

HB 657

2010

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14 rescinding credits; providing for use of rescinded credits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

24
25 Be It Enacted by the Legislature of the State of Florida:

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

29 220.1875 Credits for contributions to public schools for
 30 public school expenses.-

31 (1) FINDINGS AND PURPOSE.-

32 (a) The Legislature finds that:

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

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

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

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

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

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

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

53 4. Allow corporations to claim education tax credits for
 54 direct payments to public schools for educational expenses,
 55 special assistance, tutoring, Foundation for Florida's Future,
 56 mentoring, extracurricular activities, or character education

57 programs and pay-to-play fees associated with mental and
 58 physical student development.

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

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

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

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

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

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

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

85 difference between the amount of federal corporate income tax
86 taking into account the credit granted by this section and the
87 amount of federal corporate income tax without application of
88 the credit granted by this section.

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

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

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

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

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

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

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

112 (d) Effective for tax years beginning January 1, 2011, a
 113 taxpayer may rescind all or part of its allocated tax credit
 114 under this section. The amount rescinded shall become available
 115 for purposes of the cap for that state fiscal year under this
 116 section to an eligible taxpayer as approved by the department if
 117 the taxpayer receives notice from the department that the
 118 rescission has been accepted by the department and the taxpayer
 119 has not previously rescinded any or all of its tax credit
 120 allocation under this section more than once in the previous 3
 121 tax years. Any amount rescinded under this paragraph shall
 122 become available to an eligible taxpayer on a first-come, first-
 123 served basis based on tax credit applications received after the
 124 date the rescission is accepted by the department.

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

128 (5) ADMINISTRATION; RULES.-

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

140 all of the assets of the taxpayer are conveyed, assigned, or
 141 transferred in the same transaction.

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

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

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

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

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

160 (7) PRESERVATION OF CREDIT.—If any provision or portion of
 161 subsection (4) or the application thereof to any person or
 162 circumstance is held unconstitutional by any court or is
 163 otherwise declared invalid, the unconstitutionality or
 164 invalidity shall not affect any credit earned under subsection
 165 (4) by any taxpayer with respect to any contribution paid to a
 166 public school before the date of a determination of
 167 unconstitutionality or invalidity. Such credit shall be allowed

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168 at such time and in such a manner as if a determination of
169 unconstitutionality or invalidity had not been made, provided
170 that nothing in this subsection by itself or in combination with
171 any other provision of law shall result in the allowance of any
172 credit to any taxpayer in excess of one dollar of credit for
173 each dollar paid to a public school.

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