

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: November 19, 2024 Consent Regular
 Ordinance Public Hearing

Department: Housing and Economic Development

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

- A) approve on preliminary reading and permission to advertise for Public Hearing on December 3, 2024:** An Ordinance of the Board of County Commissioners of Palm Beach County, Florida, relating to the Economic Development Ad Valorem Tax Exemption program for new businesses and expansions of existing businesses; providing for title; providing for enactment authority; providing for intent and declaration; providing for definition of terms; providing for establishment of an Economic Development Ad Valorem Tax Exemption program; providing for applicability; providing for application and approval process; providing for monitoring, revocation of exemption and recovery of funds; providing for appeals; providing for inclusion in the code of laws and ordinances; providing for severability; providing for repeal of laws in conflict; providing for sunset; providing for a savings clause; and, providing for an effective date; and
- B) receive and file** the Business Impact Estimate for the proposed Ordinance, prepared in accordance with Florida Statutes §125.66(3)(a).

Summary: In a referendum held on August 20, 2024, the voters of Palm Beach County authorized the BCC to grant economic development ad valorem tax exemptions. The Ordinance establishing the Economic Development Ad Valorem Tax Exemption (AVTE) Program will remain in effect for a ten (10) year period (expiring on August 19, 2034) based on Florida Statutes §196.1995. All ad valorem tax exemption requests are contingent upon the eligibility of the new business or expanding business as defined under Florida Statutes §196.012, and subject to BCC approval on a case-by-case basis, in accordance with this Ordinance and County policy. A business granted an exemption must have a positive impact on the County’s economy, including the creation and maintenance of new full-time jobs. Countywide (DB)

Background and Policy Issues: The Economic Development AVTE program is a local economic development tool enabled under Section 3, Art. VII, of the State Constitution, that empowers any county or municipality to grant community and economic development ad valorem tax exemptions to new businesses or expansions of existing businesses. Exemptions may be granted only by ordinance, for any period-of-time up to ten-years, following authorization by the electors of a county or municipality, and adoption of an implementing ordinance.

- Attachments:**
1. PBC AVTE Program Summary
 2. Proposed Ordinance
 3. Business Impact Estimate

Recommended By: Jonathan Brown 10/18/2024
 Department Director Date

Approved By: [Signature] 10/28/24
 Assistant County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2025	2026	2027	2028	2029
Capital Expenditures					
Operating Costs					
External Revenues					
Program Income					
In-Kind Match (County)					
NET FISCAL IMPACT	*				

# ADDITIONAL FTE POSITIONS (Cumulative)					

Is Item included in Current Budget? Yes _____ No X
Does this Item include the use of Federal funds? Yes _____ No X
Does this item include the use of State funds? Yes _____ No X

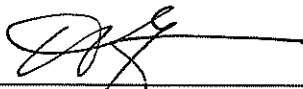
Budget Account No.:

Fund _____ Dept _____ Unit _____ Object _____ Program Code/Period _____

B. Recommended Sources of Funds/Summary of Fiscal Impact:

* The fiscal impact associated with this item is indeterminable at this time. Tax Exemptions will depend on the number of applications, number and value of projects.

C. Departmental Fiscal Review:



 Valerie Alleyne, Division Director II
 Finance and Administrative Services, DHED


III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Development and Control Comments:


 OFMB 10/22/2024
 JA 10/22
 PA 10/22


 Contract Development and Control 10/24/24

B. Legal Sufficiency:


 10/25/24
 Assistant County Attorney

C. Other Department Review:

 Department Director

(THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT)

Palm Beach County
Economic Development Ad Valorem Tax Exemption Program
Summary

Introduction

The Palm Beach County Economic Development Ad Valorem Tax Exemption (AVTE) Program is designed to encourage economic development and to support new or expanding businesses within the County. The program offers an "economic exemption" for improvements made to real property and/or tangible personal property that are not already listed on the Palm Beach County Tax Roll. Property acquired to replace existing property is not considered an expansion of an existing business. The AVTE Program was created to stimulate economic growth, create jobs, and enhance the local economy. The exemption only applies to taxes levied by Palm Beach County, where the County is the taxing authority. Each individual business AVTE incentive is approved by the Board of County Commissioners (BCC) on a case-by-case basis.

Ordinance Background

The AVTE Program was initially established by voter approval of a Referendum in September 1994, and implemented through BCC adoption of Ordinance 1994-021. Pursuant to F.S. §196.1995, the authority to grant exemptions expires after 10-years, but may be renewed for subsequent 10-year periods if reauthorized by Referendum. The AVTE Program has been renewed pursuant to Referendums held on August 31, 2004 (Ord. 2005-004, expired 2014), and on November 6, 2012 (Ord. 2013-022, expired August 2024). On August 20, 2024, the voters of Palm Beach County again approved a Referendum authorizing the BCC to renew the AVTE Program.

Program Requirements

All exemptions are contingent upon proof that the applicant is a new or an expansion of an existing business as defined in F.S. §196.012. When applying for an AVTE, businesses are required to include the industry and location of the business, capital investment, and number, type, and average & median salary of new and retained jobs. These factors are all included when calculating the economic impact (direct and indirect) of the project and providing recommendations regarding the AVTE. Businesses are required to create jobs that are paying an average wage that is above the average wage in the area. The duration of an approved exemption can range from one to ten years; however, the BCC has historically approved a maximum amount, allowable over the approved exempted period. If the BCC approves an AVTE, the business is required to enter into a separate Agreement with the County through the Department of Housing & Economic Development to ensure compliance regarding job creation and other obligations. A Letter of Credit or Cash Bond from the business is required to secure the incentive.

Outcomes

From 2013 to 2023, the County provided \$6.2M in AVTEs to six out of 20 businesses receiving incentives. In addition to the AVTE program, Palm Beach County has also contributed cash incentives totaling \$3,948,100. Combined incentive amounts for these companies during this period from various sources including municipalities, the County and State totaled \$35,912,600.

Those investments have resulted in 2,246 jobs retained, 2,800 jobs created and a capital investment of \$428.1M. This influx of capital has resulted in a total estimated 5-year economic impact of \$5.7B.

ORDINANCE NO. 2024-_____

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AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, RELATING TO THE ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION PROGRAM FOR NEW BUSINESSES AND EXPANSIONS OF EXISTING BUSINESSES; PROVIDING FOR TITLE; PROVIDING FOR ENACTMENT AUTHORITY; PROVIDING FOR INTENT AND DECLARATION; PROVIDING FOR DEFINITION OF TERMS; PROVIDING FOR ESTABLISHMENT OF AN ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION PROGRAM; PROVIDING FOR APPLICABILITY; PROVIDING FOR APPLICATION AND APPROVAL PROCESS; PROVIDING FOR MONITORING, REVOCATION OF EXEMPTION, AND RECOVERY OF FUNDS; PROVIDING FOR APPEALS; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SUNSET; PROVIDING FOR A SAVINGS CLAUSE; AND, PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners believes that local government should support economic growth by providing an incentive for employment opportunities that will lead to the improvement of the quality of life of the residents of Palm Beach County and the positive expansion of the economy; and

WHEREAS, to this end, the Board of County Commissioners desires to offer ad valorem tax exemptions to new businesses relocating to Palm Beach County and to expansions of businesses already situated in Palm Beach County; and

WHEREAS, the granting of ad valorem tax exemptions to businesses will provide Palm Beach County with an additional economic development incentive which will enhance the ability of Palm Beach County to be competitive when trying to encourage new business development in Palm Beach County and retain local businesses with planned expansions; and

WHEREAS, such exemptions are authorized pursuant to Article VII, Section 3, of the Constitution of the State of Florida and Section 196.1995, Florida Statutes, as may be amended, upon the successful passage of a referendum; and

WHEREAS, the electors of Palm Beach County desire to authorize the offering of ad valorem tax exemptions as evidenced by the successful passage of a referendum held on this issue on, August 20, 2024; and

WHEREAS, Palm Beach County has prepared a Business Impact Estimate for the proposed Ordinance, in accordance with Section 125.66(3)(a), Florida Statutes, as may

1 be amended.

2 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**
3 **COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:**

4 **SECTION 1. Title**

5 This Ordinance shall be known as the "Economic Development Ad Valorem Tax
6 Exemption Program Ordinance of Palm Beach County, Florida."

7 **SECTION 2. Enactment Authority**

8 Article VII, Section 3, of the Constitution of the State of Florida and Section
9 196.1995, Florida Statutes, as may be amended, empowers the County to grant
10 economic development ad valorem tax exemptions after the electors of the County, voting
11 on the question in a referendum, authorize such exemptions. In a referendum held on
12 August 20, 2024, the voters of Palm Beach County authorized the Board of County
13 Commissioners to grant economic development ad valorem tax exemptions.

14 **SECTION 3. Intent and Declaration**

15 It is the intent of the Board of County Commissioners of Palm Beach County
16 (hereinafter the "BCC") in enacting this Ordinance to provide an incentive to those new
17 or expanded businesses which make a positive contribution to the economy of Palm
18 Beach County in terms of new jobs and improvements to real and personal property.

19 The intent of the BCC is to promote the economy by creating jobs in Palm Beach
20 County in such a way so as not to disadvantage existing businesses while recognizing
21 that productive competition assists in economic growth.

22 The BCC desires to provide incentives to businesses of diverse industries having
23 a positive impact on the economy of Palm Beach County. The BCC declares that the
24 provision of ad valorem tax exemptions pursuant to this Ordinance serves the public
25 purpose of fostering economic growth in Palm Beach County, all to the benefit of Palm
26 Beach County's residents and business owners. This Ordinance shall sunset on August
27 19, 2034.

28 **SECTION 4. Definition of Terms**

29 For the purpose of this Ordinance, terms are defined in accordance with Section
30 196.012, Florida Statutes, as may be amended, unless otherwise defined below. Where
31 a conflict exists between the Ordinance and the Statute, the Statute shall prevail.

- 1 A. Applicant - Any person, firm, partnership, or corporation who files an application
2 with the BCC seeking an economic development ad valorem tax exemption.
- 3 B. BCC - The Board of County Commissioners of Palm Beach County.
- 4 C. Business - Any activity engaged in by any person, firm, partnership, corporation,
5 or other business organization or entity, with the object of private or public gain,
6 benefit, or advantage, either direct or indirect.
- 7 D. Expansion of an Existing Business - As defined in Section 196.012, Florida
8 Statutes, as may be amended.
- 9 E. Goods - All personalty when purchased primarily for personal, family, or household
10 use, but not including personalty sold for commercial or industrial use.
- 11 F. New Business - As defined in Section 196.012, Florida Statutes, as may be
12 amended.

13 **SECTION 5. Establishment of Economic Development Ad Valorem Tax**
14 **Exemption Program**

- 15 A. Establishment - There is herein established an Economic Development Ad
16 Valorem Tax Exemption (hereinafter the "exemption"). The exemption is a local
17 option tax incentive for new or expanding businesses, which may be granted or
18 refused at the sole discretion of the BCC, on a case by case basis.
- 19 B. Taxes Applicable - The exemption applies only to taxes levied by Palm Beach
20 County. The exemption does not apply to taxes levied by a municipality, school
21 district, or water management district, or to taxes levied for the payment of bonds
22 or taxes authorized by a vote of the electors pursuant to Section 9 and Section 12,
23 Article VII of the State Constitution.
- 24 C. Exemption Period - The exemption may be for a period up to ten (10) years from
25 the date the BCC adopts the ordinance granting the exemption.
- 26 D. Eligibility - The ability for an applicant to be eligible for an exemption under this
27 Program is defined in Title XIV – Taxation and Finance, Chapter 196 - Exemption,
28 Florida Statutes, as may be amended, and applies to new businesses locating in
29 Palm Beach County and to expansions of existing businesses presently located in
30 Palm Beach County.
- 31 E. Land - No exemption shall be granted for the land upon which new or expanded

1 businesses are to be located.

2 **SECTION 6. Applicability**

3 This Ordinance shall be applicable in all areas of Palm Beach County where Palm
4 Beach County is the taxing authority.

5 **SECTION 7. Application and Approval Process**

6 A. Application - Any person, firm, or corporation which desires an economic
7 development ad valorem tax exemption shall file a written application on a form
8 prescribed by the Florida Department of Revenue by March 1st in the year that the
9 exemption is desired to take effect. The application shall request that the BCC
10 adopt an ordinance granting the applicant the exemption and shall include the
11 information required by Section 196.1995, Florida Statutes, as may be amended.

12 B. Property Appraiser Report - Before the BCC takes action on the application, the
13 BCC shall deliver a copy of the application to the Property Appraiser for review.
14 The Property Appraiser shall report the following information to the BCC:

- 15 1. The total revenue available to the County for the current fiscal year from ad
16 valorem tax sources, or an estimate of such revenue if the actual total
17 available revenue cannot be determined;
- 18 2. The amount of revenue lost to the County for the current fiscal year by virtue
19 of exemptions previously granted, or an estimate of such revenue if the
20 actual revenue lost cannot be determined;
- 21 3. An estimate of the amount of revenue which would be lost to the County for
22 the current fiscal year if the exemption applied for were granted had the
23 property for which the exemption is requested otherwise been subject to
24 taxation; and
- 25 4. A determination as to whether the property for which an exemption is
26 requested is to be incorporated into a new business or the expansion of an
27 existing business, or into neither, which determination the Property
28 Appraiser shall also affix to the face of the application. Upon request of the
29 Property Appraiser, the Florida Department of Revenue will provide the
30 Property Appraiser such information as it may have available to assist in
31 making this determination.

1 C. BCC Consideration of Application

- 2 1. The granting or denial of applications will be conducted on a rational, non-
3 arbitrary, nondiscriminatory basis by the BCC, in furtherance of the
4 economic development goals of Palm Beach County. Any and all
5 applications granted must result in an economic benefit to the County.
- 6 2. In considering any application, the BCC must take into account the criteria
7 set forth in Section 196.1995, Florida Statutes; as may be amended.

8 D. Written Tax Exemption Agreement - Upon approval of an application for a tax
9 exemption, as a condition precedent to enacting an ordinance granting an
10 exemption, the BCC and the applicant shall enter into a written tax exemption
11 agreement, which shall include performance criteria consistent with the
12 requirements of Section 196.1995, Florida Statutes, as may be amended, and any
13 other applicable laws, including a provision regarding the authority to revoke, in
14 whole or in part, the exemption if the applicant fails to meet expectations and
15 representation and such other provisions as deemed necessary by the BCC.

16 E. Ordinance - An ordinance granting an exemption under this section shall be
17 adopted in the same manner as any other ordinance of the County and shall
18 include the required information contained in Section 196.1995, Florida Statutes,
19 as may be amended.

20 **SECTION 8. Monitoring, Revocation of Exemption, and Recovery of Funds**

21 A. Exemption Renewal Application - On or before March 1st of the first year an
22 exemption takes affect and for every year thereafter for the duration of the
23 exemption, the applicable business shall submit a renewal exemption application
24 in a form prescribed by the Florida Department of Revenue.

25 B. Annual Report - At the same time that the applicable business submits the renewal
26 application, the business shall submit an annual report to the County
27 demonstrating compliance with the terms and conditions of the written tax
28 agreement, and that the business continues to meet the definition of a new
29 business or an expansion of an existing business.

30 C. Revocation - Should the business fail to file the aforementioned annual report with
31 the County on or before March 1st of each year the exemption has been granted,

1 or fail to continue to meet the definition of a new business or an expansion of an
2 existing business, and/or fail to fulfill any other representation made to the BCC in
3 the written tax agreement or during the application process, including the creation
4 and maintenance of the total number of new jobs identified by a business in the
5 application and/or in the written tax agreement, the BCC may adopt an ordinance
6 revoking the ad valorem tax exemption. The BCC's authority to revoke the ad
7 valorem tax exemption shall continue beyond the expiration of this Ordinance on
8 August 19, 2034. The effective date for the revocation of the exemption will be
9 identified in the ordinance revoking the ad valorem tax exemption.

10 D. Notification - Upon revocation, the BCC shall immediately notify the Property
11 Appraiser.

12 E. Recover Taxes - For any year that taxes may have been exempted and the BCC
13 finds that the business was not entitled to the exemption, such taxes may be
14 recovered and the Property Appraiser will assist the BCC to recover any taxes
15 exempted.

16 F. Property Appraiser - Should any new business or expansion of an existing
17 business fail to file the annual exemption renewal application with the Property
18 Appraiser on or before March 1st of each year the exemption has been granted as
19 required in accordance with Section 196.011(1)(a), Florida Statutes, as may be
20 amended, or fail to continue to meet the definition of a new business or an
21 expansion of an existing business, the Property Appraiser may deny the exemption
22 in accordance with Section 196.193(5), Florida Statutes, as may be amended.

23 G. Reapply - Nothing herein shall prohibit a business from reapplying for an ad
24 valorem tax exemption pursuant to State law.

25 **SECTION 9. Appeals**

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

28 **SECTION 10. Inclusion in the Code of Laws and Ordinances**

29 The provisions of this Ordinance shall become and be made a part of the Code of
30 Laws and Ordinances of Palm Beach County, Florida. The sections of this Ordinance
31 may be renumbered or relettered to accomplish such, and the word "ordinance" may be

1 changed to "section", "article", or any other appropriate word.

2 **SECTION 11. Severability**

3 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is
4 for any reason held by a Court to be unconstitutional, inoperative or void, such holding
5 shall not affect the remainder of this Ordinance.

6 **SECTION 12. Repeal of Laws in Conflict**

7 All local ordinances in conflict with any provision of this Ordinance are hereby
8 repealed to the extent of such conflict.

9 **SECTION 13. Providing for Sunset**

10 This Ordinance shall sunset on August 19, 2034.

11 **SECTION 14. Savings Clause**

12 For purposes of enforcement and revocation, this Ordinance shall survive the
13 sunset date of August 19, 2034.

14 **SECTION 15. Effective Date**

15 The provisions of this Ordinance shall become effective upon filing with the
16 Secretary of State.

17

18 **APPROVED AND ADOPTED** by the Board of County Commissioners of Palm Beach
19 County, on the _____ day of _____, 2024.

20 **ATTEST:**

21 JOSEPH ABRUZZO
22 CLERK & COMPTROLLER

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY COMMISSIONERS

23
24
25

26 By: _____
27 Deputy Clerk

By: _____
, Mayor

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30 APPROVED AS TO FORM
31 AND LEGAL SUFFICIENCY:

32
33

34 By: 
35 _____
36 David Behar
37 Assistant County Attorney

38 **EFFECTIVE DATE:** Filed with the Department of State on the _____ day of
39 _____, 2024.

BUSINESS IMPACT ESTIMATE

This Business Impact Estimate is provided in accordance with Florida Statutes §125.66(3)(a).

Meeting Date: November 19, 2024 and December 3, 2024 (Public Hearing Adoption).

Proposed Ordinance Title/Reference: Palm Beach County Ad Valorem Tax Exemption Program Ordinance of Palm Beach County, Florida.

Summary of Proposed Ordinance and Statement of Public Purpose to be Served:

An Ordinance of the Board of County Commissioners ("BCC") of Palm Beach County, Florida, establishing the Economic Development Ad Valorem Tax Exemption (AVTE) program for a ten-year period, authorizing the BCC to grant property tax exemptions to new businesses and expansions of existing businesses, to encourage economic development and establish new jobs in the County.

Estimate of Direct Economic Impact on Private, For Profit Businesses:

- a. **Estimate of direct business compliance costs:** The AVTE program is voluntary. Eligible applicants must be new businesses or expansions of existing businesses that will create new jobs in Palm Beach County. Pursuant to F.S. §196.1995(12), and County policy, eligible businesses approved under this program will be required to enter into a written tax exemption agreement, to include timeframes for reporting improvements to real property, the actual number of new, full-time jobs created and their actual wages. Such agreements may be for a period of up to ten-years, subject to submittal and approval of an annual report and AVTE form 418 for the property appraiser, in accordance with F.S. §196.011. Required information includes verifying proposed improvements to property for which an exemption is requested, and information on jobs created that employers already report to the State of Florida for State Unemployment Insurance laws, or similar. As such, any business compliance costs will be de minimis.
- b. **New charges or fee on businesses impacted:** No new charges or fees are being proposed by the County's Department of Housing and Economic Development (HED) at this time. The AVTE program was initially established by the BCC in 1994 pursuant to a Referendum approved by County voters, for a ten-year period as authorized by F.S. §196.1995. The BCC re-authorized the AVTE program for 2004 and 2014, with the latter establishing a \$2,000 application fee. No changes to previously established fees are proposed at this time.
- c. **Estimate of regulatory costs:** DHED administers several economic development incentive programs and coordinates with local, state and federal agencies to seek grants and tax incentives for business development or expansion, and job creation or retention. On average, the County has historically processed one or fewer AVTE applications on an annual basis since program inception in 1994. As such, any additional costs to administer the AVTE program will be coincidental to overall HED economic development efforts and/or addressed by existing fees.

Any Additional Information: N/A.