over base year.
Year 3	30 percent of verified cumulative increase over base year.
Year 4	25 percent of verified cumulative increase over base year.
Year 5	20 percent of verified cumulative increase over base year.

Year 6	15 percent of verified cumulative increase over base year.
Year 7	Ten percent of verified cumulative increase over base year.
Year 8	Five percent of verified cumulative increase over base year.
Year 9	Five percent of verified cumulative increase over base year.
Year 10	Five percent of verified cumulative increase over base year.

(Ord. No. 2004-24, § 4, 11-4-2004)