

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 330

SPONSOR: Comprehensive Planning Committee and Senators Saunders and Argenziano

SUBJECT: Community Contribution Tax Credit

DATE: March 1, 2004                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cooper</u>	<u>Yeatman</u>	<u>CP</u>	<u>Favorable/CS</u>
2.	<u>Cibula</u>	<u>Maclure</u>	<u>CM</u>	<u>Favorable</u>
3.	_____	_____	<u>FT</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

The committee substitute authorizes the community contribution tax credit program to continue in existence indefinitely. Under existing law, the statutes creating the community contribution tax credit program are scheduled to expire on June 30, 2005. The committee substitute repeals the provisions of existing law that cause the program to expire.

This committee substitute substantially amends the following sections of the Florida Statutes: 212.08, 220.03, 220.183, and 624.5105.

**II. Present Situation:**

**Community Contribution Tax Credit Program**

Under the community contribution tax credit program, corporations, insurance companies, and persons who collect or remit sales or use taxes may be able to receive tax credits for making donations to certain low-income housing and community development projects.

***Credits Available***

Available tax credits under the program may be taken against sales or use taxes, corporate income taxes, and insurance premium taxes.<sup>1</sup> Tax credits are limited to 50 percent of the amount of a “community contribution” or donation to a maximum of \$200,000 annually per donor.<sup>2</sup> The total amount of community contribution tax credits available per year under the program is \$10 million.<sup>3</sup> Tax credits against sales or use taxes are granted as a refund against sales and use taxes

<sup>1</sup> Sections 212.08(5)(q), 220.183, and 624.5105, F.S.

<sup>2</sup> Sections 212.08(5)(q)1.a. and c., 220.183(1)(a) and (b), and 624.5105(1)(a) and (b), F.S.

<sup>3</sup> Sections 212.08(5)(q)1.e., 220.183(1)(c), and 624.5105(1)(c), F.S.

reported on returns and remitted in the 12 months preceding the application to the Department of Revenue for a refund.<sup>4</sup> Tax credits against corporate income taxes and insurance premium taxes are claimed against taxes due.<sup>5</sup>

### ***Form of Contributions***

Community contributions or donations must take the following forms: (1) cash or other liquid assets; (2) real property; (3) goods or inventory; or (4) other physical resources.<sup>6</sup> For purposes of credits against insurance premium taxes and corporate income taxes, the Department of Revenue is authorized to identify “other physical resources” that qualify as a community contribution. For purposes of credits against sales or use taxes, the Office of Tourism, Trade, and Economic Development is authorized to identify “other physical resources.”

### ***Use of Contributions***

Community contributions must be used for projects to provide: low and very low-income housing; commercial, industrial, or public resources and facilities; entrepreneurial and job development opportunities for low-income persons; access to high speed broadband capability for rural enterprise zones; and educational programs and materials for the Florida Holocaust Museum in St. Petersburg.<sup>7</sup>

### ***Project Location***

Projects to provide low and very low-income housing may be located anywhere in the state.<sup>8</sup> However, community development projects, such as projects to construct or rehabilitate commercial, industrial, or public facilities, must be located in an enterprise zone or Front Porch Florida Community.<sup>9</sup> For purposes of credits against corporate income taxes, projects increasing access to high speed broadband capabilities may be located in any area of a rural county.<sup>10</sup> For purposes of credits against sales or use taxes, a project that is designed to increase high speed broadband access to rural enterprise zones may be located anywhere.<sup>11</sup> For the purposes of credits against insurance premium taxes, however, a project that is designed to increase high speed broadband access to rural enterprise zones must be located in an enterprise zone or Front Porch Florida Community.<sup>12</sup>

### ***Contribution Recipients***

Eligible project sponsors under the program include a wide variety of community organizations, housing organizations, historic preservation organizations, units of state and local government, and regional workforce boards.<sup>13</sup> The Office of Tourism, Trade, and Economic Development maintains a list of approved sponsors.

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<sup>4</sup> Section 212.08(5)(q)1.b., F.S.

<sup>5</sup> Sections 220.183(1)(a) and 624.5105(1)(a), F.S.

<sup>6</sup> Sections 212.08(5)(q)2.a., 220.03(1)(d), and 624.5105(5)(a), F.S.

<sup>7</sup> Sections 212.08(5)(q)2.b., 220.03(1)(t), and 624.5105(2)(b) and (5)(e), F.S.

<sup>8</sup> Sections 212.08(5)(q)2.d., 220.183(2)(d), and 624.5105(2)(d), F.S.

<sup>9</sup> *Id.*

<sup>10</sup> Section 220.183(2)(d), F.S.

<sup>11</sup> Section 212.08(5)(q)2.d., F.S.

<sup>12</sup> Section 624.5105(2)(d), F.S.

<sup>13</sup> Sections 212.08(5)(q)2.c. and 220.183(2)(c), F.S.

***Tax Credit Application Process***

Applications to receive community contribution tax credits must be submitted to the Office of Tourism, Trade, and Economic Development. The application must set forth the terms of the application, such as the name of the sponsor, a description of the project, and the type, value, and purpose of the contribution. For the purposes of credits against corporate income taxes and sales or use taxes, the sponsor must verify in the application for tax credits that the community contribution has been received.<sup>14</sup> For the purposes of credits against insurance premium taxes, the sponsor must state its willingness to receive the contribution in the application for tax credits.<sup>15</sup> After approval for community contribution tax credits is received by an applicant, the applicant must also claim the credit from the Department of Revenue.<sup>16</sup> Unused credits against corporate income taxes and insurance premium taxes may be carried forward for 5 years.<sup>17</sup> Unused credits against sales taxes may be carried forward for 3 years.<sup>18</sup>

***Program Expiration***

The statutes creating the community contribution tax credit program are scheduled to expire on June 30, 2005.

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<sup>14</sup> Sections 212.08(5)(q)3.b. and 220.183(3)(b), F.S.

<sup>15</sup> Section 624.5105(3)(b), F.S.

<sup>16</sup> Section 212.08(5)(q)3.c., F.S., and Rules 12A-1.107(4), 12B-8.001(3), and 12C-1.0188(3), F.A.C.

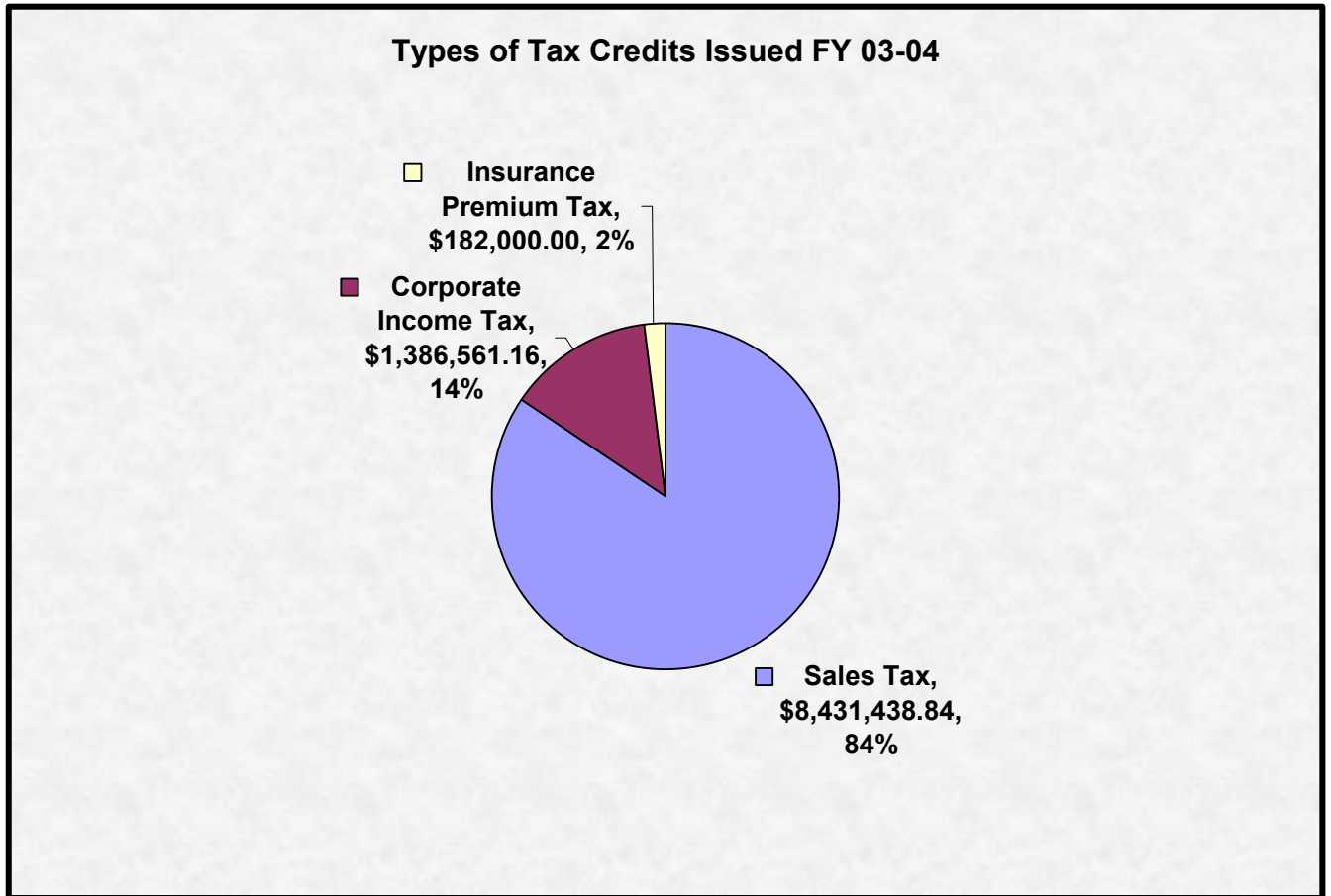
<sup>17</sup> Sections 220.183(1)(e) and 624.5105(1)(e), F.S.

<sup>18</sup> Section 212.08(5)(q)1.b. and 5., F.S.

### Program Statistics

Currently, most of the community contribution tax credits are used against sales taxes, as shown in Chart 1, below.

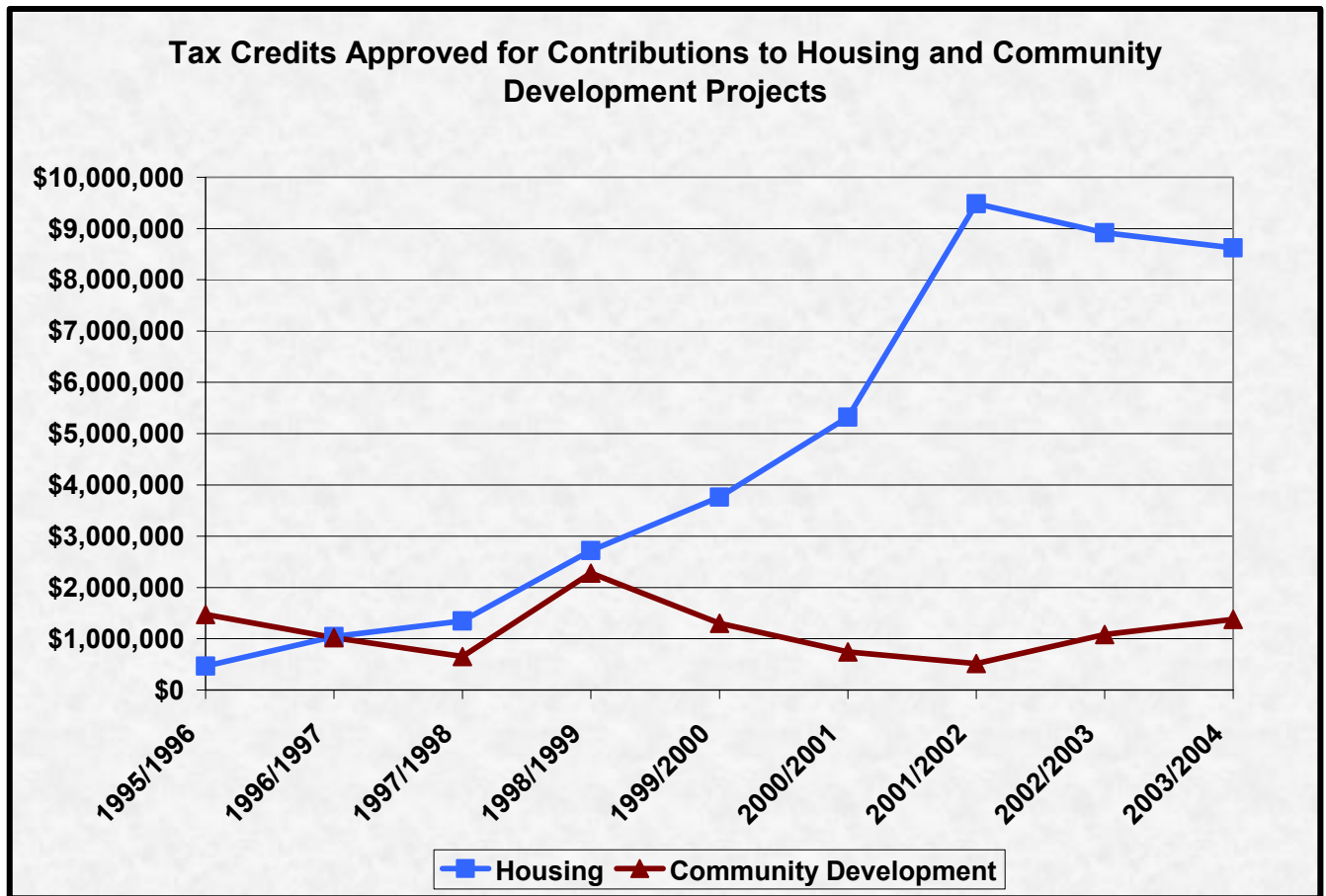
**Chart 1**



Source: Created from data provided by the Office of Tourism, Trade, and Economic Development

Historically, most community contribution tax credits have been made to low-income housing projects. See Chart 2.

**Chart 2**



Source: Created from data provided by the Office of Tourism, Trade, and Economic Development

**III. Effect of Proposed Changes:**

The committee substitute authorizes the community contribution tax credit program to continue in existence indefinitely. Under existing law, the statutes creating the community contribution tax credit program are scheduled to expire on June 30, 2005. The committee substitute repeals the provisions of existing law that cause the program to expire.

Community development projects under the community contribution tax credit program currently must be located in an enterprise zone or Front Porch Florida Community. Because some statutes related to the enterprise zone program are scheduled to repeal by operation of s. 37, ch. 94-136, L.O.F., on December 31, 2005, community development projects may have to be located exclusively in Front Porch Florida communities after that date. Section 290.0065, F.S., which authorized the designation of the first 20 enterprise zones under the enterprise zone program, is among the statutes that will repeal. Other statutes, including ss. 290.0056 and 290.0057, F.S., which govern the operation and substance of the enterprise zone program, will also repeal. Even though statutes authorizing the creation of enterprise zones that were adopted

after s. 37, ch. 94-136, L.O.F., will continue to exist, it is unclear whether the zones themselves can exist after the statutes providing for the substance of the enterprise zone program repeal.

The committee substitute takes effect upon becoming a law.

**IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:**

**A. Tax/Fee Issues:**

On January 30, 2004, the Revenue Impact Conference estimated that this measure will have a recurring \$10 million negative fiscal impact on state revenues and a recurring \$100,000 negative fiscal impact on local revenues.

<u>Fiscal Year 2003-2004</u>								
Issue/Fund	General Revenue		Trust		Local		Total	
	1st Year	Recurring	1st Year	Recurring	1st Year	Recurring	1st Year	Recurring
School Supplies	\$0.0	\$(9.0)	\$0.0	\$(*)	\$0.0	(1.0)	\$0.0	\$(10.0)

\* Insignificant (less than \$50,000)

**B. Private Sector Impact:**

Tax credits under the community contribution tax credit program will continue to be available to corporations, insurance companies, and persons who collect or remit sales or use taxes.

**C. Government Sector Impact:**

The Office of Tourism, Trade, and Economic Development and the Department of Revenue will have to continue to process applications for community contribution tax credits and claims for tax credits.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

For ease of administration of the community contribution tax credit program, the Legislature ultimately may wish to eliminate inconsistent provisions in the three different chapters of the statutes governing the program. See the “Present Situation” section of this staff analysis for examples of inconsistencies among the statutes creating the program.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill’s sponsor or the Florida Senate.

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