STORAGE NAME: h0193.cfe
DATE: January 28, 1997

HOUSE OF REPRESENTATIVES
COMMITTEE ON
CHILDREN AND FAMILY EMPOWERMENT
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: HB 193

RELATING TO: Credits Against Taxes/Child Care Facilities

SPONSOR(S): Representative Lynn

STATUTE(S) AFFECTED: Sections 220.02, 220.03, 220.12, 220.19, and 624.5107, F.S.

COMPANION BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) CHILDREN AND FAMILY EMPOWERMENT YEAS 7 NAYS 0
(2) FINANCE AND TAXATION
(3) GENERAL GOVERNMENT (FISCAL)
(4)
(5)

I. SUMMARY:

This legislation replaces the current deduction for “child care facility startup costs” provided in s. 220.12, Florida Statutes, with a credit for startup costs and operation costs of child care facilities, or with credit for payments made to a child care center on behalf of an employee. Businesses will receive a greater tax benefit under the credit provided under this bill than under the current tax benefit provided in s. 220.12, Florida Statutes.

Eligible companies are allowed to take a credit against either their corporate income tax or insurance premium tax for the creation or operation of child care facilities or for payments made to a child care center on behalf of an employee. The credit is computed as 50 percent of the startup costs of the facility, not to exceed $50,000 annually, $50 per month for each child enrolled in the facility, or 50 percent of the payments made to a child care center on behalf of an employee, not to exceed $50.

The Department of Revenue is responsible for administering the child care tax credit, and may not grant more than $2 million in corporate and insurance premium tax credits in any one year.

The negative fiscal impact of this legislation is estimated to be $2 million annually from the General Revenue Fund. The positive fiscal impact of repealing the deduction for child care facility startup costs is estimated to be insignificant to the General Revenue Fund.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Corporate Income Tax

Chapter 220, Florida Statutes, provides for the taxation of corporations conducting business, deriving income, or existing within the state of Florida. The tax is levied at 5.5% of a corporation's net income less a $5,000 exemption. "Net income" is defined as that share of a corporation's adjusted federal income which is apportioned to Florida for any taxable year. Chapter 220, Florida Statutes, currently allows a deduction for child care facility startup in s. 220.12(1), Florida Statutes.

Section 220.12, Florida Statutes, delineates the formula for determining a taxpayer's net income for each taxable year. "Net income" is defined as a taxpayer's adjusted federal income, or if the taxpayer is a multi state corporation or affiliated with other corporations either inside or outside the state, the part of that adjusted income that is apportioned to this state. Section 220.12, Florida Statutes, then allows for the following adjustments to the taxpayer's adjusted federal income to determine the taxpayer's taxable net income:

nonbusiness income allocated to this state is added;
child care facility startup costs are subtracted; and
$5,000 exemption granted under the Florida Constitution is subtracted.

According to the 1996 Florida Tax Handbook, the fiscal impact on the state from the subtraction of child care facility startup costs from "net income" is insignificant. (The handbook shows deductions as small as six figures.)

Insurance Premium Tax

Chapter 624, Florida Statutes, provides for the imposition of an insurance premium tax on insurers transacting insurance in this state. The tax is levied at 1.75% of gross premiums minus reinsurance and returned premiums.

Child Care Facilities

Chapter 402, Florida Statutes, delineates licensing standards for child care facilities in Florida. Section 402.302(4), Florida Statutes, defines a "child care facility" as "any child care center or child care arrangement which provides child care for more than five children unrelated to the operator and which receives a payment, fee, or grant for any of the children receiving care, wherever operated, and whether or not operated for profit." In order to become a licensed child care facility, s. 402. 305 (1)(b), Florida Statutes, provides that such facilities must meet minimum standards with respect to the following issues:

1. The health, sanitation, safety, and adequate physical surroundings for all children in child care.

2. The health and nutrition of all children in child care.

3. The child development needs of all children in child care.

According to the Department of Health and Rehabilitative Services (HRS), as of June 30, 1996, there were 5,686 licensed child care centers, 4,002 licensed family day care homes, and 3,044 registered family day care homes. The department does not maintain records on how many of these are operated and used exclusively by the employees of a corporation or insurance company. There are no records available on the average cost to start up or operate a child care facility.

B. EFFECT OF PROPOSED CHANGES:

The bill creates a child care tax credit for corporations or insurance companies that operate child care facilities on their premises for use by their employees.

Eligible companies are allowed to take a credit against either their corporate income tax or insurance premium tax for the establishment and operation of child care facilities. Eligible companies are also allowed to take a credit against either their corporate income tax or insurance premium tax for payments made to a child care center on behalf of an employee. For company operated facilities, the credit is computed as 50 percent of the startup costs of the facility, not to exceed $50,000 annually, and $50 per month for each child enrolled in the facility. For payments to other facilities, the credit is 50 percent of the payment

The Department of Revenue is responsible for administering the child care tax credit, and may not grant more than $2 million in corporate and insurance premium tax credits in any one year.

To be eligible for the child care facility tax credit, the child care facility must be licensed pursuant to s. 402.305, Florida Statutes, available to all the employees of the corporation, and must be used exclusively by the employees of the corporation.

The bill also removes “child care facility startup costs" from the formula contained in section 220.12, Florida Statutes, to determine a taxpayer’s taxable net income.

The net effect of this bill is to replace the current <u>deduction</u> for “child care facility startup costs” with a <u>credit</u> for startup costs and operation costs for child care facilities, and to expand eligible expenses to include payments made to a child care center on behalf of an employee. Businesses will receive a greater tax benefit under the credit provided under this bill than under the current tax benefit provided in section 220.12, Florida Statutes. At $50 per month per child the $2 million appropriations in the bill could accommodate up to 3,333 children.

C. APPLICATION OF PRINCIPLES:

1. <u>Less Government</u>:

   a. *Does the bill create, increase or reduce, either directly or indirectly:*

I. *Any authority to make rules or adjudicate disputes?*

The Department of Revenue and Department of Children and Families may make rules to implement the bill.

ii. *Any new responsibilities, obligations or work for other governmental or private organizations or individuals?*

No.

iii. *Any entitlement to a government service or benefit?*

No.

b. *If an agency or program is eliminated or reduced:*

I. *What responsibilities, costs and powers are passed on to another program, agency, level or government, or private entity?*

N/A.

ii. *What is the cost of such responsibility at the new level/agency?*

N/A.

iii. *How is the new agency accountable to the people governed?*

N/A.

2. Lower Taxes:

a. *Does the bill increase anyone's taxes?*

No.

b. *Does the bill require or authorize an increase in any fees?*

No.

c. *Does the bill reduce total taxes, both rates and revenues?*

Section 220.12, Florida Statutes, currently allows for up to $2 million in tax credits to annually be awarded to corporations or insurance companies. The bill maintains that limit but provides more opportunities for qualifying for the credit, making it more likely that the maximum credit will be awarded.

d. *Does the bill reduce total fees, both rates and revenues?*

No.

e. *Does the bill authorize any fee or tax increase by any local government?*

No.

3. Personal Responsibility:

a. *Does the bill reduce or eliminate an entitlement to government services or subsidy?*

No.

b. *Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?*

The beneficiaries pay all costs beyond 50 percent of the startup costs of a new child care facility and $50 per child per month for operations. For child care facilities not operated by the business, the beneficiaries pay all costs beyond the credit against either their corporate income tax or insurance premium tax for 50 percent of the payments made to a child care center on behalf of an employee.

4. Individual Freedom:

a. *Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?*

Yes. Businesses decide whether or not to offer a child care facility as a benefit to their employee and parents retain the decision to participate in the program or not.

b. *Does the bill prohibit, or create new government interference with, any presently lawful activity?*

No.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

I. *Who evaluates the family's needs?*

Businesses decide whether or not to offer a child care facility as a benefit to their employee.

ii. *Who makes the decisions?*

Parents and their employer.

iii. *Are private alternatives permitted?*

The bill provides for a private alternative.

iv. *Are families required to participate in a program?*

No.

v. *Are families penalized for not participating in a program?*

No.

b. *Does the bill directly affect the legal rights and obligations between family members?*

No.

c. *If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:*

I. *Parents and guardians?*

Parents retain the decision to participate in the program or not.

ii. *Services providers?*

No.

iii. *Government employees/agencies?*

No.

D. SECTION-BY-SECTION ANALYSIS:

Section 1 amends s. 220.02(10), Florida Statutes, relating to the application of credits against corporate income tax liability. The child care tax credit created in section 4 shall be applied after all other applicable corporate tax credits have been applied.

Section 2 amends s. 220.03(1), Florida Statutes, relating to definitions for use in part I, ch. 212, Florida Statutes. "Child care facility startup cost" is limited to costs associated with an eligible facility located on the taxpayer's premises. "Operation of a child care facility" is defined.

Section 3 amends s. 220.12, Florida Statutes, relating to the formula for determining a taxpayer's net income for purposes of state corporate income tax liability. Child care facility startup costs are removed from the formula.

Section 4 creates s. 220.19, Florida Statutes, relating to a child care tax credit against corporate income tax. The Department of Revenue may grant a tax credit for costs related to the startup and operation of child care facilities. Eligible companies are also allowed to take a credit against either their corporate income tax or insurance premium tax for 50 percent of the payments made to a child care center on behalf of an employee. The amount of tax credit any one corporation may receive is limited to $50,000 annually for child care costs. The total amount of tax credits the department may grant, under this section and section 5, is limited to $2 million annually. Eligibility and application requirements are set forth, including the requirement that the payments for which a corporation claims credit shall be comparable to payments charged for other children. This section shall expire on June 30, 2007.

Section 5 creates s. 624.5107, Florida Statutes, relating to a child care tax credit against insurance premium tax. The Department of Revenue may grant a tax credit for costs related to the startup and operation of child care facilities. The amount of tax credit any one corporation may receive is limited to $50,000 annually for child care costs. The total amount of tax credits the department may grant, under this section and section 5, is limited to $2 million annually. Eligibility and application requirements are set forth. This section shall expire on June 30, 2007.

Section 6 provides that this act shall become effective on June 30, 1997.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

   The Department of Revenue will incur costs associated with developing rules and procedures to administer this act. See Amendments Section below.

2. Recurring Effects:

   Expenditures:

   The Department of Revenue will incur costs associated with processing applications for the child care tax credit each year. The Department of Children and Families would incur costs related to the certification of licensure of new day care facilities.

   Revenues:

   The negative fiscal impact of this legislation is estimated to be ($2.0) million annually from the General Revenue Fund plus administrative costs which are not determined at this time. The positive fiscal impact of repealing the deduction for child care facility startup costs is estimated to be insignificant to the General Revenue Fund.

3. Long Run Effects Other Than Normal Growth:

   None.

4. Total Revenues and Expenditures:

   See 1. and 2. above.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

   None.

2. Recurring Effects:

   None.

3. Long Run Effects Other Than Normal Growth:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

   Indeterminate. Because the current impact of the use of “child care facility startup costs" in the formula contained in s. 220.12, Florida Statutes, to determine a taxpayer’s taxable net income is insignificant, any costs associated with the removal of this cost from the formula may be outweighed by the benefits conferred in this bill.

2. Direct Private Sector Benefits:

   Businesses that start up or operate eligible child care facilities may receive either a corporate tax credit or insurance premium tax credit for costs associated with the startup and operation.

3. Effects on Competition, Private Enterprise and Employment Markets:

   The bill provides state subsidized child care to profitable corporations only. Not-for-profit or for-profit child care facilities may directly compete with these corporations. While other state child care subsidies have a number of requirements (e.g., income caps), there are no eligibility requirements in this bill, other than, implicitly, for the corporation to be profitable.

D. FISCAL COMMENTS:

See above.

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:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

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

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

Implementation:

The effective date of this legislation is June 30, 1997. Since the department is limited to granting $2 million annually (presumably based on a fiscal year), this effective date suggests the potential for credits attributable to costs incurred in FY 1996-97. However, it is unlikely that the Department of Revenue will be capable of promulgating the rules necessary for implementation of this legislation by June 30, 1997.

Miscellaneous:

The bill does not differentiate between full-time and part-time child care facilities. Costs associated with caring for part-time children may be less than costs associated with caring for children full time.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The bill was amended in committee to:

1. Expand the options of an employer in assisting an employee with child care expenses by allowing credit for expenditures on renovations and for debt service related to a company operated center, allowing children of non-employees to enroll in the center, and allowing credit for 50% of payments to independent centers on behalf of the employee.

2. Change the effective date to December 31, 1997 to allow time for the program to be established.

3. Allow the corporation to enter into an arrangement with a non-profit corporation to provide the child care.

4. Changes correcting grammar and statutory references.

With the amendment, the total credit continues to be capped at $2 million annually for all participants and limited to $50,000 per year for any single corporation.

The amendment was not incorporated into a committee substitute and travels with the bill.

VII. SIGNATURES:

Prepared by: Staff Director:

Bob Cox Bob Barrios