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: SB 784

INTRODUCER: Transportation and Economic Development Appropriations Committee

SUBJECT: Community Contributions Tax Credits

DATE: March 13, 2006 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Vickers	Yeatman	CA	**Favorable**
2.	Barrett	Cooper	CM	**Favorable**
3.	Fournier	Johansen	GE	**Favorable**
4.			TA	
5.				
6.				

I. Summary:

This bill modifies the allocation of the current $12 million in tax credits authorized for the Community Contribution Tax Credit Program. It provides separate annual limitations for tax credits for donations made to eligible sponsors for projects that provide homeownership opportunities for certain low income households, and for donations made to eligible sponsors for all other projects. The bill sets the annual limitation for homeownership projects at $8 million (whereas current law reserves $9.4 million for such projects during the first six months of the state fiscal year), and the annual limitation for all other projects located in enterprise zones or Front Porch Florida Communities is set at $4 million (whereas the current law reserves $2.6 million for such projects during the first six months of the state fiscal year). This bill also makes conforming changes by eliminating the requirement that the Office of Tourism, Trade, and Economic Development (OTTED) reserve specified percentages of certain annual tax credits for donations made to eligible sponsors for projects that provide homeownership opportunities for certain households. Changes made by this bill reflect the recommendations made in the report of Senate Interim Project 2006-148.

This bill amends ss. 212.08, 220.183, and 624.5105, F.S.

II. Present Situation:

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 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 $12 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 (DOR) for a refund.[4] Tax credits against corporate income taxes and insurance premium taxes are claimed against taxes due.[5] The law 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.[6] For credits in excess of $10 million, 70 percent is reserved for businesses that contribute to low income housing programs for the first 6 months of each fiscal year.[7]

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.[8] 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, 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 that are directly related to any project approved between January 1, 1996, and December 31, 1999, and located in an enterprise zone designated pursuant to s. 290.0065, F.S. (the Florida Holocaust Museum in St. Petersburg).[9]

Project Location **-** Projects to provide low and very low-income housing may be located anywhere in the state.[10] 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.[11]

Contribution Recipients **-** Eligible project sponsors under the program include a wide variety of community organizations, housing organizations, historic preservation organizations, units of

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[1] Sections 212.08(5)(q), 220.183, and 624.5105, F.S.
[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.e.(I), 220.183(2)(b)2., and 624.5105(2)(e)1., F.S.
[7] *Id.*
[8] Sections 212.08(5)(q)2.a., 220.03(1)(d), and 624.5105(5)(a), F.S.
[9] Sections 212.08(5)(q)2.b., 220.03(1)(t), and 624.5105(2)(b) and (5)(e), F.S.
[10] Sections 212.08(5)(q)2.d., 220.183(2)(d), and 624.5105(2)(d), F.S.
[11] *Id.*

state and local government, and regional workforce boards.[12] OTTED maintains a list of approved sponsors.

Tax Credit Application and Approval Process - Applications to receive community contribution tax credits must be submitted to OTTED. 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.[13] 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.[14] After approval for community contribution tax credits is received by an applicant, the applicant must also claim the credit from DOR.[15] Unused credits against corporate income taxes and insurance premium taxes may be carried forward for 5 years.[16] Unused credits against sales taxes may be carried forward for 3 years.[17]

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 percent 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.[18] 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 percent 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.[19]

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 percent 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

[12] Sections 212.08(5)(q)2.c., 220.183(2)(c), and 624.5105(2)(c), F.S.
[13] Sections 212.08(5)(q)3.b. and 220.183(3)(b), F.S.
[14] Section 624.5105(3)(b), F.S.
[15] Section 212.08(5)(q)3.c., F.S., and Rules 12A-1.107(4), 12B-8.001(3)(d), and 12C-1.0188(3), F.A.C.
[16] Sections 220.183(1)(e) and 624.5105(1)(e), F.S.
[17] Section 212.08(5)(q)1.b. and 5., F.S.
[18] Sections 212.08(5)(q)1.e.(III), 220.183(2)(b)4., and 624.5105(2)(e)3., F.S.
[19] *Id.*

first 6 months of the state fiscal year.[20] 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 percent of credits in excess of $10 million, OTTED shall grant the tax credits on a pro rata basis.[21] 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.[22]

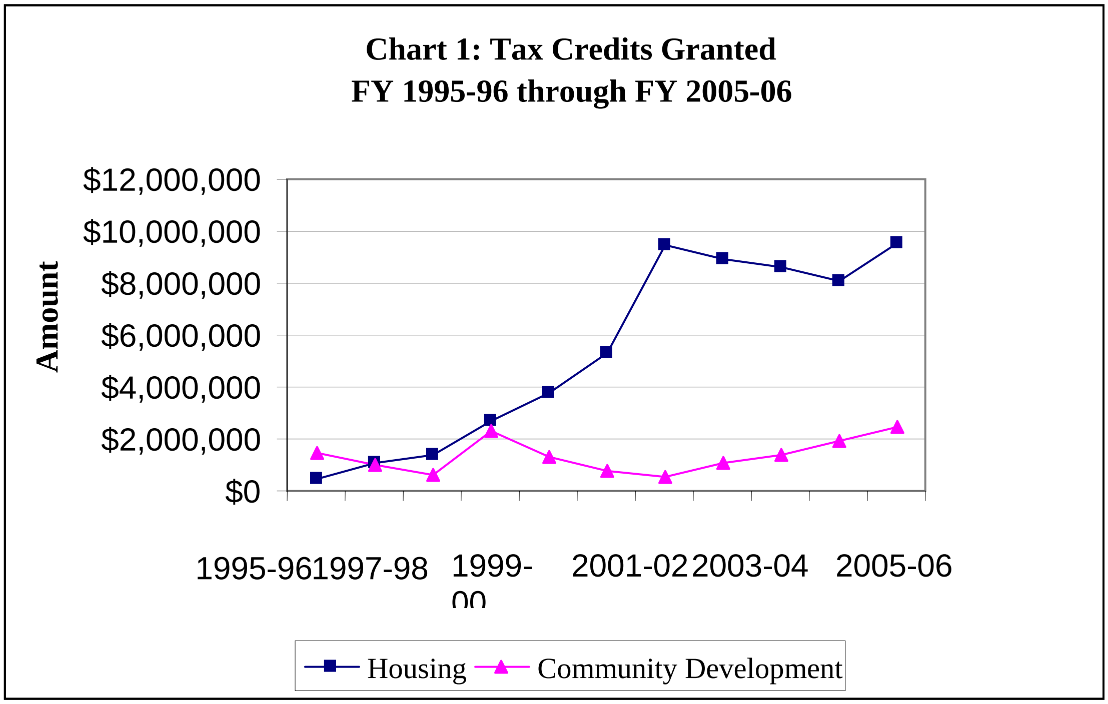
Program History **-** The community contributions tax credit was created in 1980[23] as a credit against the corporate income tax or insurance premium tax. From 1980 through 1994 it was capped at $3 million per year. In 1994[24] the program's expiration date was extended from that year until 2005, and the cap was decreased to $2 million. In 1998[25] the Legislature increased the cap to $5 million, and in 1999[26] it was raised again to $10 million. Legislation enacted in 2001[27] allowed the credit to be used against a dealer's sales and use tax liability. In 2005[28] the Legislature extended the program through June 30, 2015, increased from $10 million to $12 million the total annual amount of tax credits that may be granted under the program, and reserved 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. *Since the cap is now set at $12 million, $9.4 million must be reserved for home ownership projects and $2.6 million is available for all other projects during the first six months of the fiscal year***.**

Program Expiration **-** The statutes creating the community contribution tax credit program are scheduled to expire on June 30, 2015.

Program Statistics **–** According to OTTED, 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 chart and table below show the tax credits granted for housing projects and for other community development projects during the past ten years. There were significant tax credits unused for the first two years after the cap was increased to $10 million, but since the credit was extended to sales and use tax the entire allocation has been used.

[20] Sections 212.08(5)(q)1.e.(IV), 220.183(2)(b)5., and 624.5105(2)(e)4., F.S.
[21] *Id.*
[22] *Id.*
[23] Ch. 80-249, L.O.F.
[24] Ch. 94-136, L.O.F.
[25] Ch. 98-291, L.O.F.
[26] Ch. 99-265, L.O.F.
[27] Ch. 2001-201, L.O.F.
[28] Ch. 2005-282, L.O.F.



Source: Created from data provided by OTTED.

Table 1

TAX CREDITS GRANTED - FY 1995-96 through FY 2005-06[1]

Fiscal Year	Annual Allocation	Housing	Community Development	Total Approved Credits	Credits Remaining
1995-96	2,000,000	465,542	1,472,255	1,937,797	62,203
1996-97	2,000,000	1,043,256	1,018,947	2,062,203	(62,203)
1997-98	2,000,000	1,348,500	651,500	2,000,000	0
1998-99	5,000,000	2,720,441	2,279,559	5,000,000	0
1999-00	10,000,000	3,764,283	1,302,178	5,066,461	4,933,539
2000-01	10,000,000	5,320,890	744,365	6,065,255	3,934,745
2001-02	10,000,000	9,484,489	515,464	9,999,953	47
2002-03	10,000,000	8,914,456	1,085,544	10,000,000	0
2003-04	10,000,000	8,622,769	1,377,231	10,000,000	0
2004-05	10,000,000	8,051,618	1,948,382	10,000,000	0
2005-06	12,000,000	9,558,883	2,441,117	12,000,000	0
TOTALS	83,000,000	59,295,127	14,836,542	74,131,669	8,868,331

III. Effect of Proposed Changes:

Sections 1, 2 and 3 of this bill amend ss. 212.08, 220.183, and 624.5105, F.S., respectively in substantially identical fashion to change the allocation of the current $12 million in tax credits authorized for the program. Separate annual limitations are set for tax credits for donations made to eligible sponsors for projects that provide homeownership opportunities, and for donations made to eligible sponsors for all other projects. The annual limitation is set at $8 million for projects that provide homeownership opportunities for low-income or very-low-income households as defined in s. 420.9071(19) and (28), F.S., and $4 million annually for all other projects. Conforming changes are also made by eliminating the requirement that OTTED reserve 80 percent of $10 million of available tax credits and 70 percent of available credits in excess of $10 million 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. These sections of the bill also eliminate the provisions that allow tax credits that are unused by either the home ownership or all other projects to be used for any project after the first six months of the state fiscal year.

Section 4 provides an effective date of July 1, 2006.

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:

This bill is not expected to have an impact on tax revenues because it simply reallocates the existing $12 million for the Community Contributions Tax Credit Program. The housing and non-housing projects are expected to reach their respective annual allocations in each state fiscal year with the new allocations; in the event that they do not reach their respective allocations, then the state’s revenues will increase.

B. Private Sector Impact:

This bill reduces the amount of tax credits available to businesses for homeownership projects from $9.4 million to $8 million, and increases the amount of tax credits available for non-housing projects from $2.6 million to $4 million. This will likely have an adverse but indeterminate impact on the number of low income homes that are built each year as private contributions may be constrained. Conversely, this will also have a positive but indeterminate impact on the projects sponsored in the enterprise zones and Front Porch Florida Communities may receive more contributions.

C. Government Sector Impact:

There is no government sector fiscal impact since the proposed bill only reallocates the tax credits among types of projects. Administration of the program by OTTED should be simplified under the provisions of this proposed bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

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.