

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Finance and Tax

BILL: CS/SB 358

INTRODUCER: Finance and Tax Committee; and Senators Burgess and Calatayud

SUBJECT: Residential Graywater System Tax Credits

DATE: March 21, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	Favorable
2.	<u>Gross</u>	<u>Babin</u>	<u>FT</u>	Fav/CS
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 358 creates a corporate income tax credit for the purchase of residential graywater systems. The credit is equal to 50 percent of the cost of each system, up to \$4,200 per system. The credit applies to taxable years beginning on or after January 1, 2024. The bill specifies eligibility conditions for the credit, authorizes the carryforward of unused credits, and authorizes the Department of Revenue (DOR) and the Department of Environmental Protection (DEP) to adopt rules to implement the tax credit. Additionally, the DOR is authorized to share information related to the tax credit with the DEP.

The Revenue Estimating Conference (REC) has not analyzed the committee substitute. The REC determined that the prior version of the bill would result in a reduction to General Revenue Fund receipts by an indeterminate amount beginning in Fiscal Year 2023-2024.

The bill takes effect on July 1, 2023.

II. Present Situation:

Graywater, Residential Systems, and Development Incentives

Graywater is the part of domestic sewage that is not carried off by toilets, urinals, and kitchen drains. It includes waste from the bath, lavatory, laundry, and sink, except for kitchen sink

waste.¹ Graywater installations occur in both residential and non-residential properties and the capture, treatment, and reuse of graywater yields usable water that would otherwise be directed to the sewer.² Reusing graywater also supplants the use of potable water for non-potable needs and conserves fresh water.³

The Florida Building Code specifies that graywater may only be used for flushing toilets and urinals. Any discharge from the building must be connected to a public sewer or an onsite sewage treatment and disposal system in accordance with Department of Health regulations in chapter 64E-6 of the Florida Administrative Code.⁴ Graywater systems in Florida have several requirements: the graywater must be filtered, disinfected, and dyed; and storage reservoirs must have drains and overflow pipes that must be indirectly connected to the sanitary drainage system.⁵

To encourage adoption of residential graywater reuse in the state, counties, municipalities, and special districts are required to implement incentives for the use of graywater technologies.⁶ To do this, they must authorize the use of residential graywater technologies in their respective jurisdictions and provide specific density or intensity bonuses to developers or homebuilders if a certain percentage of a proposed or existing development will have a graywater system installed.⁷

Water Reuse Systems Certification

Various certifications are used to establish standards for reused water. Recycled graywater is tested for attributes such as biochemical oxygen demand, suspended solids, and bacteria presence. The National Science Foundation, a federal agency, and the American National Standards Institute, a nonprofit organization, have produced standards for on-site residential and commercial water reuse treatment systems, the most rigorous of which is referred to as “NSF/ANSI 350.” Products are tested for at least 26 weeks for performance, and other evaluations are completed, before a product is granted certification.⁸ There are several products that have achieved this certification, with costs ranging from \$1,000 to \$10,000.⁹

¹ Section 381.0065(2)(f), F.S.

² Alliance for Water Efficiency, *Graywater Systems*, available at:

<https://www.allianceforwaterefficiency.org/resources/topic/graywater-systems> (last visited Mar. 8, 2023).

³ Martinez, Christopher J., *Gray Water Reuse in Florida*, University of Florida IFAS Extension,

<https://edis.ifas.ufl.edu/ae453#:~:text=Gray%20water%20must%20be%20filtered,to%20the%20sanitary%20drainage%20system> (last visited Mar. 8, 2023).

⁴ 2020 Florida Building Code – Plumbing, Seventh Edition (Dec. 2020), available at:

<https://codes.iccsafe.org/content/FLPC2020P1> (last visited Mar. 8, 2023).

⁵ *Id.*

⁶ Section 403.892(2), F.S.

⁷ *Id.*

⁸ National Science Foundation, *NSF/ANSI Standard 350 for Water Reuse Treatment Systems*, available at:

https://d2evkimvhatqav.cloudfront.net/documents/ww_nsf_ansi350_ga_insert.pdf (last visited Mar. 8, 2023).

⁹ *Id.* See also Todd Woody, *Install a Greywater System to Lower Utility Bills and Save Water*, BLOOMBERG NEWS, Mar. 17, 2022, available at: <https://www.bloomberg.com/news/articles/2022-03-17/why-you-should-install-a-home-greywater-system?leadSource=uverify%20wall> (last visited Mar. 8, 2023).

Corporate Income Tax

Florida imposes a 5.5 percent tax on the taxable income of certain corporations and financial institutions doing business in Florida.¹⁰ Corporate income tax¹¹ is remitted to the DOR and distributed to the General Revenue Fund. Florida utilizes the taxable income (for each corporation's taxable year) determined for federal income tax purposes as a starting point to determine the total amount of Florida corporate income tax due.¹² The first \$50,000 of net income is exempt.¹³

Statutes authorize various incentives and credits which offset corporate income tax liability.¹⁴ Credits against corporate income tax are applied in an order established by law.¹⁵ There is presently no credit available against corporate income tax for the purchase of residential greywater systems.

III. Effect of Proposed Changes:

The bill creates s. 220.199, F.S., which provides a tax credit against corporate income tax for developers and homebuilders that purchase a qualifying residential graywater system for use in Florida. The credit may be applied to taxable years beginning on or after January 1, 2024, and is equal to 50 percent of the cost of each system purchased during the taxable year, not to exceed \$4,200 per system purchased.

Eligible systems must be NSF/ANSI 350 Class R certified noncommercial, residential graywater systems. To claim a credit, an applicant must submit to the Department of Environmental Protection (DEP) reasonable assurances that the system meets these requirements as well as a manufacturer's warranty assuring the system will function as designed. The DEP must, within 60 days of a completed application, determine if the applicant is eligible for a credit and issue to the applicant and the DOR a certification to that effect. Taxpayers must attach the certification to the tax return on which the credit is claimed.

The bill provides that unused tax credits may be carried forward for up to two taxable years, and authorizes the DOR and the DEP to adopt rules to administer the tax credit.

The bill amends s. 220.02(8), F.S., to include the new tax credit at the end of the Legislature's intended order of tax credit application.¹⁶

The bill amends s. 220.13, F.S., to provide that a taxpayer may not apply the same credit to both federal income and Florida corporate income taxes.¹⁷

¹⁰ Sections 220.11(2) and 220.63(2), F.S.

¹¹ Referred to officially as the Florida Corporate Income/Franchise Tax.

¹² Section 220.12, F.S.

¹³ Section 220.14, F.S.

¹⁴ Florida Department of Revenue, *Corporate Income Tax Incentives*, available at: https://floridarevenue.com/taxes/taxesfees/Pages/corp_tax_incent.aspx (last visited Mar. 8, 2023).

¹⁵ Section 220.02(8), F.S.

¹⁶ Section 2.

¹⁷ Section 3.

The bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties and municipalities to spend funds, limit their ability to raise revenue, or reduce the percentage of a state tax shared with them. Therefore, the mandates provisions of s. 18, Art. VII of the State Constitution do not apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

The bill does not create or raise state taxes or fees. Therefore, the requirements of s. 19, Art. VII of the State Constitution do not apply.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has not analyzed the committee substitute. The REC determined that the prior version of the bill would result in a reduction to General Revenue Fund receipts by an indeterminate amount beginning in Fiscal Year 2023-2024.

B. Private Sector Impact:

Qualified businesses that purchase residential greywater systems and meet the requirements may decrease corporate income tax liability by up to \$4,200 per unit purchased.

C. Government Sector Impact:

The DOR estimates it will incur administrative costs of \$39,728 in Fiscal Year 2024-2025 as a result of the bill.¹⁸

¹⁸ Florida Dep't of Revenue, *Senate Bill 358 Bill Analysis* (Feb. 17, 2023) (on file with the Senate Committee on Finance and Tax).

VI. Technical Deficiencies:

None.

VII. Related Issues:

The DOR has identified that, due to confidentiality regulations, an exception may be necessary to allow the DOR to communicate with DEP in administering the bill.¹⁹

VIII. Statutes Affected:

This bill substantially amends sections 220.02 and 220.13 of the Florida Statutes.
This bill creates section 220.199 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Finance and Tax on March 21, 2023:

The committee substitute:

- Authorizes the Department of Revenue to share information with the Department of Environmental Protection related to the graywater system tax credit.
- Requires developers or homebuilders to submit an application with the Department of Environmental Protection rather than the Department of Revenue.
- Requires eligible graywater systems to be purchased for use in Florida.
- Specifies that the Department of Environmental Protection must determine eligibility within 60 days after receipt of a completed application.
- Provides the Department of Environmental Protection with rulemaking authority.
- Removes an unnecessary definition.
- Makes other technical and conforming changes.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

¹⁹ *Id.*