STORAGE NAME: h0809a.bdt
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HOUSE OF REPRESENTATIVES
COMMITTEE ON
BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE
BILL RESEARCH & ECONOMIC IMPACT STATEMENT

BILL #: HB 809

RELATING TO: Tax Credits for Charitable Contributions

SPONSOR(S): Representative Eggelletion

STATUTE(S) AFFECTED: amending sections 199.023, 220.02, F.S., creating sections 199.05, 220.185, 624.5104, F.S.

COMPANION BILL(S): SB 548

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE YEAS 7 NAYS 0
(2) GOVERNMENT OPERATIONS
(3) FINANCE AND TAXATION
(4)
(5)

I. SUMMARY:

This bill provides for credits against the intangibles, corporate income, or insurance premium tax for charitable contributions made to not-for-profit organizations that contract with the state to provide services. A taxpayer who makes a contribution to such organization in excess of any contribution given in the previous year is entitled to a credit of 25% against the intangibles, corporate income, or insurance premium tax. The contribution must be approved in advance, and is only available if there are sufficient unexpended funds in the organization's contract to allow 25% of the value of the contribution to be subtracted from it.

The Department of Revenue will have to develop rules and forms to implement the provisions of this bill.

The Revenue Estimating Conference has not reviewed this bill yet. The tax credits contained in this bill will have an indeterminate recurring negative fiscal impact on state and local revenue.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Many state services are provided by not-for-profit organizations under contract to state agencies. These organizations may also solicit funds from other sources in order to serve more clients than their state contract will support. If these organizations qualify as charitable organizations under the Internal Revenue Code, contributions to them are deductible for federal income tax purposes, and, for corporations, these contributions reduce their Florida income tax liability.

State agencies with significant contracts for services include, but are not limited to, the Department of Children and Families (at least $600 million), the Department of Education (at least $30 million), the Agency for Health Care Administration (under $30 million), and the Department of Juvenile Justice (about $2.3 million). Services provided under contract include day care, mental health services, substance abuse treatment, and foster care, among others.

Chapter 199, Florida Statutes, imposes a tax on intangible personal property.

Chapter 220, Florida Statutes, imposes a tax on corporate income. Charitable contributions which are deductible for federal tax purposes are also deductible for Florida tax purposes. In addition, Florida provides for credits against the corporate income tax for several taxes and other expenditures. These are:

- The lesser of 100% of intangibles tax paid or 65% of corporate tax liability for banks and savings associations (s. 220.68, F.S.)
- Community contribution credits (s. 220.183, F.S.)
- Enterprise zone ad valorem credits (s. 220.182, F.S.)
- Enterprise zone jobs credits (s.220.181, F.S.)
- Emergency excise tax credits (s. 220.02, F.S.)
- Export finance corporation investments credits (s. 220.188, F.S.)
- Gasohol development credits (s. 220.18, F.S.)
- Hazardous waste facility credits (s. 220.184, F.S.)

Section 220.02, F.S., prescribes the order in which credits against the corporate income tax must be taken.

Chapter 624, Florida Statutes, imposes a tax on insurance premiums. Several credits are provided against the insurance premium tax. These are:

- Community contributions credits (s. 624.5015, F.S.)
- Corporate income tax credits claimed (s. 624.509(4), F.S.)
- Florida employees’ salaries (s. 624.509(5), F.S.)
- Intangible taxes paid (s. 624.509(4), F.S.)
- Municipal firefighters pension fund (s. 175.141, F.S.)
- Municipal police officers retirement fund (s. 185.12, F.S.)

B. EFFECT OF PROPOSED CHANGES:

This bill provides a credit against the intangibles, corporate income, or insurance premium tax for 25% of the value of charitable contributions to state contract providers. Tax credits must be approved in advance by the Executive Director of the Department of Revenue and the head of the agency that directly supervises the recipient not-for-profit organization. A taxpayer may claim a credit against only one of the applicable taxes.

In order to be eligible for a credit, a contribution must be in the form of cash or liquid assets. The contribution must be used by the recipient organization to provide services which are funded in the General Appropriations Act for the current year. A contribution must be made to a qualifying recipient organization, which means a tax exempt 501(c)(3) organization that is under contract to a state agency and receives funds in the current fiscal year, is fulfilling its contract satisfactorily, as certified by the head of the supervising agency, has sufficient unspent appropriated funds to allow the state to withhold an amount equal to 25% of the contribution, and has demonstrated a need for funds greater than the amount appropriated by the state.

A taxpayer that wishes to participate in this program must submit an application to the Department of Revenue naming the recipient organization, the amount of the proposed contribution, and the amount of any contribution the taxpayer made to the organization in the previous tax year. The taxpayer must submit separate applications for each individual contribution.

Each state agency that supervises a not-for-profit contract provider must provide a list of all such organizations to the Department of Revenue. The department must maintain this list on the Internet and send a copy to all corporations and insurance companies that are subject to tax and all recipients of intangibles tax forms. The department may approve a state contract provider contribution only if there are sufficient unspent appropriations in the recipient's contract to allow the state to withhold funds equal to 25% of the "creditable contribution", which is the difference between what the taxpayer gave the organization last year and what is proposed to be given this year. After the contribution has been approved, the department shall direct the supervising state agency to prepare a budget amendment that reduces the amount of appropriation the recipient organization will receive by 25% of the amount of the creditable contribution. The agency must also prepare a budget amendment that transfers to the General Revenue Fund an amount equal to the reduction in the recipient organization's appropriation.

C. APPLICATION OF PRINCIPLES:

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

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

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The requirement that state agencies certify that all potential recipients are satisfactorily fulfilling their contracts and prepare budget amendments for every approved contribution has the potential to create a large workload for agencies that supervise state contract providers.

(3) any entitlement to a government service or benefit?

No.

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

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) 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?

This bill provides tax credits for certain charitable contributions against the intangibles, corporate income, and insurance premium tax. The credits are to be offset by transfers of funds which had been appropriated to the recipient organizations to the General Revenue Fund, but these appropriations may be from sources other than General Revenue, and the bill does not provide for distributions to other funds.

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

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?

No.

4. Individual Freedom:

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

No.

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:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

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:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. SECTION-BY-SECTION RESEARCH:

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:
The Department of Revenue estimates that this bill will have the following non-recurring impact on their agency.

	FY 1997-98
Expenses	$1,717
OCO	$3,165
Total:	$4,882

2. Recurring Effects:
The Department of Revenue estimates that this bill will have the following recurring impact on their agency:

	FY 1997-98	FY 1998-99
	1 FTE	1 FTE
Salaries	$36,706	$36,706
Expenses	$ 4,871	$ 4,871
Total:	$41,577	$41,577

The requirement that state agencies certify that all potential recipients are satisfactorily fulfilling their contracts and prepare budget amendments for every approved contribution has the potential to create a large workload for agencies that supervise state contract providers.

This bill provides tax credits for certain charitable contributions against the intangibles, corporate income, and insurance premium tax. The credits are to be offset by transfers of funds which had been appropriated to the recipient organizations to the General Revenue Fund, but these appropriations may be from sources other than General Revenue, and the bill does not provide for distributions to other funds.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

FY 1997-98	FY 1998-99
$46,459	$41,577
1 FTE	1 FTE

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:

   None.

2. Direct Private Sector Benefits:

   Recipient organizations may be positively or negatively affected by this bill. To the extent the bill elicits a higher level of contributions, the organizations will benefit by 75% of the value of the contribution. If contributors take advantage of the credit without increasing overall contributions, which they can do by giving to different organizations than they gave to in the previous year, the entirety of recipient organizations will see their net funding decrease, and there may be considerable fluctuations from year to year for any one organization.

   Because of the interaction of federal and state income taxes, a $25 credit against Florida corporate income tax is worth $16.25 to the contributor, assuming a 35% marginal tax bracket.

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

D. FISCAL COMMENTS:

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 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:

Although the bill will reduce the amount of Local Government Half Cent Sales Tax shared with cities and counties, it does not reduce the percentage of a state tax shared with cities and counties. Therefore, the bill is exempt from the provisions of Article VII, Section 18(b), Florida Constitution.

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE:

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