

By Senator Bennett

21-01366-10

20101336__

1 A bill to be entitled
2 An act relating to corporate income tax credits;
3 creating s. 220.1875, F.S.; providing legislative
4 findings and purposes; providing definitions;
5 establishing the Florida Public School Tax Credit
6 Program; providing for credits against the corporate
7 income tax for contributions to public schools for
8 certain purposes; providing limitations; authorizing
9 public schools to determine how to use undesignated
10 contributions; requiring public schools to report
11 certain information to the Department of Revenue;
12 limiting the total annual amount of credits; providing
13 requirements for taxpayers filing consolidated
14 returns; providing procedures and requirements for
15 rescinding credits; providing for use of rescinded
16 credits by other taxpayers; specifying certain
17 taxpayers as ineligible to receive the corporate tax
18 credit; specifying administrative rules for use and
19 application of the credit; requiring the Department of
20 Revenue and the State Board of Education to adopt
21 rules; providing requirements for deposits of eligible
22 contributions; providing criteria for preservation of
23 tax credits under certain circumstances; providing a
24 limitation; providing an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Section 220.1875, Florida Statutes, is created
29 to read:

21-01366-10

20101336

30 220.1875 Credits for contributions to public schools for
31 public school expenses.-

32 (1) FINDINGS AND PURPOSE.-

33 (a) The Legislature finds that:

34 1. It has the inherent power to determine subjects of
35 taxation for general or particular public purposes.

36 2. Expanding educational opportunities and improving the
37 quality of educational services within the state are valid
38 public purposes that the Legislature may promote using its
39 sovereign power to determine subjects of taxation and exemptions
40 from taxation.

41 3. Expanding educational opportunities and the healthy
42 competition they promote are critical to improving the quality
43 of education in the state and to ensuring that all children
44 receive the high-quality education to which they are entitled.

45 (b) The purpose of this section is to:

46 1. Enable taxpayers to make private, voluntary
47 contributions to public schools in order to promote the general
48 welfare.

49 2. Enable children in this state to achieve a greater level
50 of excellence in their education.

51 3. Improve the quality of education in this state, both by
52 expanding educational opportunities for children and by creating
53 incentives for public schools to achieve excellence.

54 4. Allow corporations to claim education tax credits for
55 direct payments to public schools for educational expenses,
56 special assistance, tutoring, Foundation for Florida's Future,
57 mentoring, extracurricular activities, or character education
58 programs and pay-to-play fees associated with mental and

21-01366-10

20101336__

59 physical student development.

60 (2) DEFINITIONS.—As used in this section, the term:

61 (a) "Department" means the Department of Revenue.

62 (b) "Eligible contribution" means a monetary contribution
63 from a taxpayer, subject to the restrictions provided in this
64 section, to a public school.

65 (c) "Public school" means a school in this state that
66 provides education to students in any grades K-12 in a public
67 school district.

68 (3) PROGRAM.—The Florida Public School Tax Credit Program
69 is established.

70 (4) AUTHORIZATION TO GRANT PUBLIC SCHOOL FUNDING TAX
71 CREDITS; LIMITATIONS ON INDIVIDUAL AND TOTAL CREDITS.—

72 (a)1. There is allowed a credit of 100 percent of an
73 eligible contribution against any tax due for a taxable year
74 under this chapter. The credit is allowed against the taxes
75 imposed by this chapter for the amount of any fees paid or cash
76 contributions made by a taxpayer during the taxable year to a
77 public school located in this state for the support of
78 educational expenses, special assistance, tutoring, Foundation
79 for Florida's Future, mentoring, extracurricular activities,
80 character education programs and pay-to-play fees. The taxpayer
81 may designate the specific use to which the contribution must be
82 applied. However, such a credit may not exceed 75 percent of the
83 tax due under this chapter for the taxable year, after the
84 application of any other allowable credits by the taxpayer. The
85 credit granted by this section shall be reduced by the
86 difference between the amount of federal corporate income tax
87 taking into account the credit granted by this section and the

21-01366-10

20101336

88 amount of federal corporate income tax without application of
89 the credit granted by this section.

90 2. Each public school that receives contributions that are
91 not designated for a specific purpose shall determine how the
92 contributions are used. The school advisory council may make
93 recommendations as to how best to apply undesignated
94 contributions.

95 3. A public school that receives fees or a cash
96 contribution shall report to the department, in a form
97 prescribed by the department:

98 a. The total number of fee and cash contribution payments
99 received during the previous calendar year.

100 b. The total dollar amount of fees and contributions
101 received during the previous calendar year.

102 c. The total dollar amount from fees and contributions
103 received that were spent by the public school during the
104 previous calendar year.

105 (b) For each state fiscal year, the total amount of tax
106 credits and carryforward of tax credits which may be granted
107 under this section and s. 624.51055 is \$118 million.

108 (c) A taxpayer who files a Florida consolidated return as a
109 member of an affiliated group pursuant to s. 220.131(1) may be
110 allowed the credit on a consolidated return basis; however, the
111 total credit taken by the affiliated group is subject to the
112 limitation established under paragraph (a).

113 (d) Effective for tax years beginning January 1, 2011, a
114 taxpayer may rescind all or part of its allocated tax credit
115 under this section. The amount rescinded shall become available
116 for purposes of the cap for that state fiscal year under this

21-01366-10

20101336

117 section to an eligible taxpayer as approved by the department if
118 the taxpayer receives notice from the department that the
119 rescission has been accepted by the department and the taxpayer
120 has not previously rescinded any or all of its tax credit
121 allocation under this section more than once in the previous 3
122 tax years. Any amount rescinded under this paragraph shall
123 become available to an eligible taxpayer on a first-come, first-
124 served basis based on tax credit applications received after the
125 date the rescission is accepted by the department.

126 (e) A taxpayer who is eligible to receive the credit
127 provided for in s. 624.51055 is not eligible to receive the
128 credit provided by this section.

129 (5) ADMINISTRATION; RULES.—

130 (a) If the credit granted pursuant to this section is not
131 fully used in any one year because of insufficient tax liability
132 on the part of the corporation, the unused amount may be carried
133 forward for a period not to exceed 3 years; however, any
134 taxpayer that seeks to carry forward an unused amount of tax
135 credit must submit an application for allocation of tax credits
136 or carryforward credits as required in paragraph (d) in the year
137 that the taxpayer intends to use the carryforward. This
138 carryforward applies to all approved contributions made after
139 January 1, 2011. A taxpayer may not convey, assign, or transfer
140 the credit authorized by this section to another entity unless
141 all of the assets of the taxpayer are conveyed, assigned, or
142 transferred in the same transaction.

143 (b) An application for a tax credit pursuant to this
144 section shall be submitted to the department on forms
145 established by rule of the department.

21-01366-10

20101336__

146 (c) The department and the Department of Education shall
147 develop a cooperative agreement to assist in the administration
148 of this section.

149 (d) The department shall adopt rules necessary to
150 administer this section, including rules establishing
151 application forms and procedures and governing the allocation of
152 tax credits and carryforward credits under this section on a
153 first-come, first-served basis.

154 (e) The State Board of Education shall adopt rules pursuant
155 to ss. 120.536(1) and 120.54 to administer this section as it
156 relates to the roles of the Department of Education and the
157 Commissioner of Education.

158 (6) DEPOSITS OF ELIGIBLE CONTRIBUTIONS.—All eligible
159 contributions received by a public school shall be deposited in
160 a manner consistent with s. 17.57(2).

161 (7) PRESERVATION OF CREDIT.—If any provision or portion of
162 subsection (4) or the application thereof to any person or
163 circumstance is held unconstitutional by any court or is
164 otherwise declared invalid, the unconstitutionality or
165 invalidity shall not affect any credit earned under subsection
166 (4) by any taxpayer with respect to any contribution paid to a
167 public school before the date of a determination of
168 unconstitutionality or invalidity. Such credit shall be allowed
169 at such time and in such a manner as if a determination of
170 unconstitutionality or invalidity had not been made, provided
171 that nothing in this subsection by itself or in combination with
172 any other provision of law shall result in the allowance of any
173 credit to any taxpayer in excess of one dollar of credit for
174 each dollar paid to a public school.

21-01366-10

20101336__

175

Section 2. This act shall take effect July 1, 2010.