

By the Committee on Health Policy; and Senators Gaetz, Fasano, Aronberg, Bullard, Peaden, Baker, Alexander, Deutch, Haridopolos, Wilson, Dockery, Atwater, Lynn and Webster

587-2264-07

1 A bill to be entitled

2 An act relating to the corporate income tax;

3 amending s. 220.02, F.S.; revising the list of

4 application of corporate income tax credits;

5 amending s. 220.13, F.S.; including a tax

6 credit within the definition of the term

7 "adjusted federal income"; creating s.

8 220.1875, F.S.; providing a purpose; defining

9 terms; providing for a corporate income tax

10 credit for contributions for medical care for

11 indigent persons; providing for contributions

12 to the Health Care Clinic Indigent Care Trust

13 Fund for certain purposes; providing

14 requirements, procedures, and limitations;

15 providing an annual aggregate limit for the

16 fund; providing for disbursements from the fund

17 to certain health care clinics; providing

18 requirements and limitations; providing for

19 ineligibility under certain circumstances;

20 providing for administration by a board of

21 directors; providing for appointing board

22 members; providing for terms and expenses;

23 providing powers and duties of the board;

24 requiring the board to report annually to the

25 Governor and Legislature; providing an

26 application; requiring the Department of

27 Revenue to adopt rules; providing a contingent

28 effective date.

30 Be It Enacted by the Legislature of the State of Florida:

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1           Section 1. Subsection (8) of section 220.02, Florida  
2 Statutes, is amended to read:

3           220.02 Legislative intent.--

4           (8) It is the intent of the Legislature that credits  
5 against either the corporate income tax or the franchise tax  
6 be applied in the following order: those enumerated in s.  
7 631.828, those enumerated in s. 220.191, those enumerated in  
8 s. 220.181, those enumerated in s. 220.183, those enumerated  
9 in s. 220.182, those enumerated in s. 220.1895, those  
10 enumerated in s. 221.02, those enumerated in s. 220.184, those  
11 enumerated in s. 220.186, those enumerated in s. 220.1845,  
12 those enumerated in s. 220.19, those enumerated in s. 220.185,  
13 those enumerated in s. 220.187, those enumerated in s.  
14 220.192, ~~and~~ those enumerated in s. 220.193, and those  
15 enumerated in s. 220.1875.

16           Section 2. Paragraph (a) of subsection (1) of section  
17 220.13, Florida Statutes, is amended to read:

18           220.13 "Adjusted federal income" defined.--

19           (1) The term "adjusted federal income" means an amount  
20 equal to the taxpayer's taxable income as defined in  
21 subsection (2), or such taxable income of more than one  
22 taxpayer as provided in s. 220.131, for the taxable year,  
23 adjusted as follows:

24           (a) Additions.--There shall be added to such taxable  
25 income:

26           1. The amount of any tax upon or measured by income,  
27 excluding taxes based on gross receipts or revenues, paid or  
28 accrued as a liability to the District of Columbia or any  
29 state of the United States which is deductible from gross  
30 income in the computation of taxable income for the taxable  
31 year.

1           2. The amount of interest which is excluded from  
2 taxable income under s. 103(a) of the Internal Revenue Code or  
3 any other federal law, less the associated expenses disallowed  
4 in the computation of taxable income under s. 265 of the  
5 Internal Revenue Code or any other law, excluding 60 percent  
6 of any amounts included in alternative minimum taxable income,  
7 as defined in s. 55(b)(2) of the Internal Revenue Code, if the  
8 taxpayer pays tax under s. 220.11(3).

9           3. In the case of a regulated investment company or  
10 real estate investment trust, an amount equal to the excess of  
11 the net long-term capital gain for the taxable year over the  
12 amount of the capital gain dividends attributable to the  
13 taxable year.

14           4. That portion of the wages or salaries paid or  
15 incurred for the taxable year which is equal to the amount of  
16 the credit allowable for the taxable year under s. 220.181.  
17 This subparagraph shall expire on the date specified in s.  
18 290.016 for the expiration of the Florida Enterprise Zone Act.

19           5. That portion of the ad valorem school taxes paid or  
20 incurred for the taxable year which is equal to the amount of  
21 the credit allowable for the taxable year under s. 220.182.  
22 This subparagraph shall expire on the date specified in s.  
23 290.016 for the expiration of the Florida Enterprise Zone Act.

24           6. The amount of emergency excise tax paid or accrued  
25 as a liability to this state under chapter 221 which tax is  
26 deductible from gross income in the computation of taxable  
27 income for the taxable year.

28           7. That portion of assessments to fund a guaranty  
29 association incurred for the taxable year which is equal to  
30 the amount of the credit allowable for the taxable year.  
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1           8. In the case of a nonprofit corporation which holds  
2 a pari-mutuel permit and which is exempt from federal income  
3 tax as a farmers' cooperative, an amount equal to the excess  
4 of the gross income attributable to the pari-mutuel operations  
5 over the attributable expenses for the taxable year.

6           9. The amount taken as a credit for the taxable year  
7 under s. 220.1895.

8           10. Up to nine percent of the eligible basis of any  
9 designated project which is equal to the credit allowable for  
10 the taxable year under s. 220.185.

11           11. The amount taken as a credit for the taxable year  
12 under s. 220.187.

13           12. The amount taken as a credit for the taxable year  
14 under s. 220.192.

15           13. The amount taken as a credit for the taxable year  
16 under s. 220.193.

17           14. The amount taken as a credit for the taxable year  
18 under s. 220.1875.

19           Section 3. Section 220.1875, Florida Statutes, is  
20 created to read:

21           220.1875 Credits for contributions to health care  
22 clinics for medical care for indigent persons.--

23           (1) PURPOSE.--The purpose of this section is to permit  
24 corporations a credit against corporate income taxes by making  
25 contributions to a fund that distributes grants to eligible  
26 health care clinics so that the clinics can provide medical  
27 care for indigent persons and to provide fiscal relief to  
28 eligible health care clinics that provide a disproportionate  
29 share of medical care to indigent persons.

30           (2) DEFINITIONS.--For purposes of this section, the  
31 term:

1           (a) "Board" means the board of directors of the fund.

2           (b) "Charity care" means medical care provided to a  
3 person who has insufficient resources or assets to pay for  
4 medical care without using resources that are required to meet  
5 the person's basic need for food, shelter, and clothing. A  
6 person is not eligible for charity care if the person's family  
7 income, for the 12 months preceding the determination of his  
8 or her financial status by the health care clinic, exceeds 200  
9 percent of the federal poverty guidelines.

10           (c) "Department" means the Department of Revenue.

11           (d) "Eligible health care clinic" means a charitable  
12 organization that is:

13           1. A federally qualified health center, as defined in  
14 42 U.S.C. s. 1395x(aa)(4), or a federally qualified health  
15 center "look-alike";

16           2. An entity that is exempt from the federal income  
17 tax under s. 501(c)(3) of the Internal Revenue Code and that:

18           a. Provides health care services in a community clinic  
19 that is not owned or affiliated with a hospital licensed under  
20 chapter 395;

21           b. In the most recently completed calendar year,  
22 provided charity care in an aggregate amount equal to 50  
23 percent of its total revenues derived from providing health  
24 care services or that received at least 50 percent of its  
25 patient visits from charity care patients;

26           c. Maintains a patient financial responsibility policy  
27 under which the patient's charity care status is confirmed;

28 and

29           d. Provides information establishing that the  
30 applicant maintains a quality assurance and improvement  
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1 process that includes an annual review establishing that  
2 evidence-based medical practices are used; or

3 3. A county health department located in a county  
4 having a total population of fewer than 300,000 persons.

5 (e) "Fiscal year" means the state fiscal year.

6 (f) "Fund" means the Health Care Clinic Indigent Care  
7 Trust Fund created in s. 220.1876.

8 (3) CONTRIBUTIONS TO THE FUND; TAX CREDIT.--

9 (a) A corporate taxpayer may make contributions to the  
10 fund at any time by submitting the contribution to the  
11 department for deposit into the fund, thereby becoming  
12 eligible for credits against the corporation's state corporate  
13 income tax liabilities as provided in paragraph (b). The  
14 department shall account for the contributions by each  
15 corporate taxpayer and may require the filing of a certificate  
16 of contribution that the corporate taxpayer must submit with  
17 its corporate income tax return when claiming credit for  
18 contributions.

19 (b) A credit of 100 percent of an eligible  
20 contribution is allowed against any tax due for a taxable year  
21 under this chapter. However, the credit may not exceed 75  
22 percent of the tax due under this chapter for the taxable  
23 year, after the application of any other allowable credits by  
24 the taxpayer.

25 (c) If the credit granted under this section is not  
26 fully used in a single year because of insufficient tax  
27 liability on the part of the corporation, the unused amount  
28 may be carried forward for a period not to exceed 3 years.

29 (d) A taxpayer who files a consolidated return under  
30 s. 220.131(1) as a member of an affiliated group may be  
31 allowed the credit on a consolidated return basis; however,

1 the total credit taken by the affiliated group is subject to  
2 the limitation set forth in paragraph (b).

3 (4) FUND AGGREGATE LIMIT.--The fund is subject to an  
4 annual aggregate limit of \$50 million. Contributions by  
5 corporate taxpayers to the fund shall be accepted in the order  
6 in which received until the annual limit is reached.

7 (5) DISBURSEMENTS.--

8 (a) An eligible health care clinic may apply to the  
9 board for approval of disbursement of moneys from the fund for  
10 operations, personnel, and capital improvements. Such  
11 applications must be accepted by the board semiannually on  
12 June 1 and December 1 of each calendar year.

13 (b) The board shall approve qualified applications and  
14 request the department to make disbursements to eligible  
15 health care clinics to the extent funds are available. The  
16 board shall determine disbursements on the basis of need, the  
17 date of the disbursement request, and the applicant's ability  
18 to obtain alternative funding. The board shall approve  
19 disbursements to applicants who provide a system of care for  
20 the uninsured or underinsured in the community served by the  
21 applicant. The board shall ensure that funds are distributed  
22 on a geographically equitable basis throughout the state. The  
23 board shall meet bimonthly basis for this purpose or may meet  
24 via teleconference if meeting in person is impracticable. If  
25 the board approves a disbursement to a qualified applicant,  
26 the board shall transmit a disbursement request to the  
27 department, which shall distribute the requested amount from  
28 the fund to the applicant approved for disbursement by the  
29 board. A single eligible health care clinic may not receive  
30 more than \$2.5 million in total assistance from the fund in a  
31 given fiscal year. Applications received at the end of the

1 fiscal year shall be carried over and determined in the next  
2 fiscal year.

3 (c) An eligible health care clinic that is owned or  
4 operated in any manner in affiliation with a corporate  
5 taxpayer eligible for a tax credit as provided in this section  
6 is not eligible to receive any disbursements from the fund.

7 (6) BOARD MEMBERS AND APPOINTMENT; POWERS AND  
8 DUTIES.--

9 (a) The board shall consist of nine members. Three  
10 members shall be appointed by the Governor, three members  
11 shall be appointed by the President of the Senate, and three  
12 members shall be appointed by the Speaker of the House of  
13 Representatives. Each member must have relevant experience in  
14 the delivery of health care to indigent persons. Board members  
15 shall elect a chair at the first organizational meeting and  
16 shall elect a new chair annually. A board member may be  
17 reelected as chair at the discretion of the board.

18 (b) The term of a board member shall be 2 years, but  
19 the member may serve a second consecutive term if reappointed.  
20 For initial appointees, three members shall be appointed for  
21 1-year terms, three members shall be appointed for 2-year  
22 terms, and three members shall be appointed for 3-year terms.  
23 Each of the appointing officials shall designate members for  
24 1-year, 2-year, or 3-year terms. Members appointed to an  
25 initial 3-year term are eligible for a second 2-year term if  
26 reappointed.

27 (c) Board members shall serve without compensation,  
28 but are entitled to receive reimbursement for per diem and  
29 travel expenses in accordance with s. 112.061, while in the  
30 performance of their duties.

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1           (d) The board may hire an executive director and other  
2 personnel, whose salaries shall be paid from the fund.

3           (e) A board member may not have an ownership interest  
4 in a health care clinic or be a member of the board of  
5 directors or an officer of a health care clinic.

6           (f) The board shall receive and evaluate applications  
7 from eligible health care clinics for the disbursement of  
8 moneys from the fund as provided by this section.

9           (g) By December 31, 2008, the board shall submit a  
10 report to the Governor and the Legislature describing the  
11 implementation of this section. Thereafter, the board shall  
12 provide to the Governor and Legislature an annual report  
13 summarizing the following:

14           1. The total annual contributions to the fund.

15           2. The annual disbursement of funds to eligible health  
16 care clinics, identifying each clinic and the amount disbursed  
17 to the clinic.

18           (7) RULEMAKING.--The department shall adopt rules  
19 pursuant to ss. 120.536(1) and 120.54 which are necessary to  
20 administer this section, including, but not limited to, rules  
21 establishing application forms and procedures for  
22 contributions by corporate taxpayers to the fund, granting the  
23 tax credit, and approving applications for disbursements from  
24 the fund.

25           Section 4. This act shall take effect July 1, 2007,  
26 and apply to tax years beginning on or after January 1, 2008,  
27 only if SB 1654 or similar legislation is adopted in the same  
28 legislative session or an extension thereof and becomes law.

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1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                                   COMMITTEE SUBSTITUTE FOR  
3                                   Senate Bill 1646  
4                   The committee substitute adds the amount taken as a credit for  
5                   the taxable year under s. 220.1875, F.S., as an addition for  
6                   purposes of the corporate taxpayer's adjusted federal income.  
7                   The committee substitute changes the definitions for charity  
8                   care and eligible health care clinic and defines fiscal year.  
9                   A person is not eligible for charity care if the person's  
10                  family income, for the 12 months preceding the determination,  
11                  exceeds 200 percent of the federal poverty guidelines. The  
12                  exemption for health care charges exceeding 25 percent of  
13                  family income is deleted. Not-for-profit health care clinics  
14                  meeting certain criteria and county health departments in  
15                  counties with fewer than 300,000 persons, that may not be  
16                  federally qualified health care centers are added to the list  
17                  of eligible health care clinics.  
18                  The committee substitute allows the department to require a  
19                  certificate of contribution to be filed. It deletes the  
20                  requirement for the department to hold contributions in an  
21                  escrow account on days when the fund is at its limit. The  
22                  committee substitute deletes the first-come, first-served  
23                  requirement and gives the board criteria for deciding how the  
24                  funds will be disbursed. An eligible health care clinic that  
25                  is owned or operated or affiliated with a corporate tax payer  
26                  receiving benefits under this section is not eligible to  
27                  receive disbursements. The first annual report will be  
28                  submitted by December 31, 2008.  
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