HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 15 CS — Community Contribution Tax Credit Program
SPONSOR(S): Goodlette and others
TIED BILLS: **IDEN./SIM. BILLS:** HB 503, SB 202, SB 710

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Economic Development, Trade & Banking Committee	13 Y, 0 N, w/CS	Sheheane	Carlson
2) Local Government Council	7 Y, 0 N, w/CS	Nelson	Hamby
3) Finance & Tax Committee	8 Y, 0 N, w/CS	Levin	Diez-Arguelles
4) Commerce Council	9 Y, 0 N, w/CS	Sheheane	Bohannon
5)			

SUMMARY ANALYSIS

The Community Contribution Tax Credit Program authorizes businesses that make donations to eligible sponsors who undertake certain community revitalization projects to claim a credit equal to 50 percent of the donation against the corporate income tax, franchise tax, sales or use tax, or insurance premium tax, upon approval by the Governor's Office of Tourism, Trade and Economic Development. The combined total amount of tax credits that can be approved is $10 million annually, and no individual business may receive more than $200,000 in tax credits per year. The program is set to expire June 30, 2005.

The Committee Substitute increases from $10 million to $12 million the total annual amount of tax credits that may be granted under the Community Contribution Tax Credit Program, and requires that 80 percent of available tax credits up to $10 million and 70 percent of credits over that amount be reserved for projects that provide homeownership opportunities for low-income and very-low-income households. The bill also revises the procedures governing the distribution of tax credits. Finally, the bill extends the operation of the program through June 30, 2015.

The fiscal impact of the bill is a negative $9.2 million in state revenues and a negative $.9 million in local revenues in FY 2005 – 2006 and negative $10.9 million in state revenues and a negative $1.1 million in local revenues during FY 2006 – 2007.

The estimated reduction in Local Option Sales tax by this bill is $.6 million in FY 2005 – 2006 and $.8 million in FY 2006 – 2007. Although CS/HB 15 will reduce the authority of municipalities and counties to raise revenues, the impact is expected to be insignificant and the bill is therefore exempt from the provisions of Article VII, Section 18(b), Florida Constitution.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes- The bill provides tax credits to businesses participating in the Community Contribution Tax Incentive program.

Empower Families- The bill encourages businesses to contribute cash or other liquid assets, real property, goods or inventory, or other physical resources to eligible sponsors who undertake projects used to enhance low-income and very-low-income housing and create job-development opportunities for low-income persons.

B. EFFECT OF PROPOSED CHANGES:

<u>Present Situation</u>

Community Contribution Tax Credit Program

The 1980 Legislature created the Community Contribution Tax Credit (CCTC) Program[1] to encourage businesses to make donations to community redevelopment organizations for the purpose of revitalization projects. The CCTC Program authorizes businesses that make donations to eligible sponsors who undertake certain community revitalization projects to claim a credit equal to 50 percent of the donation against the corporate income tax[2], franchise tax[3], sales tax[4], or insurance premium tax[5]. All revitalization projects, except those projects related to housing for low-income persons, must be in enterprise zones or a Front Porch Florida Community[6].

The combined total amount of tax credits that can be approved is $10 million annually[7]. No individual business may receive more than $200,000 in tax credits per year[8]. Unused credits against corporate income taxes and insurance premium taxes may be carried forward for five years,[9] and unused credits against sales taxes may be carried forward for three years[10].

Eligible sponsors to which donations can be made include:

• community action programs;

• nonprofit community-based development organizations whose missions are the provision of housing for low-income or very-low-income households or increasing entrepreneurial and job development opportunities for low-income persons;

• neighborhood housing services corporations;

[1] See s. 220.183, F.S.
[2] See s. 220.11, F.S.
[3] See s. 220.63, F.S.
[4] See ch. 212, F.S.
[5] See s. 624.509, and s. 624.5105, F.S.
[6] See s. 212.08(5)(q)2.d., F.S., s. 220.183(2)(d), F.S., and s. 624.5105(2)(d), F.S.
[7] See ss. 212.08(5)(q), 220.183 and 624.5105, F.S.
[8] See s. 212.08(5)(q)1.c., F.S., s. 220.183(1)(b), F.S., and s. 624.5105(1)(b), F.S.
[9] See s. 220.183(1)(e) and 624.5105(1)(e), F.S.
[10] See s. 212.08(5)(q)1.b. and 5., F.S.

- local housing authorities created pursuant to chapter 421, F.S.;
- community redevelopment agencies created pursuant to s. 163.356, F.S.;
- the Florida Industrial Development Corporation;
- historic preservation district agencies or organizations;
- regional workforce boards;
- direct-support organizations as provided in s. 1009.983, F.S.;
- enterprise zone development agencies created pursuant to s. 290.0056, F.S.;
- not-for-profit community-based organizations whose bylaws and articles of incorporation include affordable housing, economic development, or community development as the primary mission of the corporation;
- units of local government;
- units of state government; or
- any other agency or organization as the Governor's Office of Tourism, Trade, and Economic Development (OTTED) may designate by rule[11].

"Community contribution" is defined as a donation by a business firm of cash or other liquid assets, real property, goods or inventory, and other physical resources.

How Projects Are Defined

All contributions from a business must be exclusively used in projects as defined in ss. 212.08(5)(q)2.b. or 220.03(1)(t), F.S. Such projects include activities by an eligible sponsor which are intended to construct, improve or substantially rehabilitate housing affordable to low-income and very low-income households; provide commercial, industrial, or public resources and facilities; or improve entrepreneurial and job development opportunities for low-income persons.

In addition, a project may be an investment necessary to increase access to high-speed broadband capability in rural communities with enterprise zones, including projects that result in improvements to communication assets that are owned by a business; or a project which provides museum educational programs and materials that are directly related to any project approved between January 1, 1996, and December 31, 1999, and is located in an enterprise zone.

The Role of OTTED

OTTED is responsible for approving community contribution tax credits[12]. OTTED currently is allowed to reserve up to 50 percent of the available annual tax credits for housing for very-low-income households as defined in s. 420.9071(28), F.S., for the first six months of the fiscal year[13].

OTTED staff state that they do not exercise their discretion to reserve funds for very-low-income housing projects. In addition, OTTED does not distinguish between low-income and very-low-income

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[11] See s.212.08(5)(q)2.c., F.S., s. 220.183(2)(c), F.S., and s. 624.5105(2)(c), F.S.
[12] See ss. 212.08, 220.183, and 624.5105, F.S.
[13] See s.220.183(2)(b), F.S., and s. 212.08(5)(q)2.b.

projects when approving projects. Credits, as reported by eligible sponsors, are allocated by OTTED on a "first come, first serve" basis.

In recent years, the credits have been claimed within the first quarter of the fiscal year. However, in FY 03-04 and 04-05, all tax credits were approved on the first day of the fiscal year. In FY 03-04, OTTED reports that 86 percent of the $10 million allocated for the program went to businesses contributing to eligible sponsors providing housing to low-income persons. In FY 04-05, 81 percent of the $10 million allocated for the program went to businesses contributing to eligible sponsors providing housing to low-income persons.

Other Program Statistics

According to the OTTED, in FY 04-05, 74 percent of the community contribution tax credits were taken against sales taxes. Tax credits for corporate income tax and insurance premium tax accounts for 19 percent and seven percent, respectively.

The total annual amount of tax credits available under the CCTC Program has increased since 1995. From FY 95-96 through FY 97-98, $2 million in annual tax credits were available. For FY 98-99, $5 million in annual tax credits were available. From FY 99-2000 to the present, $10 million in annual tax credits have been available. Since the Community Contribution Tax Credit Program was expanded to authorize refunds against sales taxes in FY 2001-2002, the majority of the $10 million allocation has been used to offset those taxes.

<u>Proposed Changes</u>

The Committee Substitute extends the repeal date for the Community Contribution Tax Credit Program to June 30, 2015, and increases the total amount of tax credits which may be granted annually from $10 to $12 million.

The bill requires OTTED to reserve 80 percent of the available tax credits up to $10 million and 70 percent over that amount for projects that provide homeownership opportunities for low-income or very-low income households for the first six months of the fiscal year. This will codify the current levels of tax credit approvals. However, if less than the reserved amount of annual tax credits are used during the first six months of the fiscal year, OTTED may approve the balance of available credits for donations made to eligible sponsors for projects other than those that provide homeownership opportunities for low-income or very-low-income households.

The bill requires OTTED to reserve 20 percent of the available annual tax credits up to $10 million and 30 percent over that amount for projects other than those that provide homeownership opportunities for low-income or very-low-income households for the first six months of the fiscal year. However, if less than the reserved amount of annual tax credits are used within the first six months of the fiscal year, OTTED may approve the balance of available credits for projects that provide homeownership opportunities for low-income or very-low-income households.

If tax credit applications are received during the first 10 days of the state fiscal year for less than the reserve amount of available annual tax credits for approved projects that provide homeownership opportunities for low-income or very-low-income households, OTTED is directed to grant tax credits for those applications, and grant remaining tax credits on a first-come, first-served basis for any subsequent applications for such projects received before the end of the first six months of the state fiscal year. The bill provides that if during the first 10 business days of the state fiscal year, OTTED receives tax credit applications for more than the reserved amount of available annual tax credits for projects that provide homeownership opportunities for low-income or very-low-income households, applications submitted for approved projects of an eligible sponsor that do not exceed a total of $200,000 will be granted in full. If tax credit applications submitted for approved projects of an eligible sponsor exceed a total of $200,000, the remaining available tax credits will be approved on a pro rata basis. If, after the first six months of the fiscal year, additional credits become available for projects other than those that provide homeownership opportunities for low-income and very-low-income households, OTTED is directed to grant the tax credits by first granting to those who received a pro rata reduction up to the full amount of their request, and, if there are remaining credits, granting credits to those who applied on or after the 11th business day of the fiscal year on a first-come, first-served basis.

If tax credit applications are received during the first 10 days of the state fiscal year for less than the reserved amount of available annual tax credits for approved projects other than those that provide homeownership opportunities for low-income or very-low-income households, OTTED is directed to grant tax credits for those applications, and grant remaining tax credits on a first-come, first-served basis for any subsequent applications for such projects received before the end of the first six months of the state fiscal year. The bill provides that if, during the first 10 business days of the fiscal year, tax credit applications are received for more than the reserved amount of the available tax credits for projects other than those that provide homeownership opportunities for low-income and very-low-income households, OTTED shall grant the tax credits on a pro rata basis. If, after the first six months of the fiscal year, additional credits become available for housing projects, OTTED shall grant tax credits by first granting to those who received a pro rata reduction up to the full amount of their request and, if there are remaining credits, granting credits to those who applied on or after the 11th business day of the state fiscal year on a first-come, first-served basis.

The bill also relieves insurance companies that claim the community contribution tax credit against their insurance premium tax from paying additional retaliatory tax resulting from having claimed the credit.

C. SECTION DIRECTORY:

Section 1: Amends s. 212.08, F.S., increasing the amount of available annual community contribution tax credits and requiring OTTED to reserve portions of certain annual tax credits for donations made to sponsors for projects that provide homeownership opportunities for certain households. Deletes a provision authorizing OTTED to reserve portions of available tax credits for housing for very-low-income households. Provides process for approval of tax credit proposals. Extends the expiration date for the program.

Section 2: Amends s. 220.03, F.S., to delete a provision authorizing OTTED to reserve certain portions of available annual tax credits for donations made to eligible sponsors for projects that provide homeownership opportunities for certain households. Extends the expiration date for the program.

Section 3: Amends s. 220.183, F.S., increasing the amount of available annual community contribution tax credits and requiring OTTED to reserve portions of certain annual tax credits for donations made to sponsors for projects that provide homeownership opportunities for certain households. Provides process for approval of tax credit proposals. Extends the expiration date for the program.

Section 4: Amends s. 624.5105, F.S., increasing the amount of available annual community contribution tax credits and limiting application of retaliatory tax provisions under certain circumstances. Requires OTTED to reserve portions of certain annual tax credits for donations made to sponsors for projects that provide homeownership opportunities for certain households. Extends the expiration date for the program.

Section 5: Provides that the act shall take effect on July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference determined that the change in the amount of community contribution tax credits annually from $10 million to $12 million would result in a loss of $9.2 million in state revenues and a negative $.9 million in local revenues during FY 2005 - 2006, and a negative $10.9 million in state revenues and a negative $1.1 million in local revenues for FY 2006 – 2007.

	FY 2005-06	FY 2006-07
General Revenue	($9.2 m)	($10.9 m)
State Trust	(insignificant)	(insignificant)
Total State Impact	($9.2 m)	($10.9 m)

2. Expenditures:

Representatives of OTTED report that administration of the increase in tax credits will be implemented within existing appropriations.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

	FY 2005-06	FY 2006-07
Revenue Sharing	($.3 m)	($.3 m)
Local Gov't Half Cent	($.6 m)	($.8 m)
Total Local Impact	($.9 m)	($1.1 m)

2. Expenditures:

The bill is not expected to impact local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have a positive impact on local economies by spurring construction of housing for low and very-low income Floridians.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill will reduce the authority of municipalities and counties to raise revenues; the estimated reduction in Local Option Sales tax by the bill is $.6 million in FY 2005 – 2006 and $.8 million in FY 20006 – 2007. Although CS/HB 15 will reduce the authority of municipalities and counties to raise revenues, the impact is expected to be insignificant and the bill is therefore exempt from the provisions of Article VII, Section 18(b), Florida Constitution.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

No exercise of rule-making authority is required to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill contains language directing OTTED to grant tax credits to those who received a pro rata reduction by first "increasing the credit of those who received a pro rata reduction" if additional funds become available after the first two months of the fiscal year. There is no language clarifying whether or not the applicant would receive an increase up to the original amount of their application, or if OTTED would have the authority to increase the credit up to any amount. This should be clarified.

The bill appears to use the language "fiscal year" and "state fiscal year" interchangeably. The Sponsor may want to amend the bill using uniform terms to avoid confusion.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On February 8, 2005, the Economic Development, Trade and Banking Committee adopted a strike-all amendment to the bill. The amendment:

- Corrects a technical error by clarifying that tax credit applications are submitted for projects of an eligible sponsor;
- Provides that credit applications up to $200,000 will be paid in full and applications exceeding $200,000 will be granted on a pro rata basis under certain circumstances;
- Changes the effective date to July 1, 2005.

On February 23, 2005, the Local Government Council adopted a strike-all amendment to the bill. This amendment:

- maintains a current six-month reservation period identified in the statute (instead of reducing it to two months) so that there is a longer period for housing and non-housing projects to benefit from their allocations;
- clarifies how tax credits are granted in the event that insufficient applications are received to account for the entire reserved allocation;
- provides that tax credits that subsequently become available are first used to fund those applicants whose requested credits were the subject of a pro-rata reduction; and
- makes technical changes.

On March 23, 2005 the Finance and Tax Committee adopted 3 separate amendments which had the effect of decreasing the total annual limitation of Community Contribution Tax Credits from the $15 million of the previous Committee Substitute to $12 million. The bill and the three amendments were combined into a Committee Substitute.

The Commerce Council adopted a strike-all amendment to the bill on April 21. The amendment provides for a reservation by OTTED of 80 percent of available tax credits up to $10 million and 70 percent of credits over that amount for housing projects and reserves a corresponding 20 percent of available tax credits up to $10 million and 70 percent of credits over that amount for non-housing projects.