

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 897 Strong Families Tax Credit
SPONSOR(S): Children, Families & Seniors Subcommittee, Koster
TIED BILLS: **IDEN./SIM. BILLS:** SB 908

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Children, Families & Seniors Subcommittee	13 Y, 4 N, As CS	Rahming	Brazzell
2) Ways & Means Committee			
3) Health & Human Services Committee			

SUMMARY ANALYSIS

Chapter 39, F.S., creates the child welfare system within the Department of Children and Families (DCF). The system includes a central abuse hotline (hotline), child protective investigations, in-home services and out-of-home placements, and legal services. The DCF contracts for case management, out-of-home services, and related services with community-based care lead agencies. The DCF is responsible for program oversight and the overall performance of the child welfare system.

Florida imposes select taxes on certain businesses and products within the state to generate revenue.

HB 897 creates s. 402.60, F.S., known as the Strong Families Tax Credit. This tax credit program provides tax credits for businesses that make monetary donations to certain eligible charitable organizations that provide services focused on child welfare and well-being, specifically:

- Preventing child abuse, neglect, abandonment, or exploitation;
- Assisting fathers in learning and improving parenting skills or to engage absent fathers in being more engaged in their children's lives;
- Providing books to the homes of children eligible for a free or reduced-price meal program or those testing below grade level in kindergarten through fifth grade;
- Assisting families who have children with a chronic illness or a physical, intellectual, developmental, or emotional disability; or
- Providing workforce development services to families of children eligible for a free or reduced-price meal program.

The tax credits are a dollar-for-dollar credit against certain tax liabilities and can be taken against the business's liability for several state taxes, including corporate income tax; insurance premium tax; severance taxes on oil and gas production; alcoholic beverage tax on beer, wine, and spirits; or self-accrued sales tax liability of direct pay permit holders.

The bill specifies requirements and procedures for, and limitations on, receiving the tax credits.

The bill also directs the Florida Institute for Child Welfare, an entity that performs research on child welfare initiatives contributing to a more effective child welfare system, to perform an analysis of the tax credit and the use of the funds and submit a report to the Governor, the Speaker of the House of Representatives, and President of the Senate by October 31, 2025.

The bill caps the tax credit at \$5 million annually. The bill appropriates \$208,000 in non-recurring general revenue funds to the Department of Revenue to implement the bill, addressing the fiscal impact to that agency.

The bill has an indeterminate, positive fiscal impact on state revenue and an insignificant, negative fiscal impact on the DCF.

The bill has an effective date of July 1, 2021.

FULL ANALYSIS

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0897a.CFS

DATE: 3/16/2021

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Department of Children and Families

The Department of Children and Families (DCF) mission is to work in partnership with local communities to protect the vulnerable, promote strong and economically self-sufficient families, and advance personal and family recovery and resiliency.¹ DCF must develop a strategic plan to fulfil its mission and establish measureable goals, objectives, performance standards, and quality assurance requirements to ensure DCF is accountable to taxpayers.²

Under s. 20.19(4), F.S., the DCF is required to provide services relating to:

- Adult protection.
- Child care regulation.
- Child welfare.
- Domestic violence.
- Economic self-sufficiency.
- Homelessness.
- Mental health.
- Refugees.
- Substance abuse.

The DCF must develop a strategic plan for fulfilling its mission and establish a set of measurable goals, objectives, performance standards, and quality assurance requirements to ensure it is accountable. The DCF must also deliver services by contract through private providers to the extent allowed by law and funding.³ These private providers include managing entities delivering behavioral health services and community-based care lead agencies to deliver child welfare services.

Florida's Child Welfare System

Chapter 39, F.S., creates the dependency system charged with protecting child welfare. Florida's child welfare system identifies children and families in need of services through reports to the central abuse hotline (hotline) and child protective investigations. The DCF and community-based care lead agencies (CBCs) work with those families to address the problems endangering children, if possible. If the problems cannot be addressed, the child welfare system finds safe out-of-home placements for these children.

The DCF's practice model is based on the safety of the child within his or her home, using in-home services such as parenting coaching and counseling to maintain and strengthen that child's natural supports in his or her environment. The DCF contracts for case management, out-of-home services, and related services with CBCs.

The CBCs combine the outsourcing of foster care and related services to service agencies with an increased local community ownership of service delivery and design.⁴ CBCs contract with a number of subcontractors for case management and direct care services to children and their families. There are 17 CBCs statewide, which together serve the state's 20 judicial circuits.⁵

¹ S. 20.19(1), F.S.

² *Id.*

³ *Id.*

⁴ The Florida Department of Children and Families (DCF), *Community-Based Care*, <https://www.myflfamilies.com/service-programs/community-based-care/> (last visited Mar. 10, 2021).

⁵ DCF, *Community-Based Care Lead Agency Map*, <https://www.myflfamilies.com/service-programs/community-based-care/lead-agency-map.shtml> (last visited Mar. 10, 2020).

The DCF remains responsible for a number of child welfare functions, including operating the hotline, performing child protective investigations, and providing children’s legal services.⁶ Ultimately, the DCF is responsible for program oversight and the overall performance of the child welfare system.⁷

Florida Institute for Child Welfare

In 2014, the Legislature established the Florida Institute for Child Welfare (FICW) at the Florida State University College of Social Work. The Legislature created the FICW to provide research and evaluation that contributes to a more sustainable, accountable, and effective child welfare system. The purpose of the FICW is to advance the well-being of children and families by improving the performance of child protection and child welfare services through research, policy analysis, evaluation, and leadership development.⁸ Current law requires the FICW to establish an affiliate network of public and private universities with accredited degrees in social work. In 2017, the FICW expanded its affiliate network to include research affiliates, and there are now over 50 research faculty affiliates.

State Revenue Sources

Described below are select taxes imposed by Florida on certain businesses and products within the state.

Corporate Income Tax

Florida imposes a 5.5 percent tax on the taxable income of certain corporations and financial institutions doing business in Florida.⁹ Corporate income tax is remitted to the Department of Revenue (DOR) and distributed to General Revenue. Net collections of corporate income tax in FY 2020-21 are forecast to be \$2.81 billion.¹⁰

Insurance Premium Tax

Florida imposes a 1.75 percent tax on most Florida insurance premiums.¹¹ Insurance premium taxes are paid by insurance companies under ch. 624, F.S., and are remitted to the DOR. These revenues are distributed to General Revenue with additional distributions to the Insurance Regulatory Trust Fund, the Police & Firefighters Premium Tax Trust Fund, and the Emergency Management Preparedness & Assistance Trust Fund. Net collections of insurance premium taxes are forecast to be \$930.1 million in FY 2020-21 with distributions to General Revenue of \$681 million.¹²

Severance Taxes on Oil and Gas Production

Oil and gas production severance taxes are imposed on persons who sever oil or gas in Florida for sale, transport, storage, profit, or commercial use.¹³ These taxes are remitted to the DOR and distributed to General Revenue with additional distributions to the Minerals Trust Fund and to the counties where production occurred. Receipts from the severance taxes on oil and gas are estimated to be \$1.3 million in FY 2020-2021 with distributions to General Revenue of \$9.3 million.¹⁴

Sales Taxes Paid by Direct Pay Permit Holders

⁶ OPPAGA, report 06-50.

⁷ *Id.*

⁸ S. 1004.615, F.S.

⁹ Ss. 220.11(2) and 220.63(2), F.S.

¹⁰ *General Revenue Consensus Estimating Conference Comparison Report*, p. 27, <http://edr.state.fl.us/Content/conferences/generalrevenue/grpackage.pdf> (last visited Mar. 10, 2020).

¹¹ S. 624.509, F.S. (Different tax rates apply to wet marine and transportation insurance, self-insurance, and annuity premiums.)

¹² *General Revenue Consensus Estimating Conference Comparison Report*, p. 34, <http://edr.state.fl.us/Content/conferences/generalrevenue/grpackage.pdf> (last visited Mar. 10, 2020).

¹³ Ss. 211.02(1) and 211.025, F.S.

¹⁴ *General Revenue Consensus Estimating Conference Comparison Report*, p. 38, <http://edr.state.fl.us/Content/conferences/generalrevenue/grpackage.pdf> (last accessed Mar. 10, 2021).

Section 212.183, F.S., authorizes the DOR to establish a process for the self-accrual of sales taxes due under ch. 212, F.S. The process involves the DOR granting a direct pay permit to a taxpayer, who then pays the taxes directly to the DOR.¹⁵

Alcoholic Beverage Taxes

Florida imposes excise taxes on malt beverages, wines, and other beverages.¹⁶ The taxes are due from manufacturers, distributors and vendors of malt beverages, and from manufacturers and distributors of wine, liquor, and other specified alcoholic beverages. Taxes are remitted to the Division of Alcoholic Beverages and Tobacco (Division) in the Department of Business and Professional Regulation (DBPR).

The Division is responsible for supervising the conduct, management, and operation of the manufacturing, packaging, distribution, and sale of all alcoholic beverages in Florida.¹⁷ Distributions of the excise taxes on alcoholic beverages are made to the General Revenue Fund, the Alcoholic Beverage and Tobacco Trust Fund, and Viticulture Trust Fund. Collections of alcoholic beverage taxes are forecast to be \$757.1 million in FY 2020-21 with distributions to General Revenue of \$297.5 million.¹⁸

Currently, there are no statutory provisions for a tax credit program for eligible contributions made to eligible organizations that work to promote the welfare of children.

Background Screening

Level 1 and Level 2 Criminal History Record Checks are terms used under Florida law to convey the method of the criminal history record check and the extent of the data searched. Level 1 and Level 2 are terms that pertain only to Florida and are not used by the Federal Bureau of Investigation (FBI) or other states:

- Level 1: a state-only name-based check.
- Level 2: a state and national fingerprint-based check and consideration of disqualifying offenses, applicable to employees and volunteers designated by law as holding positions of responsibility or trust and those required to be fingerprinted pursuant to ch. 435, F.S.¹⁹

Public Law (Pub. L.) 92-544 authorizes the Federal Bureau of Investigation (FBI) to exchange criminal history record information (CHRI) with state and local governmental agencies' officials for licensing and employment purposes. Criteria established under Pub. L. 92-544 requires state statutes to designate an authorized governmental agency to be responsible for receiving and screening the results of the CHRI to then determine an applicant's suitability for employment or licensing. For level 2 screening, the Florida Department of Law Enforcement (FDLE) is this state's authorized governmental agency given the responsibility to perform a criminal history record check of its records and request that the FBI perform a national criminal history record check of its records for each employee for whom the request is made.²⁰

Under current law, designated eligible charitable organizations are not considered authorized governmental agencies to conduct background screenings and, therefore, are unable to request or obtain national records pursuant to s. 435.04, F.S. However, the FDLE's Volunteer and Employee Criminal History System (VECHS) allows certain non-governmental organizations to obtain national criminal history results through the FDLE.

¹⁵ S. 212.183, F.S., and r. 12A-1.0911, F.A.C. Direct pay permit holders include: dealers who annually make purchases in excess of \$10 million per year in any county; dealers who annually purchase at least \$100,000 of tangible personal property, including maintenance and repairs for their own use; dealers who purchase promotional materials whose ultimate use is unknown at purchase; eligible air carriers, vessels, railroads, and motor vehicles engaged in interstate and foreign commerce; and dealers who lease realty from a number of independent property owners.

¹⁶ Ss. 563.05, 564.06, and 565.12, F.S.

¹⁷ S. 561.02, F.S.

¹⁸ *General Revenue Consensus Estimating Conference Comparison Report*, p. 31, <http://edr.state.fl.us/Content/conferences/generalrevenue/grpackage.pdf> (last visited Mar. 10, 2021).

¹⁹ S. 435.05, F.S.

²⁰ S. 435.05(1)(c), F.S.

Once the FDLE receives fingerprints and payment for criminal history record requests, with the assistance of the FBI, the FDLE will provide the organization:²¹

- Either an indication that the person has no criminal history or the criminal history record that shows arrests and convictions for Florida and other states, if any; and
- Notification of any warrants or domestic violence injunctions that the person may have.

Effect of Proposed Changes

Strong Families Tax Credit Program

Tax Credits for Contributions to Eligible Charitable Organizations

The bill creates s. 402.60, F.S., known as the Strong Families Tax Credit Program. This program provides tax credits for businesses that make monetary donations to certain eligible charitable organizations that provide services focused on child welfare and well-being. The tax credits are a dollar-for-dollar credit against certain tax liabilities.

The tax credit can be taken against the business's liability for several state taxes, including:

- Corporate income tax;
- Insurance premium tax;
- Severance taxes on oil and gas production;
- Alcoholic beverage tax on beer, wine, and spirits; or
- Self-accrued sales tax liability of direct pay permit holders.

New sections are created in each of the applicable tax chapters to create the credit authorized in s. 402.60, F.S., as discussed further below.

Certification and Responsibilities of Eligible Charitable Organizations

To qualify for the program, an eligible charitable organization must be exempt as a 501(c)(3) organization under the Internal Revenue Code, must be a Florida entity with its principal office in the state of Florida, and must provide services to:

- Prevent child abuse, neglect, abandonment, or exploitation;
- Assist fathers in learning and improving parenting skills or to engage absent fathers in being more engaged in their children's lives;
- Provide books to the homes of children eligible for a free or reduced-price meal program or those testing below grade level in kindergarten through fifth grade;
- Assist families who have children with a chronic illness or a physical, intellectual, developmental, or emotional disability; or
- Provide workforce development services to families of children eligible for a free or reduced-price meal program.

An eligible charitable organization cannot:

- Provide, pay for, or provide coverage for abortions or financially support any other entity that provides, pays for or provides coverage for abortions, or
- Receive more than 50% of its total annual revenue from the DCF, either directly or indirectly.

Additionally, to participate in the program, the organization must:

- Apply to DCF for designation as an eligible charitable organization;
- Provide one-time and ongoing information as requested by the DCF;
- Spend 100% of received funds on direct services for Florida residents for an approved purpose under the Strong Families tax credit;

²¹ FDLE, *VECHS Program-Process and Forms*, <https://www.fdle.state.fl.us/Background-Checks/VECHS-Process-and-Forms> (last visited Mar. 15, 2021).

- Apply for admittance into FDLE's VECHS program and, if accepted, conduct level 2 background screening and perform a check of the Dru Sjodin National Sex Offender Public Website for all volunteers and staff working directly with children in any program funded under the bill;
- Annually provide a copy of its most recent IRS Return of Organization Exempt from Income Tax form (Form 990); and
- Hire an independent certified public accountant to conduct an audit of the organization and provide the audit report to the DCF within 180 days after completion of the organization's fiscal year.

Responsibilities of the Department of Children and Families

The DCF would be responsible for reviewing and approving or denying applications from potential eligible charitable organizations. It must also review and designate eligible charitable organizations each year. The DCF is also responsible for creating and maintaining a section of their website dedicated to this tax credit program and providing information on the process for becoming an eligible charitable organization, a list of current eligible charitable organizations, and the process for a taxpayer to select an eligible charitable organization as the recipient of funding through the tax credit program.

Revenue Sources

Corporate Income Tax

The bill creates s. 220.1876, F.S., which, beginning January 1, 2022, authorizes a credit of 100% of an eligible contribution to an eligible charitable organization against any tax due under ch. 220, F.S., for corporate income tax.

Insurance Premium Tax

The bill creates s. 624.51056, F.S., which, beginning January 1, 2022, authorizes a credit of 100% of an eligible contribution to an eligible charitable organization against any tax due under s. 624.509(1), F.S.

Severance Taxes on Oil and Gas Production

The bill creates s. 211.0252, F.S., which, beginning July 1, 2022, authorizes a credit of 100% of an eligible contribution to an eligible charitable organization against any tax due under ss. 211.02 or 211.025, F.S., for oil or gas production. However, the credit may not exceed 50% of the tax due on the return the credit is taken, and this credit may be used only after any credit under s. 211.0251, F.S., has been used, up to a total of 50% of the liability on the return. The bill directs DOR to disregard tax credits under this section for purposes of the distributions of tax revenue under s. 211.06, F.S., so that only amounts distributed to the General Revenue Fund are reduced.

Sales Taxes Paid by Direct Pay Permit Holders

The bill creates s. 212.1833, F.S., which, beginning July 1, 2022, authorizes a credit of 100% of an eligible contribution to an eligible charitable organization against any state sales tax due from a direct pay permit holder as a result of the direct pay permit held pursuant to s. 212.183, F.S. The bill directs the DOR to disregard tax credits under this section for purposes of the distributions of tax revenue under s. 212.20, F.S., so that only amounts distributed to the General Revenue Fund are reduced.

Alcoholic Beverage Taxes

The bill creates s. 561.1212, F.S., to authorize a credit of 100% of an eligible contribution to an eligible charitable organization against tax due under ss. 563.05, 564.06, or 565.12, F.S., except for taxes

imposed on domestic wine production, beginning January 1, 2022. Further, the credit is limited to 90% of the tax due on the return the credit is taken. The Division is directed to disregard tax credits under this section for purposes of the distributions of tax revenue under ss. 561.121 and 564.06(10), F.S., so that only amounts distributed to the General Revenue Fund are reduced.

Application and Approval of Tax Credits by DOR

Businesses that wish to participate in the program by making a donation to an eligible charitable organization must apply to the DOR beginning October 1, 2021, for an allocation of tax credit. The taxpayer must specify in the application each tax for which the taxpayer requests a credit, the applicable taxable year for a credit under ss. 220.1876 or 624.51056, F.S., relating to the corporate income and insurance premium tax credits, and the applicable state fiscal year for a credit under ss. 211.0252, 212.1833, or 561.1212, F.S., relating to oil and gas production, direct pay permit sales, and alcoholic beverage tax credits, respectively. The DOR is required to approve the tax credits on a first-come, first-served basis and must obtain the approval of the Division prior to approving an alcoholic beverage tax credit under s. 561.1212, F.S.

Any unused credit may be carried forward up to ten years. The bill generally does not allow a taxpayer to convey, transfer, or assign the credit to another entity unless all of the assets of the taxpayer are conveyed, transferred, or assigned in the same transaction. Upon approval of the DOR, transfers may be made between members of an affiliated group of corporations if the credit transferred will be taken against the same type of tax.

Rescinding Tax Credits

A taxpayer may apply to the DOR to rescind all or part of an approved tax credit. The amount rescinded becomes available for that state fiscal year to another eligible taxpayer as approved by the DOR if the taxpayer receives notice that the rescindment has been accepted.

Cap on Annual Tax Credit Approvals

The annual tax credit cap for all credits under this program is \$5 million per state fiscal year.

Provisions Specific to Corporate Income Tax

The bill amends two additional corporate income tax provisions related to the ordering and administration of tax credits to:

- Specify the order that credits for contributions to eligible charitable organizations are to be claimed relative to other credits authorized under ch. 220, F.S., and
- Add tax credit amounts claimed under s. 220.1876, F.S., back to taxable income for the purpose of determining a taxpayer's "adjusted federal income."

The bill provides rulemaking authority to the DOR, DCF, Auditor General, and the DBPR. In addition, the DOR is granted emergency rulemaking authority for purposes of implementing the act. An appropriation of \$208,000 is provided to the DOR for implementation costs.

The bill directs the FICW to perform an analysis of the tax credit and the use of the funds and submit a report to the Governor, the Speaker of the House of Representatives, and President of the Senate by October 31, 2025.

The bill takes effect July 1, 2021.

B. SECTION DIRECTORY:

Section 1: Creating s. 211.0252, F.S., relating to credit for contributions to eligible charitable organizations.

Section 2: Creating s. 212.1833, F.S., relating to credit for contributions to eligible charitable organizations.

- Section 3:** Amending s. 220.02, F.S., relating to legislative intent.
- Section 4:** Amending s. 220.13, F.S., relating to “adjusted federal income” defined.
- Section 5:** Amending s. 220.186, F.S., relating to credit for Florida alternative minimum tax.
- Section 6:** Creating s. 220.1876, F.S., relating to credit for contributions to eligible charitable organizations.
- Section 7:** Creating s. 402.62, F.S., relating to the Strong Families Tax Credit.
- Section 8:** Creating s. 561.1212, F.S., relating to credit for contributions to eligible charitable organizations.
- Section 9:** Creating s. 624.51056, F.S., relating to credit for contributions to eligible charitable organizations.
- Section 10:** Provides an effective date of July 1, 2021.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference has not yet determined the fiscal impact of the bill.

Under current law:²²

- The revenue for the state portion of an employee’s state and national criminal history record check will be \$24 per name submitted; and
- The revenue for the state portion of a volunteer’s state and national criminal history record check will be \$18 per volunteer name submitted;

These funds are also subject to a general revenue service charge of eight percent pursuant to ch. 215, FS.

2. Expenditures:

The new tax credit will have non-recurring operational impacts of approximately \$204,000 on the DOR.²³ Ongoing operational impacts on the DOR will be accommodated within current resources. The bill appropriates \$208,000 in non-recurring general revenue funds to the DOR to implement its provisions.

The DCF will incur administrative costs to implement the bill, which current resources are adequate to absorb.

The fiscal impact on the FDLE is indeterminate.²⁴

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has not yet determined the fiscal impact of the bill.

2. Expenditures:

The Revenue Estimating Conference has not yet determined the fiscal impact of the bill.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Eligible charitable organizations under the Strong Families Tax Credit will benefit from the dollar-for-dollar credit against certain tax liabilities.

²² S. 943.053, F.S.

²³ Florida Department of Revenue, Agency Analysis of 2021 House Bill 897, Fiscal Impact Analysis (Mar. 3, 2021).

²⁴ Florida Department of Law Enforcement, Agency Analysis of 2021 House Bill 897, Fiscal Impact Analysis (Feb. 15, 2021).

For state and national criminal history checks, VECHS approved organizations will pay:²⁵

- \$37.25 for each employee electronic submission; and
- \$29.25 for each volunteer electronic submission.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides sufficient rulemaking authority to the DOR, DCF, Auditor General, and DBPR to implement the bill's provisions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 15, 2021, the Children, Families, & Seniors Subcommittee adopted an amendment to HB 897 and reported the bill favorably as a committee substitute. The amendment:

- Requires an eligible charitable organization to apply for admittance into FDLE's Volunteer and Employee Criminal History System and, if accepted, conduct level 2 background screening and perform a check of the Dru Sjodin National Sex Offender Public Website for all volunteers and staff working directly with children in any program funded under the bill.

The analysis is drafted to the committee substitute as passed by the Children, Families, & Seniors Subcommittee.

²⁵ FDLE, *VECHS Program-Process and Forms*, <https://www.fdle.state.fl.us/Background-Checks/VECHS-Process-and-Forms> (last visited Mar. 15, 2021).