

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.)

Prepared By: Government Efficiency Appropriations Committee

BILL: CS/CS/SB 202

SPONSOR: Government Efficiency Appropriations Committee, Commerce and Consumer Services Committee and Senator Saunders

SUBJECT: Community Contribution Tax Credit

DATE: April 21, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Vickers</u>	<u>Yeatman</u>	<u>CA</u>	<u>Favorable</u>
2.	<u>Kruse</u>	<u>Cooper</u>	<u>CM</u>	<u>Fav/CS</u>
3.	<u>Fournier</u>	<u>Johansen</u>	<u>GE</u>	<u>Fav/CS</u>
4.	_____	_____	<u>TA</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Committee Substitute for committee substitute for Senate Bill 202 extends the community contribution tax program through June 30, 2015, increases from \$10 million to \$12 million the total annual amount of tax credits that may be granted under the program, and reserves 80 percent of \$10 million of the available tax credits for businesses that contribute to home ownership opportunities for low-income and very-low-income households for the first 6 months of each fiscal year. For credits in excess of \$10 million, 70 percent is reserved for businesses that contribute to low income housing programs. The committee substitute also revises the procedures governing the distribution of tax credits.

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.¹ Tax credits are limited to 50

¹ Sections 212.08(5)(q), 220.183, and 624.5105, F.S.

percent of the amount of a “community contribution” or donation to a maximum of \$200,000 annually per donor.² The total amount of community contribution tax credits available per year under the program is \$10 million.³ Tax credits against sales or use taxes are granted as a refund against sales and use taxes reported on returns and remitted in the 12 months preceding the application to the Department of Revenue for a refund.⁴ Tax credits against corporate income taxes and insurance premium taxes are claimed against taxes due.⁵

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.⁶ 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 (OTTED) 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.⁷

Project Location - Projects to provide low and very low-income housing may be located anywhere in the state.⁸ 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.⁹

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.¹⁰ OTTED maintains a list of approved sponsors.

Tax Credit Application Process - Applications to receive community contribution tax credits must be submitted to OTTED and are processed on a first-come, first-served basis. 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.¹¹ For the purposes of credits against insurance premium taxes, the sponsor must state its willingness to receive the

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

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

⁴ Section 212.08(5)(q)1.b., F.S.

⁵ Sections 220.183(1)(a) and 624.5105(1)(a), F.S.

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

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

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

⁹ *Id.*

¹⁰ Sections 212.08(5)(q)2.c. and 220.183(2)(c), F.S.

¹¹ Sections 212.08(5)(q)3.b. and 220.183(3)(b), F.S.

contribution in the application for tax credits.¹² After approval for community contribution tax credits is received by an applicant, the applicant must also claim the credit from the Department of Revenue.¹³ Unused credits against corporate income taxes and insurance premium taxes may be carried forward for 5 years.¹⁴ Unused credits against sales taxes may be carried forward for 3 years.¹⁵

Program History - The community contributions tax credit was created in 1980¹⁶ as a credit against the corporate income tax or insurance premium tax. From 1980 through 1994 it was capped at \$3 million per year. In 1994¹⁷ the program’s expiration date was extended from that year until 2005, and the cap was decreased to \$2 million. In 1998¹⁸ the Legislature increased the cap to \$5 million, and in 1999¹⁹ it was raised again to \$10 million. Legislation enacted in 2001²⁰ allowed the credit to be used against a dealer’s sales and use tax liability.

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

Program Statistics – According to the Office of Tourism, Trade, and Economic Development, most of the community contribution tax credits are used against sales taxes. Similarly, the majority of contributions have been to low-income housing projects. The following table and chart summarize the application of tax credits issued during FY 2003-2004.

Category of Tax Credit	Amount	Percentage
Sales Tax	\$8,431,439	84%
Corporate Income Tax	\$1,386,561	14%
Insurance Premium Tax	\$182,000	2%
Totals	\$10,000,000	100%

¹² Section 624.5105(3)(b), F.S.

¹³ 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.

¹⁴ Sections 220.183(1)(e) and 624.5105(1)(e), F.S.

¹⁵ Section 212.08(5)(q)1.b. and 5., F.S.

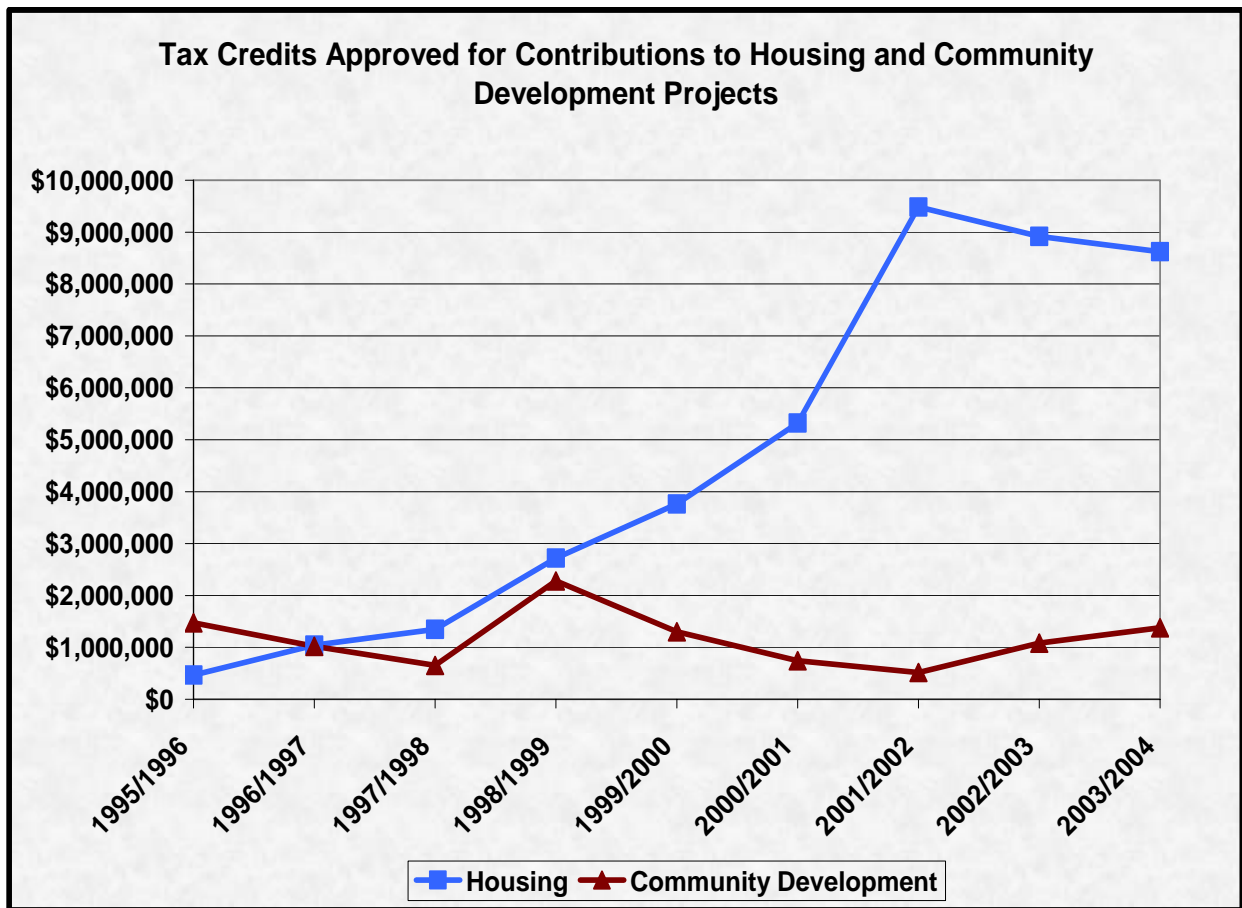
¹⁶ Ch. 80-249, L.O.F.

¹⁷ Ch. 94-136, L.O.F.

¹⁸ Ch. 98-291, L.O.F.

¹⁹ Ch. 99-265, L.O.F.

²⁰ Ch. 2001-201, L.O.F.



Source: Created from data provided by the OTTED

III. Effect of Proposed Changes:

Committee Substitute for Committee Substitute for Senate Bill 202 extends the community contribution tax program through June 30, 2015, increases from \$10 million to \$12 million the total annual amount of tax credits that may be granted under the program, and reserves 80 percent of \$10 million of the available tax credits for businesses that contribute to home ownership opportunities for low-income and very-low-income households for the first 6 months of each fiscal year. For credits in excess of \$10 million, 70 percent is reserved for businesses that contribute to low income housing programs. The committee substitute also revises the procedures governing the distribution of tax credits.

Section 1 amends s. 212.08(5), F.S., which relates to the **state sales tax**, to increase from \$10 million to \$12 million the total annual amount of tax credits which may be granted under the combined community contribution tax credit program, and to establish 80 percent of \$10 million of available tax credits for the first 6 months of the fiscal year to be reserved for entities that contribute to homeownership projects for low-income and very-low-income households. For tax credits in excess of \$10 million, 70 percent of any available credits are reserved for entities that contribute to homeownership projects for low-income and very-low-income households. If less than the reserved amount is approved within the first 6 months of the fiscal year, businesses contributing to qualified non-homeownership projects are entitled to apply for remaining credits.

Conversely, OTTED is required to reserve 20 percent of \$10 million of the available annual community contribution tax credits, and 30 percent of tax credits in excess of \$10 million, for the first 6 months of the fiscal year, for businesses contributing to qualified entities other than those providing homeownership opportunities for low and very-low-income households. If less than the reserved amount is approved within the first 6 months of the fiscal year, businesses contributing to qualified housing entities are entitled to apply for remaining credits.

The committee substitute stipulates that if during the first 10 business days of the state fiscal year, tax credit applications are received for less than 80 percent of \$10 million of the available annual tax credits, and 70% of credits in excess of \$10 million, for approved projects that provide homeownership opportunity for low-income or very-low-income households, OTTED shall grant tax credits for those applications and shall 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 6 months of the state fiscal year. If, during the first 10 business days of the state fiscal year, tax credit applications are received for more than 80 percent of \$10 million of available annual tax credits, and 70% of credits in excess of \$10 million, for approved projects that provide homeownership opportunities for low and very-low-income households, OTTED shall grant the tax credits as follows: a) applications that do not exceed \$200,000 will be granted in full; and b) thereafter, after subtracting out the amount of tax credits for applications that are for less than \$200,000, tax credit applications in excess of \$200,000 will be approved on a pro rata basis. If, after the first 6 months of the fiscal year, additional credits become available, OTTED is directed to grant the tax credits by first increasing the credits up to the full amount of those who received a pro rata reduction and, if there are remaining credits, granting credits to those who applied after the 11th business day of the fiscal year on a first-come, first-served basis.

The committee substitute provides that if, during the first 10 business days of the fiscal year, tax credit applications are received for less than 20 percent of \$10 million of the available tax credits and 30% of credits in excess of \$10 million, for approved projects other than those that provide homeownership opportunities, OTTED shall grant the tax credits for those applications and shall grant remaining tax credits on a first-come, first-served basis for any subsequent applications received before the end of the first 6 months of the state fiscal year. If, during the first 10 business days of the state fiscal year, tax credit applications are received for more than 20 percent of \$10 million of the available tax credits and 30% of credits in excess of \$10 million,, OTTED shall grant the tax credits on a pro rata basis. If, after the first 6 months of the fiscal year, additional credits become available for housing-related projects, OTTED shall grant tax credits by first increasing the credit up to the full amount to those entities who received a pro rata reduction 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.²¹

This section also extends the expiration date for this program from June 30, 2005, to June 30, 2015.

²¹ The bill does not specifically address the processing of tax credit applications received after the 10th day of the state fiscal year and prior to the beginning to the third month of the fiscal year.

Section 2 amends s. 220.03, F.S., to delete OTTED's authority to reserve 50 percent of the available annual community contribution tax credits for housing for very-low-income households pursuant to s. 490.9071(28), F.S., for the first 6 months of the fiscal year.

This section also extends the expiration date for this program from June 30, 2005, to June 30, 2015.

Section 3 amends s. 220.183, F.S., which relates to the **corporate income tax**, to increase from \$10 million to \$12 million the total annual amount of tax credits which may be granted under the combined community contribution tax credit program, and to earmark available tax credits for low income housing programs and other eligible programs, and distribute credits to applicants, as provided in section 2, above.

This section also extends the expiration date for this program from June 30, 2005, to June 30, 2015.

Section 4 amends s. 624.5105, F.S., which relates to the **insurance premium income tax**, to increase from \$10 million to \$12 million the total annual amount of tax credits which may be granted under the combined community contribution tax credit program, and to earmark available tax credits for low income housing programs and other eligible programs, and distribute credits to applicants, as provided in section 2, above.

This section 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.

This section also extends the expiration date for this program from June 30, 2005, to June 30, 2015.

Section 5 provides that this act shall take effect July 1, 2005.

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:**

The Revenue Estimating Conference has determined the fiscal impact of this committee substitute (CS) to be a recurring decrease in General Revenue of \$12.0 million and a recurring decrease in local revenue of \$1.3 million. In FY 2005-06, the bill reduces General Revenue by \$16.6 million and local revenue by \$1.5 million.

B. Private Sector Impact:

Tax credits under the community contribution tax credit program continue to be available to corporations, insurance companies, and persons who collect or remit sales or use taxes, and the level of credits will be increased by \$2 million. This will provide more funding to organizations that provide low-income housing and engage in community development activities.

C. Government Sector Impact:

Government agencies that sponsor low-income housing projects and community development projects may receive additional funding in support of such projects and activities by extending the program and increasing the cap on the community contribution tax credit program.

OTTED will be required to revise its procedures to ensure that at least 80 percent of \$10 million of the available annual tax credits, and 70 percent of credits in excess of \$10 million, are allocated to projects that provide housing for low-income and very-low-income households.

VI. Technical Deficiencies:

None.

VII. Related Issues:

In a July 2004 operational audit of OTTED, the Auditor General noted that in certain instances the methodology used by OTTED to determine the amount of community contribution tax credits did not provide a correlation to the cost or value of the contributions made.²² The audit indicated that the Legislature may wish to clarify the acceptable methodologies for computing the tax credit.

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

²² Auditor General, Report No. 2005-010, *Operational Audit of the Executive Office of the Governor Office of Tourism, Trade, and Economic Development*, July 2004.

VIII. Summary of Amendments:

None.

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