

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 475 Residential Graywater System Tax Credits
SPONSOR(S): Infrastructure Strategies Committee, Buchanan and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 358

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Ways & Means Committee	20 Y, 2 N	Berg	Aldridge
2) Infrastructure Strategies Committee	19 Y, 0 N, As CS	Mamontoff	Harrington

SUMMARY ANALYSIS

HB 475 creates a corporate income tax credit for developers or homebuilders that purchase residential graywater systems. For taxable years beginning on or after January 1, 2024, the credit is equal to 50 percent of the cost of each system. The tax credit may not exceed \$4,200 per system purchased or \$2 million per developer or homebuilder per taxable year. The bill specifies eligibility conditions for the credit, authorizes the carryforward of unused credits, and requires the Department of Revenue to adopt rules.

The Revenue Estimating Conference estimated the bill will have a recurring indeterminate negative impact on General Revenue beginning in Fiscal Year 2024-25.

The bill takes effect on July 1, 2023.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current 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 installations and the capture, treatment, and reuse of graywater yields usable water that would otherwise be directed to the sewer.² Reusing graywater also reduces 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 of 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 which 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. 1, 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. 1, 2023).

⁴ 2020 Florida Building Code – Plumbing, Seventh Edition (Dec. 2020), available at: <https://codes.iccsafe.org/content/FLPC2020P1> (last visited Mar. 3, 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_qa_insert.pdf (last visited Mar. 1, 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=verify%20wall> (last visited Mar. 2, 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 Department of Revenue (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 graywater systems.

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. 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. The tax credit may not exceed \$4,200 per system purchased or \$2 million per developer or homebuilder per taxable year.

Eligible systems must be NSF/ANSI 350 Class R certified noncommercial, residential graywater systems. Before applying for credit, an applicant must submit to the Department of Environmental Protection (DEP) documentation showing that the developer or homebuilder has purchased a system meeting these requirements as well as a manufacturer's warranty assuring functionality. DEP must determine if the applicant is eligible, and issue a certification to that effect to DOR within 60 days after receipt of a completed application. The applicant must attach the certification from DEP to the tax return on which the credit is claimed. The bill provides that no credits may be certified by DEP for taxable years beginning on or after January 1, 2027.

The bill provides that unused tax credits under this section may be carried forward for up to two taxable years, and that DOR must adopt rules to administer this section.

The bill provides that DEP may adopt rules to administer this section.

The bill repeals this section December 31, 2030.

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, and 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.

The bill takes effect July 1, 2023.

B. SECTION DIRECTORY:

Section 1. Adopts a new credit for residential graywater systems in s. 220.199, F.S.

Section 2. Updates order corporate income tax credits may be taken in s. 220.02, F.S.

Section 3. Requires amount taken as a credit under s. 220.199, F.S., to be added back to taxable income to insure the taxpayer does not receive a deduction and a credit on the same

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. 1, 2023).

¹⁵ Section 220.02(8), F.S.

item.

Section 4. Provides an effective date of July 1, 2023.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference estimated the bill will have a recurring indeterminate negative impact on General Revenue beginning in FY 2024-25.

2. Expenditures:

DOR estimates it will incur administrative costs of \$39,728 in FY 2024-25 as a result of the bill.¹⁶

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides rulemaking authority to the Department of Revenue.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On April 10, 2023, the Infrastructure Strategies Committee adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- Limited the amount of the tax credit that may be claimed per year for each developer to \$2 million;

¹⁶ Florida Dep't of Revenue, House Bill 475 Bill Analysis (Feb. 17, 2023) (on file with the House Ways & Means Committee).

- Required DEP to determine a system's eligibility for the tax credit within 60 days after receiving an application;
- Specified that credits may not be claimed for taxable years after 2026; and
- Allowed DEP to adopt rules related to the certification of graywater systems.

This analysis is drafted to the committee substitute as approved by the Infrastructure Strategies Committee.