

FINAL BILL ANALYSIS

BILL #: CS/CS/HB 965

FINAL HOUSE FLOOR ACTION:

96 Y's 18 N's

SPONSOR: Rep. Horner

GOVERNOR'S ACTION: Approved

COMPANION BILLS: CS/SB 1388

SUMMARY ANALYSIS

CS/CS/HB 965 was passed by the House of Representatives on May 2, 2011 and passed by the Senate on May 5, 2011. The bill was approved by the Governor on June 2, 2011, Chapter 2011-123, Laws of Florida, and becomes effective July 1, 2011.

The Florida Tax Credit Scholarship Program provides private school scholarships to students from families that meet specified income limitations. The program is funded with contributions to private nonprofit scholarship-funding organizations (SFOs) from taxpayers who receive a tax credit for use against their liability for:

- Corporate income tax,
- Insurance premium tax,
- Severance taxes on oil and gas production,
- Self-accrued sales tax liabilities of direct pay permit holders, or
- Alcoholic beverage taxes on beer, wine, and spirits.

The bill eliminates a current restriction for the corporate income tax credit and insurance premium tax, that eligible contributions made to eligible SFOs may not exceed 75% of the taxpayer's tax due for the taxable year.

Currently, a taxpayer may rescind all or part of an approved tax credit. The amount rescinded may become available to another eligible taxpayer during that fiscal year under certain circumstances. One current restriction on those amounts becoming available to another taxpayer is that the taxpayer rescinding all or part of an approved tax credit may not have previously rescinded any or all of its approved tax credits more than once in the previous three tax years. The bill removes this restriction.

The Revenue Estimating Conference estimates that this bill will not have a revenue impact on General Revenue, state trust funds or local governments.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Current Situation

Background

The Florida Tax Credit Scholarship Program provides private school scholarships to students from families that meet specified income limitations. The program is funded with contributions to private nonprofit scholarship-funding organizations (SFOs) from taxpayers who receive a tax credit for use against their liability for:

- Corporate income tax,
- Insurance premium tax,
- Severance taxes on oil and gas production,
- Self-accrued sales tax liabilities of direct pay permit holders, or
- Alcoholic beverage taxes on beer, wine, and spirits.

The tax credit is equal to 100% of the eligible contributions made. The SFOs administer the receipt of contributions and scholarship awards.

The amount of credits that may be approved in a fiscal year was set at \$140 million for FY 2010-11. For FY 2011-12 and thereafter, the cap will increase by 25% whenever tax credits approved in the prior fiscal year are equal to or greater than 90% of the tax credit cap amount for that year.¹ The cap amount for FY 2011-12 is \$175 million.

The maximum scholarship award to each individual student is set at a percentage of the unweighted Florida Education Finance Program (FEFP) student funding in the General Appropriations Act. The percentage for FY 2010-11 is 60%, or \$4,106 per student. Thereafter, the percentage increases by four percentage points each fiscal year the tax credit cap increases (when the approved tax credits in the prior fiscal year equal or exceed 90% of the applicable tax credit cap). The percentage will stop increasing upon reaching 80%, and from that year forward, the scholarship limit will be 80% of the unweighted FEFP funding amount.

50% of that scholarship amount is available for students with household income that is more than 215% but less than 230% of the federal poverty level, increasing to 75% for students with household income that is more than 200% but less than 215% of the federal poverty level. For students with a household income of 200% of the federal poverty level or below, the full scholarship award is available.

As of November, 2010, there were 1,073 schools participating in the program and scholarships were awarded to 32,320 students.²

¹ Section 1002.395(5), F.S.

² Florida Tax Credit Scholarship Program, November 2010 Quarterly Report, Florida Department of Education. Available at http://www.floridaschoolchoice.org/Information/CTC/quarterly_reports/ftc_report_nov2010.pdf

Tax Credit Administration

The corporate income and insurance premium tax credit allowed for eligible contributions made to eligible SFOs may not exceed 75% of the taxpayer's tax due for the taxable year.³

A taxpayer may apply to the Department of Revenue (department) for any of the credits. The taxpayer must specify in the application each tax for which the taxpayer requests a credit, the applicable taxable year for a credit under ss. 220.1875 or 624.51055, F.S., relating to the corporate income and insurance premium tax credits, and the applicable state fiscal year for a credit under ss. 211.0251, 212.1831, or 561.1211, F.S., relating to oil and gas production, sales, and alcoholic beverage tax credits, respectively. The department is required to approve the tax credits on a first-come, first-served basis and must obtain the Division of Alcoholic Beverages and Tobacco in the Department of Business and Professional Regulation's approval prior to approving an alcoholic beverage tax credit under s. 561.1211, F.S.

Taxpayers are authorized to carry forward unused tax credits for up to three years, subject to approval by the department.

Rescinding Scholarship Funding Tax Credits

A taxpayer may apply to the department to rescind all or part of an approved tax credit. The amount rescinded becomes available for that state fiscal year to another eligible taxpayer as approved by the department if the taxpayer receives notice from the department that the rescindment has been accepted. Taxpayers who have previously rescinded any or all of their approved tax credits more than once in the previous three tax years are not eligible to receive newly available rescinded tax credits.⁴

Proposed Changes

Corporate Income and Insurance Premium Tax Credit

The bill eliminates the current restriction for the corporate income and insurance premium tax credit that eligible contributions made to eligible SFOs may not exceed 75% of the taxpayer's corporate income and insurance premium tax due for the taxable year.

Scholarship Funding Tax Credit Limitations

The bill removes the restriction placed upon taxpayers wishing to receive all or part of a tax credit that another taxpayer rescinded. They will be eligible to receive those credits even if they have rescinded any approved tax credits more than once in the previous three tax years. The bill also increases the maximum credit carry forward period from three years to five years.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

³ Section 220.1875(1), F.S.

⁴ Section 1002.395(5)(e), F.S.

The Revenue Estimating Conference (REC) estimates that this bill will not have an impact on General Revenue or state trust fund revenue.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The REC estimates that this bill will not have a revenue impact on local governments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.