

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1221 Corporate Income Tax Credits  
**SPONSOR(S):** Vana  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 598

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Commerce		Winker	Billmeier
2) Insurance			
3) Finance and Tax			
4) Commerce and Local Affairs Apps. (Sub)			
5) Appropriations			

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### SUMMARY ANALYSIS

The bill provides small businesses with fewer than 50 employees a tax credit of up to \$1,000 against any tax due for a taxable year under chapter 220, F.S., for providing employees of the business health care insurance consisting of coverage provided in chapter 627, F.S.

A preliminary estimate of the fiscal impact of the bill prepared by committee staff is negative \$49.1 million in General Revenue

The bill takes effect upon becoming law and applies retroactively to January 1, 2004.

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

**STORAGE NAME:** h1221.com  
**DATE:** March 30, 2004

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |   |                             |   |
|--------------------------------------|---|-----------------------------|---|
| 1. Reduce government?                | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

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

None.

#### B. EFFECT OF PROPOSED CHANGES:

The bill provides small businesses with fewer than 50 employees a tax credit of up to \$1,000 against any tax due for a taxable year under chapter 220, F.S. for providing employees of the business health care insurance consisting of coverage provided in chapter 627, F.S.

The bill takes effect upon becoming law and applies retroactively to January 1, 2004.

#### Current Situation

According to the Kaiser Family Foundation's 2003 annual national survey report of employer health benefits, employers are the primary source of health insurance in the United States, covering 62% of all employees. The report cites U.S. Census Bureau estimates that nearly one in five workers is uninsured. Employer decisions to offer health benefits vary substantially by the size of the business. Health benefits are offered employees by 55% of the smallest companies (3-9 workers) while 76% of businesses with 10 to 24 workers, and 84% of businesses with 25 to 49 workers, and nearly all firms with 50 or more workers offer health benefits. In businesses which offer health insurance, 84% of all small businesses' (3-199 workers) employees and 80% of all large businesses' (200 or more workers) employees are eligible for health benefits. The employee participation rate is about 83% across all businesses. Small businesses with between 10 and 49 workers have a lower than average participation rate (76%).

According to the Kaiser report, employees eligible for health insurance usually have an option to choose health insurance coverage for themselves or their dependents. Overall, 45% of covered employees choose single coverage, 16% choose single coverage plus one dependent, and 39% choose family coverage. Among small businesses (3-199 workers), the proportion of covered employees who elect family coverage has declined slightly, from 39% on covered workers in 2001 to 33% in 2003.

According the Kaiser report, the share of total health insurance premiums paid by employees remains unchanged in 2003: 16% across health insurance plan types for single coverage and 27% for family coverage. The average monthly employee contribution in all businesses for family coverage is \$201 in 2003, up from \$178 in 2002. On an annual basis, employees' contributions for family coverage increased \$276 overall. The average monthly employee contribution for single coverage was \$42 in 2003

According to the Kaiser employer health benefits survey, in 2003, premiums for job-based health benefits rose by 13.9%. This is the third consecutive year of double-digit premium increases, and

higher rate of growth than any year since 1990. Premium increases in 2003 exceeded the overall rate of inflation by nearly 12 percentage points. Small businesses (3 -199 workers) had increases of 15.5% and premiums for larger businesses (200 or more workers) rose by 13.2%. Small businesses were more likely than large businesses to have experienced a premium increase greater than 15% in 2003. Sixty-one percent of employers identified prescription drug expenses and hospital expenses as the primary reasons for the premium rate increase. Other reasons stated for the increase included a demographic shift towards an aging population, physician expenses, higher insurance company profits, and improved medical technology.

## **Florida Small Businesses and Health Insurance**

Section 627.669, F.S., the Employee Health Care Access Act, governs rate development for small groups containing 2-50 employees. Small employer carriers must use a modified community rating methodology in which the premium for each small employer must be determined solely on the basis of the eligible employee's and eligible dependent's gender, age, family composition, tobacco use, or geographic area. The carriers are then allowed to adjust the rates by as much as 15 percent based on each group's claims experience, health status or duration of coverage. Since small group insurance is guarantee issue in Florida, an insurer may not consider an applicant's health status or medical condition in determining whether or not to issue coverage, except within the limitations mentioned above. Rate development for one-life groups additionally provides that the carrier may file for approval of a rating factor reflecting the higher claim experience realized by the one-life business as compared to the 2-50 life business. This rate may not exceed 150% of the rate currently being offered to the insured under the small group plans consisting of 2-50 people.

In 1992, the Legislature enacted a series of laws entitled the Employers Health Care Access Act. See s. 627.6699, F.S. The purpose and intent of the act was to promote the availability of health insurance coverage to small employers regardless of the claims experience or their employees' health status. Key provisions of the Act were to enhance the provision of health insurance to small businesses and ensure that health insurance risk could be spread across the broader population. The Act also mandated the development of two optional health insurance benefit plans (Standard and Basic – see below) and to require that each participating insurance carrier actively market these plans to prospective small businesses.

Section 627.6699(3), F.S., defines a "small business", with respect to the provision of health insurance, as any person, sole proprietor, self-employed individual, independent contractor, firm, corporation, partnership, or association that is actively engaged in business, has its principal place of business in the state, and employs at least one but no more than 50 employees.

Section 627.6699(5)(a), F.S. required that beginning January 1, 1993, each small employer insurance carrier issuing health benefit plans to small employers in the state must, as a condition of doing business in the state, offer to eligible small businesses a standard health benefit plan and a basic health benefit plan. Section 627.6699(12), F.S., required the Chief Financial Officer to appoint a health benefit plan committee to review the health benefit plans offered to small employers and to make necessary recommendations for changing the plans. "Standard" and "basic" health benefits plans for small businesses must contain:

- An exclusion for services that are not medically necessary or that are not covered preventative health services; and
- A procedure for pre-authorization by the small employer carrier, or its designee.

Specifically, a Standard health benefit plan must include coverage for:

- Inpatient hospitalization;
- Outpatient services;

- Newborn children;
- Adopted children;
- Mammograms;
- Handicapped children;
- Emergency or urgent care out of the geographic service area; and
- Services provided by a hospice.

A Basic health benefit plan must include all the benefits listed above, but it can place additional restrictions on the benefits and impose additional cost containment measures. This plan can also specify limits on the number of authorized treatments, if the limits are reasonable and does not discriminate against any health care provider.

In an August 11, 2003 report prepared by the Florida Agency for Health Care Administration (FAHCA) on the uninsured in Florida, it is reported that the majority of Floridians obtain health care coverage through their employer. About 61 percent of non-elderly Florida residents have employer-sponsored health insurance coverage. The ability of an employee to obtain employer-sponsored health insurance coverage varies with the size of the business. Smaller companies are less likely to provide health care coverage compared to larger businesses. Between 50 and 60 percent of employees in businesses with less than 24 employees have employer-sponsored coverage, compared to 82 percent of employees in businesses with greater than 1,000 employees. According to the FAHCA report, Florida is one of the top five states in the country with the highest proportion of employees in small businesses, with 32 percent of Florida workers in businesses with fewer than 25 employees.

The FAHCA report cites a 2000 study of 4,000 Florida businesses showing that the percent of businesses offering health care coverage fell from 91 percent in 1999 to 77 percent in 2000. Also, the FAHCA report states that small businesses with between one and 50 employees represent 26 percent of the employer-sponsored market. Small businesses have seen the cost of health care insurance rise of the past few years. In 2000, health insurance premiums for small employers rose by 16 percent and in 2001, premiums rose by 24 percent. Florida also has seen a decline in the number of health insurance carriers. For example, in 1997, there were 104 health insurance carriers and by 2001, there were only 26 carriers.

In June 2002, Insurance Commissioner Tom Gallagher assembled a Small Employer Benefit Plan Committee. The committee's purpose was to re-design the Standard and Basic benefit plans to better meet the market needs and to explore options and offer recommendations for making health plans available for small businesses more accessible and more affordable. In April 2003, new health care benefit plans were announced and according to the FAHCA report is expected to save small businesses between 20 and 40 percent in insurance premiums.

In September 2002, as part of the efforts of the Small Employer Benefit Plan Committee, the Florida Chamber of Commerce conducted a survey of small businesses on the issue of health insurance. This report was prepared following the statewide survey of five thousand employers. Two hundred survey responses were received from employers with 50 or fewer employees representing cities from across the state. Key findings of the report include:

- Eighty-five percent of Florida's small businesses offer health insurance to their employees.
- Of those small businesses that do not offer health insurance to their employees, 63 percent never offered benefits and 33 percent dropped coverage prior to the year in which the survey was conducted.
- Twenty-nine percent small businesses pay all of their employees' health insurance premiums.
- Thirty-four percent pay small businesses pay more than \$3,000 per employee, per year for health insurance.

In November and December 2002, the Florida Chamber of Commerce conducted its annual health insurance survey of all Florida businesses. According to the survey:

- Seventy-six percent of surveyed Florida employers currently offer health insurance to employees. According to the previous Florida Chamber Health surveys, this number is down from 77 percent in 2001, 86 percent in 2000, and 91 percent in 1999.
- Sixty-two percent of surveyed Florida employers pay most or all of their employees' individual health insurance premiums. Additionally, nearly half also pay a portion of their employees' family premiums.
- Thirty-five percent of the survey's respondents had their coverage dropped or experienced premium increases they could not afford.
- Fifty-five percent of surveyed employers who are unable to offer health insurance cite high costs or limited access to group health insurance as the reason.
- In the last 12 months, 86 percent of surveyed employers experienced an increase in premiums. Of those, 47 percent endured a greater than 20 percent increase.
- Forty-two percent of surveyed employers indicated they will be forced to consider eliminating health insurance benefits if they experience additional increases in premiums.

According to a recent report of the Florida House of Representatives' Select Committee on Affordable Health Care for Floridians (February 13, 2004), nearly the entire U.S. and Florida health care financing system has been designed around the concept of employment-based health insurance. In the 1960's, public-based health insurance systems were developed with the introduction of the federal Medicaid system. Over the past 40 years, Florida has created a vast array of hybrid systems to meet the health insurance needs of specific targeted populations.

The Select Committee's report also identified a number of problems with the current employment-based health insurance system. These problems include:

- "Job lock" and its dampening effect on entrepreneurship;
- Lack of fiscal transparency, or the shielding of the true cost of health from the consumer;
- Lack of consumer choice and responsibility; and
- The inability of alternative models to compete in the established system.

According to the Select Committee's report, an employment-based health insurance system can make it difficult or sometimes impossible for people to change jobs. This is often referred to as "job lock" where the nature of the health care benefits makes an employee feel that he/she is unable to leave their current employment because of lower health care benefits are a new job which may even have certain restrictions on health care coverage, such as those for preexisting medical conditions.

According to the Select Committee report, critics of the current health care insurance provision system suggest that it suppresses the creation of new businesses, because for many potential entrepreneurs, quitting a job means forgoing health insurance which may be too large of a risk. An exclusively employment-based health insurance system excludes the unemployed, low-skilled workers, and in some cases the self-employed individual. Also, it can shortchange single employees, whose employers effectively pay higher wages to workers with families when providing dependent coverage.

To address some of these concerns, the federal and state governments have enacted a number of measures including the Consolidated Omnibus Reconciliation Act (COBRA) and the Health Portability and Accountability Act (HIPPA).

### **Employers Tax Incentives to Provide Health Insurance to Employees**

States provide tax relief, either through tax deductions or credits, to an employer or individual who purchases health insurance for themselves, their family, or their employees. A tax incentive is a credit

or a deduction that reduces the cost of purchasing health insurance through a reduction in an individual's or employer's tax burden. Tax credits are amounts subtracted from the income tax liability itself, unlike deductions, which merely reduce adjusted gross income or taxable income. Tax credits may be refundable or non-refundable. Most tax credits are non-refundable, meaning that if a taxpayer's credit exceeds his/her income tax liability, the taxpayer does not receive the difference as a refund. However, with a refundable tax credit, taxpayers whose credits exceed their income tax liabilities receive the difference in the form of a tax refund.

The table below presented in the Select Committee's report, shows states which provide employers tax incentives for providing health insurance to employees.

States	State-Only: Tax Incentives			
	Effective Date(s)	Eligible Populations	Deduction or Credit	Amount
<a href="#">California</a>	1/1/1999	Self-employed, spouse, dependents	Deduction	100% of premium expenditures
<a href="#">Colorado</a>	5/25/00	Individual, spouse, dependents	Deduction	100% of premium expenditures, but not >\$500
<a href="#">Delaware</a>	1997	Self-employed	Deduction	100% of premium expenditures
<a href="#">Georgia</a>	1/1/99	Self-employed, spouse, dependents	Deduction	100% of premium expenditures
<a href="#">Idaho</a>	4/18/00	Self-employed, spouse, dependents	Deduction	100% of premium expenditures
	1/01/01	Individual, spouse, dependants	Deduction	100% of premium expenditures
<a href="#">Illinois</a>	1/1/96 - 12/31/04	Self-employed, spouse, dependents	Deduction	100% of premium expenditures
<a href="#">Iowa</a>	1/1/96	Individual, spouse, dependents	Deduction	100% of premium expenditures
<a href="#">Kansas</a>	1/1/00 - 12/31/01	Small employers	Credit (refundable)	\$35 per eligible employee per month
<a href="#">Maine</a>	1999	Small employers with <5 low-income	Credit	Lower of: \$125 per employee with dependent coverage; or 20%

		employees		of dependent premiums
<a href="#">Missouri</a>	1/1/00	Employee (determined by 401(c)1 IRC '86), spouse, dependents	Deduction	100% of premium expenditures
<a href="#">New Jersey</a>	1/1/00	Self-employed, spouse, dependents	Deduction	100% of premium expenditures
<a href="#">New Mexico</a>	4/12/00	Individual, spouse, dependents	Deduction	Surviving spouses/ Married individuals: 25% of medical care expenses including premium expenditures (annual income <\$30,000); 15% (\$30,000 - \$70,000); 10% (>\$70,000). <i>Single individuals/Married individuals filing separate returns:</i> 25% (<\$15,000); 15% (\$15,000 - \$35,000); 10% (>\$35,000). <i>Heads of Households:</i> 25% (<\$20,000); 15% (\$20,000 - \$50,000); 10% (>\$50,000).
<a href="#">North Carolina</a>	enacted 5/98, repealed effective 1/1/01	Individual, spouse, dependents	Credit (refundable)	\$300 (<225% FPL) \$100 (>225% FPL)
<a href="#">Utah</a>	1/1/00	Individual	Deduction	100% of premium expenditures
<a href="#">Wisconsin</a>	1993	Self-employed workers, spouse, dependents	Deduction	100% of premium expenditures

		Employer without employer coverage, spouse dependents	Deduction	50% of premium expenditures
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C. SECTION DIRECTORY:

Section 1: Creates s. 220.192, F.S.; providing small businesses with fewer than 50 employees a tax credit of up to \$1,000 against any tax due for a taxable year under chapter 220, F.S., for providing employees of the business health care insurance consisting of coverage provided in chapter 627, F.S.

Section 2: The bill takes effect upon becoming law and applied retroactively to January 1, 2004.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill provides tax incentives for small businesses to purchase health care insurance for their employees. This could enhance the growth of small businesses in Florida and facilitate the growth of the state's economy. Health care insurance carriers could also benefit from provisions in the bill as more small businesses obtain health care insurance for their employees.

D. FISCAL COMMENTS:

Based on data from Enterprise Florida, Inc., there were 392,756 businesses in Florida. The Florida Agency for Health Care Administration's August 11, 2003 report on uninsured needs states that small businesses with between one and 50 employees represent 26% of the employer-sponsored health insurance market. Therefore, there is an estimated 98,189 small businesses in Florida eligible for up to \$1,000 in tax credits based upon the cost of health care insurance premiums paid by the employer. Assuming that each eligible business claims \$500 in tax credits for health insurance premiums, the estimated negative fiscal impact upon General Revenue would be \$49.1 million.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to take an action requiring the expenditure of funds, does not reduce the authority that counties or municipalities have to raise revenues in the aggregate, and 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:

In its analysis of the bill, the Department of Revenue (DOR) identified several issues. These issues are:

- Although the bill provides for a tax credit of up to \$1,000, the bill does not specify what conditions would result in a lesser amount of tax credit nor does the bill state how the amount of the credit is determined.
- The title of the newly created s. 220.192, F.S., states that the tax credit is available to “small businesses. Subsection 288.703(1), F.S. defines “small business” and provides additional requirements to the employment requirements stated in the newly created s. 220.192, F.S. It is unclear from the language of the bill if the definitional requirements of subsection 288.703(1), F.S., other than the number of employees, are intended to apply to businesses eligible for the tax credit.
- Chapter 627, F.S., addresses a variety of health care and other types of insurance coverage. Newly created s. 220.192, F.S., in the bill does not indicate if it intends to provide a tax credit for any type of insurance coverage purchased or for certain types of insurance coverage.
- The text of heading of the newly created s. 220.192, F.S. uses the phrase “investing in health care insurance for their employees.” The word “providing” is used in the text of the newly created section.
- The bill provides no proposed changes to subsection 220.02(8), F.S. which directs the order in which tax credits are to be claimed.
- The bill provides for retroactive application of the tax credit provisions to January 1, 2004. However, the bill does not state how a fiscal year taxpayer, as opposed to a calendar year taxpayer, would compute its tax credit.

DOR has worked with the bill’s sponsor to offer a strike-all amendment to HB 1221 which addresses the concerns raised by DOR.

### IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

N/A