HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 815 Private Investment in Public Education
SPONSOR(S): Bilirakis
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Economic Development, Trade & Banking Committee		Sheheane	Carlson
2) Choice & Innovation Committee			
3) Education Appropriations Committee			
4) Commerce Council			
5)			

SUMMARY ANALYSIS

The bill creates the Workforce Investment Act to encourage private, voluntary contributions to and investment in public education; expand educational and job training opportunities for public school students; and enable public school students in this state to achieve a greater level of excellence in their education.

The bill is intended to fund reading programs, mentoring programs, and workforce development programs in the K-12 system.

The bill provides a corporate tax credit of 100 percent of a contribution to a public education foundation against any tax due for a taxable year under the Income Tax Code. The tax credit may not exceed 75 percent of the tax due under the Income Tax Code in one taxable year, after the application of any other tax credits to the taxpayer.

At least 5 percent of the total statewide amount authorized for the tax credit must be reserved for small businesses at the time of the application. The total amount of tax credits that may be granted in any fiscal year is $50 million.

The bill will take effect on July 1, 2005.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

There is one state education program funded by corporate tax donations, the Corporate Tax Credit Scholarship Program.

Corporate Tax Credit Scholarship Program

The Corporate Tax Credit Scholarship Program (CTC) was established by the 2001 Legislature to provide an income tax credit for corporations that contribute money to nonprofit scholarship-funding organizations (SFO's) that award scholarships to students from families with limited financial resources. The purpose of the tax credit is to encourage private, voluntary contributions to nonprofit SFO's; expand educational opportunities for children from families that have limited financial resources; and enable children to achieve a greater level of excellence in their education. It does not serve public schools.

Who is Eligible

A student is eligible for a scholarship from a nonprofit SFO through this program if the student qualifies for free or reduced-price school lunches under the National School Lunch Act. The student must also have been counted as a full-time student during the previous state fiscal year for purposes of state per-student funding, or received a scholarship from an eligible nonprofit SFO during the previous school year, or eligible to enter kindergarten or first grade. As a condition for scholarship payment, the parent must inform the child's school district within 15 days after the parent chooses for the child to attend an eligible nonpublic school.

Maximum Amount of a Scholarship

The amount of the scholarship provided to any child for any single school year by all eligible nonprofit SFO's must not exceed limits of $3500 for a scholarship awarded to a student for enrollment in an eligible nonpublic school and must not exceed $500 for a scholarship awarded to a student for enrollment in a Florida public school that is located outside the district in which the student resides.

Eligible Contributions

An eligible contribution is a monetary contribution from a taxpayer to an eligible nonprofit SFO. The taxpayer may not designate a specific child as the beneficiary of the contribution and may not contribute more than $5 million to any single nonprofit SFO.

Tax Credit Limitations

The taxpayer may receive a dollar for dollar credit for an eligible contribution against any tax due for a taxable year, but the credit may not exceed 75 percent of the tax due after the application of all other allowable tax credits.

Statewide Limitations

The total statewide amount of the tax credit and the carryforward of tax credits that may be granted each state fiscal year under this program is limited to $88 million by statute. In 2004, the Legislature limited the program to $50 million for the 2004-2005 fiscal year. At least 5 percent of the total statewide amount authorized for the tax credit must be reserved for small businesses.

Administration

The Department of Revenue and the Department of Education administer the CTC program. The Department of Education is responsible for adopting rules necessary to determine the eligibility of SFO's and identify students eligible to participate in the program. The Department of Education is also responsible for submitting annually a list of eligible SFO's to the Department of Revenue.

District School Board-Direct Support Organizations

A direct support organization is a a Florida corporation, not for profit, organized and operated exclusively to receive, hold, invest, and administer property and make expenditures to or for the benefit of public kindergarten through 12th grade education and adult career and community education programs in the state.

A district school board is authorized to permit the use of property, facilities, and personal services of the district by a direct support organization. A district school board shall prescribe by rule conditions with which a district school board direct-support organization must comply in order to use property, facilities, or personal services of the district, and shall not permit the use of property, facilities, or personal services of a direct-support organization if such organization does not provide equal employment opportunities to all persons.

The board of directors of the district school board direct-support organization shall be approved by the district school board. Each direct-support organization with more than $100,000 in expenses must provide for an annual financial audit of its accounts and records by an independent certified public accountant. The report must be submitted within 9 months after the fiscal year's end to the district school board and the Auditor General. The identity of donors and prospective donors are confidential and exempt of the provisions of s. 119.07(1), F.S.,[1] and that anonymity shall be maintained in the auditor's report.

Proposed Changes

The bill creates the Workforce Investment Act (the act) within the Income Tax Code.

Purpose

The bill provides that the purposes of the act are to encourage private, voluntary contributions to and investment in public education, expand educational and job training opportunities for public school students, enable public school students in this state to achieve a greater level of excellence in their education.

Definitions

The bill provides the following definitions as they relate to the Workforce Investment Act:

"Public school education foundation" means a school board direct-support organization established under s. 1001.453, F.S.

"Qualified student" means a student currently enrolled in or eligible for a program designed to increase proficiency in reading, writing, or vocational education, as determined by each public school education foundation.

[1] General Exemptions from Inspection or Copying of Public Records

"Qualified program" means: a reading program administered or supported by a local public school education foundation; a mentoring program administered or supported by a local public school education foundation; or a workforce development program designed for public school students who are enrolled in a program administered or supported by a local public school education foundation which program emphasizes vocational or technical education.

Tax Credits

The bill provides for a tax credit of 100 percent of a contribution to a public education foundation for a tax year. The tax credit may not exceed 75 percent of the tax due under the Income Tax code for a tax year, after the application of any other credits by the taxpayer.

At least five percent of the total statewide amount authorized for the tax credit must be reserved for taxpayers who meet the definition of a small business[2] at the time of application. The credit granted must be reduced by the difference between the amount of federal corporate income tax taking into account the credit granted by this section and the amount of federal corporate income tax without application of the credit granted.

The total amount of tax credits and carryforward of tax credits which may be granted each state fiscal year is $50 million.

A taxpayer who files a consolidated return as a member of an affiliated group pursuant to s. 220.131(1), F.S., may be allowed the credit on a consolidated return basis, however the total credit taken by the affiliated group is subject to the limitations of this bill.

Obligations of Public School Education Foundations

The bill provides for public school education foundations (direct support organizations) to provide or support the provision of qualified programs, from eligible contributions, to qualified public school students in the state to achieve a greater level of excellence in their education.

A public school education foundation that receives an eligible contribution must spend 100 percent of the eligible to provide or support qualified programs in the same fiscal year in which the contribution was received. All interest accrued from contributions must be used for the purposes provided by the bill.

A public school education foundation that receives an eligible contribution must provide to the Auditor General an annual financial and compliance audit of its accounts and records conducted by an independent certified public accountant in accordance with rules adopted by the Auditor General.

C. SECTION DIRECTORY:

Section 1: Creates s. 220.188, F.S., providing purpose, definitions, authorization, and obligations, of the Workforce Investment Act.

Section 2: Provides for the act to take effect July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

[2] See s. 288.703, F.S.

The Revenue Estimating Conference has not reviewed this bill. The bill does provide a $50 million cap for each state fiscal year and could therefore represent a loss of up to $50 million in tax revenue per fiscal year.

2. Expenditures:

   The Revenue Estimating Conference has not reviewed this bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   There appears to be no fiscal impact as a result of this bill.

2. Expenditures:

   There appears to be no fiscal impact as a result of this bill.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have an incidental positive impact to the extent it better prepares students in workforce programs with skills enabling them to obtain high-wage jobs.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The bill does not require a municipality 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 municipalities or counties.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Department of Revenue provided the following statement:

There is no language detailing who will handle the implied application process and how it should be handled. The bill does not indicate whether allocations of tax credit should be made on a first-come, first served basis, or on some other basis. The bill does not indicate whether taxpayers are required to make the contribution first before applying for an allocation of tax credit, or whether taxpayers should first apply for an allocation of credit and then make the contribution. The bill allows credit carryovers, but there are no provisions indicating how long the carryovers may be carried forward.

The bill does not provide for the usual and customary add back of the amount of the credit, so that the taxpayer does not receive both a deduction and credit for the contribution.

The bill does not require a certification letter showing that the taxpayer actually made the contribution and is entitled to the tax credit.

If the intent of the sponsor is for the Department of Revenue to administer this credit, including the application process, the Department of Revenue would need specific authority to adopt rules and develop forms and the application process.

The time frame from when this bill could be signed into law to the effective date of when the entity responsible for allocating this credit should start allocating credits is too short for that entity to properly adopt forms and procedures by rule and to have the program properly tested and available for corporations to make application for credit.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

N/A