

STORAGE NAME: h0435.edit.doc
DATE: March 5, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
ECONOMIC DEVELOPMENT AND INTERNATIONAL TRADE
ANALYSIS**

BILL #: HB 435
RELATING TO: Community Contribution Tax Credit
SPONSOR(S): Representative(s) Farkas
TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) ECONOMIC DEVELOPMENT AND INTERNATIONAL TRADE
 - (2) FISCAL POLICY & RESOURCES
 - (3) COUNCIL FOR COMPETITIVE COMMERCE
 - (4)
 - (5)
-

I. SUMMARY:

This bill creates s. 212.099, F.S., to provide a credit against the sales tax imposed by chapter 212, F.S., to taxpayers who make contributions to certain community revitalization projects. A 50 percent tax credit is allowed per contribution with a \$50,000 annual limit per taxpayer. The sales tax credit is available to taxpayers in lieu of the corporate income tax credit for community contributions allowed by s. 220.183, F.S., and the insurance premium tax credit under s. 624.1505, F.S. The newly created provisions are repealed on July 30, 2005.

The bill revises the list of eligible projects for community contribution tax credits to include provision of educational programs and materials by an eligible sponsor.

The bill grants rulemaking authority to the Department of Revenue and the Office of Tourism, Trade, and Economic Development.

The act takes effect July 1, 2001.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Finding that deterioration of housing and commercial facilities both evidences and contributes to the economic decline in Florida communities, the Legislature in 1980 created the Community Contribution Tax Credit Program to encourage businesses to make donations toward revitalization projects undertaken by redevelopment organizations (ch. 80-249, L.O.F.). The credits are available as credits against the corporate income tax and the insurance premium tax pursuant to ss. 220.183 and 624.1505, F.S.

The program authorizes corporations that make donations to approved redevelopment organizations to claim a credit equal to 50 percent of the donation against corporate income tax, franchise tax, or insurance premium tax. Under ss. 220.183 and 624.5105, F.S., the combined total amount of tax credits that may be approved is \$10 million annually (ch. 99-265, L.O.F.). An individual business may receive no more than \$200,000 in tax credits per year. A business is only eligible for credits under one program or the other, not both. All projects, except those related to housing for low-income persons, must be located in enterprise zones.

Eligible contribution recipients are: community action programs; community development corporations; neighborhood housing services corporations; local housing authorities created pursuant to chapter 421, F.S.; community redevelopment agencies created pursuant to s. 163.356, F.S.; the Florida Industrial Development Corporation; historic preservation district agencies or organizations; private industry councils; direct-support organizations as provided in s. 240.551, F.S.; enterprise zone development agencies created pursuant to s. 290.0057, F.S.; or any agency designated by rule by the Office of Tourism, Trade, and Economic Development (OTTED).

Eligible projects include those designed to construct, improve, or substantially rehabilitate housing or commercial, industrial, or public resources and facilities, or to improve entrepreneurial and job-development opportunities for low-income persons (s. 220.03(1)(t), F.S.).

Section 220.03(1)(d), F.S., defines "community contribution" as the grant by a business firm of cash or other liquid assets, real property, goods, or inventory, and other physical resources as identified by the Department of Revenue.

Other tax incentives available to businesses located in and employing residents of enterprise zones include sales tax exemptions for building materials, business equipment, and electrical energy, and job tax credits.

The Office of Tourism, Trade, and Economic Development, which approves redevelopment organizations to participate in the program and helps process donors' requests for tax credits, reports that activity under the program has been increasing. In 1999 the Legislature increased the cap from \$5 million to \$10 million (ch. 1999-265, L.O.F.) According to OTTED, in fiscal year 1999-00, there were 198 donations made under the Community Contribution Tax Credit Program resulting in \$5.1 million in tax credits approved with an average approved tax credit of \$25,460. This represents essentially a doubling of community contributions made and tax credits approved in fiscal year 1997-98.

C. EFFECT OF PROPOSED CHANGES:

This bill provides taxpayers wishing to contribute to certain community revitalization projects an alternative means of receiving state tax credits. The sales tax credit would be structured much like the corporate income tax credit for community contributions under s. 220.183, F.S., and the insurance premium tax credit under s. 624.1505, F.S.

A 50 percent credit against the sales tax is allowed for each contribution with a maximum \$50,000 annual limit on a taxpayer's contributions in the aggregate. Taxpayers could apply for the credit in lieu of the existing community contribution credits pursuant to s. 220.183, F.S., and s. 624.1505, F.S. Taxpayers could receive a community contribution tax credit for providing educational materials or programs to an eligible sponsor.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Provides conforming language to s. 212.099, F.S., to authorize OTTED to administer the sales tax exemption for community contributions.

Section 2. Provides definition of "eligible sponsor," "community contribution," and "project." Authorizes a credit of 50 percent of a community contribution against taxes remitted under chapter 212, F.S. (sales and use tax). Specifies that a maximum of \$50,000 in tax credits may be paid annually for approved community contributions. Specifies that the total amount of tax credit which may be granted for all programs approved under this section, s. 220.183 F.S., relating to the community contribution tax credit on corporate income tax, and s. 624.5105, F.S., relating to the community contribution tax credit on insurance premium tax, is \$10 million annually. The Office of Tourism, Trade and Economic Development must give prior approval for any proposal for the tax credit. If the credit under this section is greater than can be taken on a single tax return, excess amounts may be taken as credits on any tax return submitted within 12 months after OTTED's approval of the taxpayer's application.

Stipulates that any taxpayer who is eligible to receive the credit provided in s. 624.1505, F.S., or is receiving the credit under s. 220.183, F.S., is not eligible for the tax credit authorized by this bill.

Project eligibility requirements include:

- Projects must be undertaken by an eligible sponsor.
- The taxpayer making the contribution may not have a financial interest in the eligible sponsor.

- The project must be located in an eligible enterprise zone.
- Projects designed to construct or rehabilitate low income housing are exempt from the requirement that the project be located in an enterprise zone.

Taxpayers seeking the tax credit must submit an application to OTTED, giving information on the sponsor, the project, and the type, value, and purpose of the contribution. The sponsor must verify in writing the terms of the application and verify its willingness to accept the contribution. The written verification must accompany the tax credit application. A separate tax credit application must be submitted for each contribution on each project.

The decision of OTTED must be in writing and shall state the maximum credit allowable to the taxpayer. A copy of the decision is sent to the executive director of the Department of Revenue who applies the credit to the taxpayer's tax liability.

Provides a June 30, 2005, expiration date for the community contribution tax credit for sales tax except for provisions which allow the carryover of credit until the next year. OTTED is directed to monitor all projects for compliance. OTTED must review each project no less often than once every two years.

Grants the Department of Revenue and OTTED rulemaking authority under ss. 120.536(1) and 120.54, F.S., to implement the provisions of this section.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference has not addressed this bill.

2. Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Taxpayers would benefit from a credit against their sales tax liability if they contributed certain items or money to an eligible community redevelopment sponsor. A taxpayer could receive up to a \$50,000 sales tax credit annually for such contributions.

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

The bill grants the Department of Revenue and OTTED the authority to adopt rules under sections 120.536(1) and 120.54, F.S., to implement the tax credit. The Department of Revenue advises that unless emergency rulemaking authority or authority outside the scope of Chapter 120 is intended, it does not need additional rulemaking authority.

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON ECONOMIC DEVELOPMENT AND INTERNATIONAL TRADE:

Prepared by:

Staff Director:

Lisa Munroe

J. Paul Whitfield, Jr.