HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 325 Employee Fitness Expenditures Tax Credits
SPONSOR(S): Gonzalez and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Business Regulation	9 Y, 0 N	Smith	Liepshutz
2) Jobs & Entrepreneurship Council			
3) Policy & Budget Council			
4)			
5)			

SUMMARY ANALYSIS

Corporations doing business in the Florida must pay a corporate income tax of 5.5 percent on net income earned in Florida, less a $5,000 standard exemption. Net income is defined as the share of adjusted federal income which is apportioned to the state. While the state does offer credits for a variety of businesses and activities, Florida does not currently offer tax incentives related to employee wellness.

The proposed legislation would create a fitness tax credit against corporate income tax for an employer in an amount equal to 10 percent of the taxpayer's expenditures for costs of equipping, operating, and maintaining a facility intended for the use of the taxpayer's employees. This credit would also apply to a taxpayer who sponsored an athletic team comprised of the taxpayer's employees or subsidized employee memberships to health studios defined by s. 501.0125, F.S. The bill would also create a credit equal to 50 percent of the amount of the cost of employing a qualified person, to be located on the taxpayer's business premises, to provide health information or instruction to the taxpayer's employees.

Corporate income tax and the emergency excise tax paid to the state are credited against premium tax liability. The proposed legislation would establish a credit against the tax on insurers for employee fitness costs according to the same criteria established for the fitness tax credit against corporate income tax.

The February 9, 2007, Revenue Estimating Conference (REC) projected a negative fiscal impact of $3.3 million to state revenues in Fiscal Year 2007-08. This negative fiscal impact is expected to increase annually to an estimated $6.7 million in Fiscal Year 2008-09, $6.8 million in Fiscal Year 2009-10, and $7 million in Fiscal Year 2010-2011. The Department of Revenue anticipates annual expenditures of $153,447 in Fiscal Year 2007-08 and approximately $138,169 in future years. These costs include three full-time equivalent (FTE) positions in the Return Reconciliation Section for the verification of the credits established by this legislation. Additionally, programming and application form changes will be needed.

See III. D. of this analysis: STATEMENT OF THE SPONSOR

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes - The bill creates a tax credit on corporate income for certain taxpayer expenditures related to providing fitness facilities or supporting fitness-related activities by employees.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Corporate Income Tax
Corporations doing business in the Florida must pay a corporate income tax of 5.5 percent on net income earned in Florida, less a $5,000 standard exemption. Net income is defined as the share of adjusted federal income which is apportioned to the state. Exemptions or credits currently exist for, among others, Chapter S corporations, master limited partnerships, and limited liability companies as well as certain activities, such as those related to research and development through a university, community revitalization, the rehabilitation of contaminated sites, or establishment of child care facilities.

Florida does not currently offer tax credits/exemptions related to fitness; however, HB 1629 passed during the 2004 Regular Session and required that health insurers and HMOs provide for a rebate of premiums when the majority of members of a health plan have maintained participation in a wellness program. While other states have proposed tax incentives for businesses that facilitate employee fitness, it does not appear that any states have adopted laws to that effect.

Insurance Premium Tax
Taxes are imposed on insurance premiums and paid by insurance companies at the following rates: 1.75 percent on gross premiums minus reinsurance and return premiums; 1 percent on annuity premiums; 1.6 percent of self insurers; and 5 percent on surplus lines premiums and independently procured coverage. Corporation income tax and the emergency excise tax paid to the state are credited against premium tax liability. Exemptions are allowed on annuity premiums paid by annuity policy or contract holders in this state, if the savings are passed on to the consumer. A credit is allowed against the premium tax equal to 15 percent of the amount paid by the insurer in salaries to employees located or based in Florida who are covered by unemployment compensation. Other credit programs include child care, capital investment, capital company investment, and community contributions.

Effect of Proposed Changes

HB 325 creates an employee fitness tax credit that may be applied against a taxpayer's corporate income tax liability, and in the case of an insurer, against the insurance premium tax liability. A taxpayer may receive a tax credit equal to 10 percent of:

- the cost of equipping and operating an employee fitness facility,
- the cost of sponsoring an amateur athletic team,
- the cost of subsidizing an employee's membership to a health studio, and
- 50 percent of the cost of employing a "qualified person or organization" to provide instruction in fitness or health. "Qualified person" is defined and "qualified organization" is clarified to mean an organization that employs a qualified person.

Credits authorized may not exceed 50 percent of an employer's corporate income tax or insurance premium tax due in any taxable year and cannot exceed $50 per employee. Unused tax credits may be carried forward for 5 years. The provisions of this legislation are scheduled to expire December 31, 2017.

C. SECTION DIRECTORY:

Section 1. Creates s. 220.1925, F.S., to authorize employee fitness tax credits. Provides for an expiration date for the provisions of this bill except for (1)(f) related to carryover credits.

Section 2. Amends s. 220.02(8), F.S., to include s. 220.1925, F.S., in the Legislative Intent of the corporate income tax.

Section 3. Amends s. 220.13(1)(a) to include s. 220.1925, F.S., in the adjusted federal tax additions.

Section 4. Creates s. 624.5108, F.S., to authorize an employee fitness tax credit against the insurance premium tax for insurers. This section mirrors the credit created in Section 1.

Section 5. Amends s. 624.509(7), F.S., to include s. 624.5108, F.S., in the tax credits to be claimed against the insurance premium tax.

Section 6. Provides the effective date of January 1, 2008, and shall apply to tax years beginning on or after that date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The REC projects a reduction to state revenues in the amount of $3.3 million for FY 2007-08, $6.7 million for FY 2008-09, $6.8 million for FY 2009-10, and $7 million for FY 2010-11.

2. Expenditures:

   The Department of Revenue estimates the following costs related to program administration:

I. FISCAL IMPACT ON STATE AGENCY:	**(FY 07-08) $ / FTE**	**(FY 08-09) $ / FTE**	**(FY 09-10) $ / FTE**	**(FY 10-11) $ / FTE**
EXPENDITURES:				
1. Recurring	**$138,169**	**$138,169**	**$138,169**	**$138,169**
FTE	**3**			
Salaries	**$117,499**	**$117,499**	**$117,499**	**$117,499**
Expenses	**$19,467**	**$19,467**	**$19,467**	**$19,467**
HR Contract	**$1,203**	**$1,203**	**$1,203**	**$1,203**
2. Non-Recurring	**$14,278**			
Expenses	**$10,378**			
OCO	**$3,900**			
C. TOTAL:	**$153,447**	**$138,169**	**$138,169**	**$138,169**

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Corporate taxpayers that facilitate employee fitness will be entitled to a corporate income tax credit or a premium insurance credit. The taxpayer's employees will also benefit by taking advantage of the fitness facilities, teams, or instruction that the taxpayer must offer in order to be eligible for the tax or insurance credit.

D. FISCAL COMMENTS:

The February 9, 2007, Revenue Estimating Conference (REC) projected a negative fiscal impact of $3.3 million to state revenues in Fiscal Year 2007-08. This negative impact fiscal impact is expected to increase annually to an estimated $6.7 million in Fiscal Year 2008-09, $6.8 million in Fiscal Year 2009-10, and $7 million in Fiscal Year 2010-2011. The Department of Revenue anticipates annual expenditures of $153,447 in Fiscal Year 2007-08 and approximately $138,169 in future years. These costs include three full-time equivalent (FTE) positions.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   None.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill provides rule-making authority to the Department of Revenue for the administration of the program.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement of the sponsor submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES