HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 239 w/CS Community contribution tax credits
SPONSOR(S): Davis, D.
TIED BILLS: **IDEN./SIM. BILLS:** SB 116

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Workforce & Economic Development (Sub)	4 Y, 0 N	Winker	Whitfield
2) Commerce	15 Y, 0 N w/CS	Winker	Whitfield
3) Local Government & Veterans' Affairs		Grayson	Highsmith-Smith
4) Finance & Tax			
5) Commerce & Local Affairs Appropriations			
6) Appropriations			

SUMMARY ANALYSIS

House Bill 239 increases the total amount of Community Contribution Tax Credits that may be granted for all programs that currently provide a tax credit for: sales, rental, use, consumption, distribution, and storage of certain goods; corporate income; or insurance related income. The bill increases allowable tax credits statewide from $10 million to $20 million. The tax credits are granted against the corporate income tax and insurance premium taxes to corporations and insurers that participate in public revitalization projects, such as those found in enterprise zones.

The bill also allows insurers claiming a deduction under the community contribution tax credit program to not be required to pay any additional retaliatory tax levied pursuant to current law. A retaliatory tax is imposed upon foreign (out of state) insurers whose home states impose higher taxes on domestic insurers than the state imposed on foreign insurers.

The bill could decrease state revenue collections by up to an additional $10 million annually.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

1. Reduce government?	Yes[X]	No[]	N/A[]
2. Lower taxes?	Yes[X]	No[]	N/A[]
3. Expand individual freedom?	Yes[X]	No[]	N/A[]
4. Increase personal responsibility?	Yes[X]	No[]	N/A[]
5. Empower families?	Yes[X]	No[]	N/A[]

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

B. EFFECT OF PROPOSED CHANGES:

This bill increases the total amount of Community Contribution Tax Credits that may be granted for all programs that are provided in current law pertaining to retaliatory taxes on foreign insurers from $10 million to $20 million. [A retaliatory tax is imposed upon foreign (out of state) insurers whose home states impose higher taxes on domestic insurers than the state imposed on foreign insurers.] The credits are granted against the corporate income tax and insurance premium taxes to corporations and insurers that participate in public revitalization and development projects, such as those found in enterprise zones. The bill also allows insurers claiming a deduction under the community contribution tax credit program to not be required to pay any additional retaliatory tax levied pursuant to s. 650.5091, F.S.

Community Contribution Tax Credit Program

Sections 212.08, 220.183, and 624.5105, Florida Statutes, were created to encourage the participation of private corporations and insurers in revitalization projects undertaken by public redevelopment organizations by granting such corporations and insurers partial state income tax credits and partial state insurance premium tax credits.

A private corporation or insurer is allowed a credit of 50% of a community contribution against any annual tax due up to $200,000 in tax credits.

In order for a private corporation or insurer to be eligible for the credits they must meet the following requirements:

1. Each community contribution by a private corporation or insurer must be:

- Cash or other liquid assets;
- Real property;
- Goods or inventory; or
- Other physical resources which are identified by the Department of Revenue.

2. Each community contribution must be reserved exclusively for use in a project designed to construct, improve, or rehabilitate housing affordable to low-income or very low-income households; provide commercial, industrial, or public resources and facilities; improve entrepreneurial and job-development opportunities for low-income persons; or increase access to high-speed broadband capability in rural communities with enterprise zones.

3. The project must be undertaken by an "eligible sponsor" that is defined as:

- A community action program;
- A nonprofit community development corporation;

- A neighborhood housing services corporation;
- A local housing authority created pursuant to chapter 421, F.S.;
- A community redevelopment agency created pursuant to section 163.356, F.S.;
- The Florida Industrial Development Corporation;
- An historic preservation district agency organization;
- A regional workforce board;
- A direct-support organization as provided in section 290.0056, F.S.;
- An enterprise zone development agency created pursuant to section 290.0056, F.S.;
- A community-based organization incorporated and recognized as a s. 501(c)(3) (under the Internal Revenue Code) having a mission of providing affordable housing or doing economic or community development;
- Units of local or state government; or
- Such other agency as the Office of Tourism, Trade, and Economic Development may, from time to time, designate by rule.

Applications to receive community contribution tax credits must be submitted to the Office of Tourism, Trade, and Economic Development (OTTED). The application must state the terms of the application, including the name of the sponsor, the project description, and the value and purpose of the contribution. The sponsor must verify in the application for tax credits that the contribution has been received. For tax credits against insurance premium taxes, the sponsor must state its willingness to receive the contribution in the application for tax credits. Once approved by OTTED, the applicant must also claim the credit from the Department of Revenue. Any unused credits against corporate income taxes and insurance premium taxes may be carried forward for 5 years. Unused credits against sales taxes may be carried forward for 3 years.

OTTED reports that the current $10 million allocation of community contribution tax credits was exhausted in 80 days for FY 2003-03. About 83% of the credits are used to offset sales taxes.

The amount of tax credits for the community contribution tax credit program has increased since 1995. From FY 1995-96 through FY 1997-98, there was $2 million available. For FY 1998-99, the amount was raised to $5 million. From FY 1999-2000 to the present, the amount has been $10 million.

According to data from OTTED, since 1995, community contribution tax credits have been used mostly for low income housing projects (73%). Community development projects in enterprise zones (construction or rehabilitation of commercial, industrial, or public facilities) account for 27% of the credits.

Retaliatory Tax

Florida's retaliatory tax statute (s. 624.5091, F.S.) authorizes the imposition of a tax against insurers from other states in the amount by which their state of domicile would tax Florida insurers in excess of Florida's comparable tax. To calculate the retaliatory tax, the Department of Revenue compares the taxes a Florida insurer would pay in another state to the comparable taxes an out-of-state insurer would pay in Florida. If the taxes are higher in the other state, Florida imposes a retaliatory tax on insurers from the other state in an amount equal to the difference. The purpose of the retaliatory tax is to promote the interstate business of Florida insurers by deterring other states from enacting discriminatory or excessive taxes.

C. SECTION DIRECTORY:

SECTION 1: Amends section 220.183, Florida Statutes, increasing the total amount of tax credit which may be granted for all approved programs in this section and s. 624.5105, F.S., from $10 million to $20 million annually.

SECTION 2: Amends section 624.5105, Florida Statutes, increasing the total amount of tax credit which may be granted for all approved programs in this section and ss. 212.08 and 220.183, F.S., from $10 million to $20 million annually and provides that an insurer claiming credit will not be required to pay any additional retaliatory tax pursuant to s. 624.5091, F.S.

SECTION 3: The bill takes effect July 1, 2003.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The net effect of the bill potentially reduces the amount that the State of Florida collects through corporate income taxes and state insurance premium taxes by up to an additional $10 million on an annual basis. This money would ordinarily be placed in the General Revenue Fund.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

In lieu of paying a portion of corporate income taxes or state insurance premium taxes, private corporations and insurers may participate in local redevelopment projects.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

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

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

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues

None.

Other Issues

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

At the Commerce Committee meeting on March 17, 2003, the committee passed HB 239 with a committee substitute. The committee substitute differs from the original bill in the following ways. The amendment adopted by the Workforce and Economic Development Subcommittee discussed below was adopted by the full committee. In addition, the full committee adopted an amendment that allows for insurers claiming a deduction under the community contribution tax credit program to not be required to pay any additional retaliatory tax levied pursuant to s. 627.5091, F.S.

At the Workforce and Economic Development Subcommittee meeting on March 10, 2003, an amendment to HB 239 was adopted that changed a reference in s. 212.08(5)(q), F.S., to the maximum amount of the annual tax credits from $10 million to $20 million which conforms this section of the statutes with the bill.