

ORDINANCE 18-02

AN ORDINANCE OF HOLMES COUNTY, FLORIDA, ESTABLISHING PURSUANT TO SECTION 196.1995, FLORIDA STATUTES, THE AUTHORITY TO GRANT CERTAIN ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTIONS; PROVIDING THAT APPROVAL OF THE EXEMPTION AUTHORITY OCCURRED BY REFERENDUM OF THE VOTERS OF THE COUNTY ON NOVEMBER 2, 2010; PROVIDING FOR GRANTING OF CERTAIN ECONOMIC AND AD VALOREM TAX EXEMPTIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Holmes County is a political subdivision duly created and existing pursuant to the Constitution and laws of the State of Florida; and

WHEREAS, it is the intent of the County to establish and further a sound business and industrial tax base in Holmes County, of which said tax base will benefit all residents in the County by better broadening the distribution of the burden of said taxes; and

WHEREAS, this intent and purpose is accomplished by attracting those businesses and industries, that pay good wages and provide significant employment opportunities, to locate in Holmes County; and

WHEREAS, the Legislature of the State of Florida enacted Section 195.1995, Florida Statutes, to facilitate the growth and creation of business enterprises in the counties of the State of Florida; and

WHEREAS, Holmes County desires to participate in and promote economic development incentive programs that will assist in accomplishing the purposes of attracting targeted industries with value-added employment opportunities.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HOLMES COUNTY, FLORIDA:

Section 1. Title.

This Ordinance shall be known and may be cited as the "Holmes County Economic Incentive Ordinance."

Section 2. Enactment Authority.

Article VII, Section 3 of the Constitution of the State of Florida and Section 196.1995, Florida Statutes, enable the County to grant economic development ad valorem tax exemptions to new businesses and expansions of existing businesses after the electors of the County, voting on the question in a referendum, authorize the board to grant such exemptions. In a referendum held on November 2, 2010, the electors of Holmes County authorized the Board to grant economic development ad valorem tax exemptions.

Section 3. Findings of Fact.

A. It is a recognized function of local government to promote economic development within its jurisdiction by providing financial incentives that will encourage new businesses to relocate within its jurisdiction and existing businesses to expand, thereby creating employment opportunities that will benefit the entire community.

B. The current economic climate has resulted in high unemployment rates in Holmes County, impacting the quality of life for the citizens of Holmes County and the sustainability of local businesses.

C. The Board determines that the granting of economic development ad valorem tax incentives to new businesses locating in or to Holmes County, and to existing businesses expanding in Holmes County, that meet the guidelines provided in this division will promote and strengthen the local economy, will enhance the health and welfare of the citizens of Holmes County, is in the best interest of the County, and serves both a County and a public purpose.

D. The Board desires to provide incentives to businesses of diverse industries having a positive impact on the local economy through the creation of greater employment opportunities in Holmes County. The Board declares that the provision of ad valorem tax exemptions, pursuant to this division, serves the public purpose of fostering economic growth in Holmes County, to the benefit of Holmes County's residents and business owners.

E. The granting of, or denial of, exemptions should be conducted on a rational, non-arbitrary, and non-discriminatory basis by the Board in furtherance of the economic development goals of Holmes County. Exemptions shall be granted for the purpose of creating new jobs in, and economic benefit to, the County. To this end, applications for exemptions will be considered on a case-by-case basis in determining whether sufficient economic benefits are presented.

Section 4. Definitions.

The following words, phrases, and terms shall have the meanings set forth below. Except where specifically indicated otherwise, such words, phrases, and terms shall have the same meanings attributed to them in the Florida Statutes and the Florida Administrative Code, as amended from time to time.

A. Administrator. Means the County Administrator/Coordinator, or such other person designated by the County Administrator/Coordinator or the Board of County Commissioners.

B. Applicant. Means any person, firm, partnership, or corporation who files an application with the Board of County Commissioners seeking an exemption.

C. Application. Means a written application for an exemption on the form prescribed by the Florida Department of Revenue, together with any supplemental form(s) prescribed by the Administrator or Board and such other certificates, representations,

documents, data, or additional information requested by the Administrator or Holmes County Property Appraiser from time to time, as may be reasonably necessary or useful for the determinations contemplated by this Ordinance.

D. Board. Means the Board of County Commissioners of Holmes County, Florida.

E. Business. Means 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.

F. Capital Investments. Means any expenditure for an expansion of an existing business, or a new business, to be located in Holmes County, which can be capitalized under generally accepted accounting principles.

G. Change of Ownership or Control. Means any sale, foreclosure, transfer of legal title or beneficial title in equity to any person, or the cumulative transfer of control of more than fifty percent (50%) of the legal entity that owned the property when it was most recently assessed at just value. A change of control is present when a change of a director or directors, general partner, or other controlling person or entity, results in a transfer of control to a successor, or when a lease, contract, or other arrangement transfers control to another person or entity.

H. County. Means Holmes County, Florida.

I. Exemption or Economic Development Ad Valorem Tax Exemption. Means an ad valorem tax exemption granted by the Board, in its sole and absolute discretion, to a qualified business pursuant to this Ordinance as authorized by Article VII, Section 3 of the Constitution of the State of Florida and Florida Statute 196.1995.

J. Exemption Criteria. Means the criteria to be applied by the Board in making its determination as to whether to grant an exemption.

K. Expansion of an Existing Business. Means a business meeting the definition as set forth in Section 196.012(16), Florida Statutes, as amended.

L. Goods. Means all personal property, when purchased primarily for personal, family, or household use, but not including personal property sold for commercial or industrial use.

M. Improvements. Means physical changes made to raw land, and structures placed on, or under, the land surface.

N. New Business. Means a business meeting the definition set forth in Section 196.012(15), Florida Statutes, as amended.

O. Qualified Business. Means either a new business or an expansion of an existing business, as defined herein, that meets the criteria to be considered for an exemption.

P. Sales Factor. Means 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.

Q. Tangible Personal Property. Means property meeting the definition set forth in Section 192.001(11)(d), Florida Statutes, as amended.

Section 5. Establishment of Program.

A. Overview of Incentive. Pursuant to the authority granted to the Board by the qualified electors of Holmes County on November 2, 2010, the Board hereby establishes an economic development ad valorem tax exemption program for ad valorem taxes levied by Holmes County. In accordance with the act and this article, the Board may grant economic development ad valorem tax exemptions to qualifying new businesses or expansions to existing businesses (an "exemption"), by ordinance. An exemption may be granted or refused at the sole discretion of the Board.

B. Ineligible Property. The exemption shall not apply to improvements and tangible personal property made or acquired by, or for the use of, a qualified business, when such improvements or tangible personal property have been included on the tax roll prior to the effective date of the ordinance granting the exemption.

C. Eligible Property. At the sole and absolute discretion of the Board, and except as otherwise provided for in this division, the exemption may be granted for up to one hundred percent (100%) of the assessed value of all improvements made by, or for the use of, a qualifying new business, and all tangible personal property of such new business, or up to one hundred percent (100%) of the assessed value of all added improvements made to facilitate the qualifying expansion of an existing business, and of the net increase in all tangible personal property acquired to facilitate such expansion of an existing business, provided that the improvements to real property are made, or the tangible personal property is added or increased, on or after the day the ordinance granting the exemption is adopted. Exemptions for less than one hundred percent (100%) of such assessed valued may be granted at the sole and absolute discretion of the Board. Property acquired to replace existing property shall not be eligible for the exemption.

D. Land. Land is ineligible for the exemption.

E. Duration of Exemption. Each ordinance granting an exemption shall state the period of time for which the exemption shall remain in effect and the expiration date of the exemption, which may be any period of time up to ten (10) years.

F. Applicable Taxes. The exemption shall apply only to ad valorem taxes levied countywide by the County. The exemption shall not apply to taxes levied by a county municipal service taxing unit, municipality, school district, water management district, or other special district, or to taxes levied for the payment of bonds or taxes authorized by a vote of the electors pursuant to Section 9(b) or 12, Article VII, of the Florida Constitution.

G. **Maximum Amount of Annual Exemptions.** Notwithstanding any other provision of this division, the total exemptions granted by the Board for each fiscal year shall not result in an estimated aggregate annual amount of forgone ad valorem tax revenues in excess of one million dollars (\$1,000,000.00), or such other amount approved by a supermajority vote of the Board, which amount shall be determined by the Board, based on estimated revenue lost by the County during the applicable fiscal year by virtue of exemptions previously granted, plus exemptions under consideration in such applicable fiscal year.

Section 6. Application for Exemption.

A. **Application.** Any eligible person, firm, partnership, or corporation which desires an exemption shall file with the Board a written application. The application must be filed no later than March 1st of the year the exemption is desired to take effect.

B. **Review.** Upon submittal of the written application, the Administrator, or his/her designee, shall review the same, and, within twenty (20) days of submission, notify the applicant of any facial deficiencies. The Administrator shall promptly deliver a copy of the application to the Holmes County Property Appraiser, who shall promptly notify the applicant and the Administrator of any additional information that he/she determines to be necessary for adequate consideration of the application. Complete applications shall be scheduled for a public hearing before the Board no later than sixty (60) days following receipt by the Administrator of the Property Appraiser's report provided for in this division and in Florida Statutes. The applicant shall be notified of the date and time of the public hearing.

C. **Agreement.** As a condition to receiving an exemption, a business will be required to enter into an agreement with the County to ensure that the business satisfies all requirements associated with the creation of jobs in the County, the fulfillment of other representations made in applying for the exemption, and the granting of the exemption by the Board.

D. **Development Commission.** If a new business is locating to, or an expansion of an existing business is occurring in, the County, the Administrator shall promptly notify the Chief Operating Officer of the Development Commission. Within twenty (20) days of receipt of such notice and associated application, the Development Commission shall provide review and comment, in writing, on the application. Said written comment should include whether the Development Commission objects to, or is in favor of, granting the exemption. Input from the Development Commission will be considered by the Board in deciding whether an exemption is to be granted.

E. **Additional Submission Requirements.** An application for an exemption shall be submitted in advance of any necessary permit application changing the future land use, or changing zoning for proposed sited. In the case of existing sites or facilities where adequate zoning and future land use is in place, an application shall be submitted prior to application for building permits.

Section 7. Application Process.

A. **Property Appraiser Review and Report.** Before the Board takes action on an application, a copy of the application, which application shall include a fully completed DR-418, shall have been delivered to the Property Appraiser for review pursuant to Section 196.1995(9), Florida Statutes. After receipt and analysis of the application, and after receipt and analysis of such additional information as the Property Appraiser may have requested in connection with the application, the Property Appraiser shall provide a report to the Board, which report shall include the following:

i) 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 revenue available cannot be determined;

ii) The amount of any 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;

iii) An estimate of the amount of revenue which would be lost to the County 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;

iv) 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 date of the application;

v) Such additional information as the Property Appraiser may elect to submit, including, but not limited to, a description of the data, information, documents, certifications, opinions, and assumptions on which the report is based, and on which the property appraiser relied in reaching his/her determinations, the credibility and reliability, or lack thereof, of such data, information, certifications, opinions, and assumptions used by the Property Appraiser in reaching his/her determinations, and caveats that the Property Appraiser may deem important or relevant to the Board's consideration of the application.

B. **Eligibility Threshold.** The threshold for eligibility is whether the business meets the definition of a new business, or of an expansion of an existing business, as provided in this division.

C. **Ineligible Business.** Any business in violation of any federal, state, or local law or regulation, including, but not limited to, environmental matters, will not be eligible for an exemption.

D. **Exemption Criteria.** In considering an application for an exemption, the Board shall take into account the following factors:

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

- ii) The average annual wage of the new jobs to be created by the applicant;
- iii) The capital investment to be made by the applicant;
- iv) The types of business or operation;
- v) The environmental impact of the proposed business or operation;
- vi) The extent to which the applicant intends to source its supplies and materials within the County; and
- vii) Any other economic-related characteristics or criteria deemed necessary or relevant by the Board.

The Board may also implement additional criteria or guidelines for determining whether to grant exemptions, and the extent of such exemptions.

E. Board Ordinance. After consideration of the application, the Property Appraiser's report, the report and input from the Development Commission, and other information the Board deems relevant, and the evaluation of the exemption criteria, the Board may, but is not required to, in its sole and absolute discretion, enact an ordinance granting an exemption to the applicant. If the Board desires to enact such an ordinance, the ordinance shall be enacted in the same manner as any other general ordinance of the County, and shall include the following:

- i) The name and address of the new business or the expansion of an existing business to which the exemption is granted;
- ii) The name of the owner(s) of the new business or the expansion of an existing business;
- iii) The total amount of revenue available to the County from ad valorem tax sources for the current fiscal year, the total amount of revenue lost to the County for the current fiscal year by virtue of exemptions currently in effect, and the estimated revenue loss to the County for the current fiscal year attributable to the exemption of the business named in the ordinance;
- iv) The percentage of assessed value of improvements and tangible personal property to be exempt from the County's ad valorem tax levies;
- v) The period of time for which the exemption will remain in effect and the expiration date of the exemption; and
- vi) A specific finding that the business named in the ordinance as receiving the exemption meets the requirements of the applicable Florida Statutes.
- vii) A provision conditioning the exemption upon the execution by the business of, and the ongoing compliance with, an agreement setting forth, among other things, continuing performance obligations of the business associated with the creation

of jobs in the County, the fulfillment of other representations made in applying for the exemption, and the granting of the exemption by the Board.

F. Precedent. No precedent shall be implied or inferred by the granting or denial of an exemption. Each application shall be considered by the Board in its legislative capacity on a case-by-case basis, after considering the Property Appraiser's report, the Development Commission's report, and the exemption criteria set forth herein.

Section 8. Application Fees.

By resolution, the Board may establish a non-refundable fee for processing each application and preparing, implementing, and monitoring any implementing ordinance enacted by the Board.

Section 9. Continuing Performance.

A. Change In Ownership.

i) The business granted an exemption shall be required to inform the Board, in writing, within ten (10) days, as to any changes in ownership to the business granted an exemption. Moreover, the transferee business shall continue to comply with all exemption requirements and shall assume, in writing, a copy of which will be provided to the County, all of the obligations of the transferor business provided for in the agreement required pursuant to this division.

ii) Failure of the business granted an exemption to notify the Board of any such changes in ownership, or failure to provide an agreement to comply with the requirement, is cause for revocation of the exemption, by adoption of an ordinance repealing the exemption ordinance, at the Board's sole discretion.

B. Annual Filings.

The ability to receive an exemption for the period granted shall be conditioned upon the applicant's ability to maintain the qualified business throughout the entire period. The applicant shall be required to submit an annual renewal statement and an annual report to the County Administrator, or his/her designee, before March 1st of each year for which the exemption was granted. The applicant shall also timely comply with all filings required pursuant to Section 196.011, Florida Statutes, and other applicable statutes.

i) The annual renewal statement shall certify that the information in the original application has not changed.

ii) The annual report shall provide a report on the status of the business, evidencing satisfaction of the business maintenance and continued performance conditions set forth in the application. The report shall be prepared in substantially the form approved by the Administrator and the Property Appraiser, and shall contain such information as the Administrator and Property Appraiser may reasonably deem necessary for the purpose of determining continuing performance by the business of the conditions

provided for in this division, the ordinance specifically granting the business an exemption and the representations and guarantees made by applicant.

Section 10. Board Revocation.

Should any business granted an exemption pursuant to this division fail to file the annual renewal statement and/or annual report on or before March 1st of each year the exemption has been granted, as required by this division or by statute, fail to continue to meet the definition of a new business or an expansion of an existing business, fail to timely inform the Board of a change of ownership, fail to file a new application upon any change in the information provided in the original application, fail to fulfill any other representation made to the Board during the application process, and/or fail to comply with any other requirement provided for in this provision, the Board may, upon thirty (30) days' written notice to the respective business, adopt an ordinance revoking the exemption or take such other action with respect to the exemption as it deems appropriate.

A. Notification. Upon revocation, the Board shall immediately notify the Holmes County Property Appraiser.

B. Recovery of Taxes. If it is determined that a business was not, in fact, entitled to an exemption in any year for which the business received an exemption, the County, Property Appraiser, or Tax Collector shall be entitled to recover all taxes not paid as a result of the exemption for such year or years, plus interest at the maximum rate allowed by law, plus all cost of collection, including, without limitation, reasonable attorney's fees.

C. Reapplication. Nothing herein shall prohibit a business from reapplying for an ad valorem tax exemption pursuant to state law.

Section 11. Applicability.

This division shall be applicable in all areas of Holmes County where Holmes County is the taxing authority.

Section 12. Review.

The decision of the Board not to grant an exemption shall not be reviewable by the value adjustment board pursuant to F.S. Chapter 194, and shall be subject only to Judicial review.

Section 13. Sunset Date.

Pursuant to the act, the authority exercised pursuant to this ordinance shall expire on November 1, 2020, ten (10) years after the date the authority to grant exemptions was approved by the qualified electors of the County in the November 2, 2010 referendum (unless such authority is renewed for subsequent ten-year periods, if each ten-year renewal is approved in a referendum called and held pursuant to the act, in which case the expiration of this article shall be extended for a like period). However, any exemptions

granted prior to the sunset date, as set forth above, shall run for the entire period of the exemption granted, even if that particular exemption expiration date is after the sunset date.


SECTION 14: Severability.

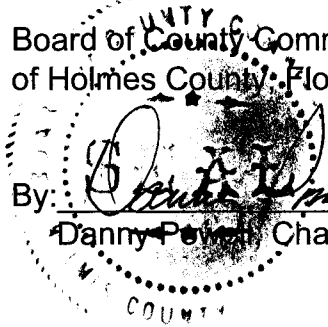
If, for any reason, any section, phrase, sentence, clause, part, or provision of this Ordinance is found to be invalid or unconstitutional by a Court of competent jurisdiction, the same shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of this Ordinance as a whole, or any portion thereof, other than the portion declared to be invalid.

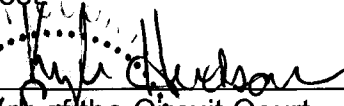
SECTION 15: Effective Date.

This Ordinance shall take effect immediately upon its adoption.

ENACTED and ORDAINED in REGULAR SESSION this 26th day of June, 2018.

Board of ~~County~~ Commissioners
of Holmes County, Florida
By: 

Danny Powell Chairman


Attest:


Clerk of the Circuit Court
Kyle Hudson
