



S.B. 88

124th General Assembly
(As Introduced)

Sens. Armbruster, Mead, Harris, Fingerhut, Oelslager, Hagan

BILL SUMMARY

- Authorizes a nonrefundable tax credit against the public utility gross receipts, corporation franchise, or income tax for contributions to neighborhood assistance projects certified by the Director of Development.
- Allows the Director to issue a tax credit certificate for 50% of the contribution made if the project benefits an urban area, or 70% of the contribution made, if the project benefits a rural area, but establishes a maximum credit of \$250,000 per taxpayer.
- Limits to \$20 million the total amount of project credits the Director may grant in any fiscal year.

CONTENT AND OPERATION

Neighborhood assistance project tax credit

(R.C. 122.86)

The bill creates a tax credit for taxpayers that contribute money, real or personal property, labor, materials, services, or technical or professional assistance to "neighborhood assistance projects" operated by nonprofit organizations. To obtain the credit, a nonprofit organization must apply to the Director of Development for certification of the project. Once the neighborhood assistance project is certified, the Director may issue tax credit certificates to taxpayers that make contributions to the project.

Definition of a "neighborhood assistance project"

(R.C. 122.86(A))

Under the bill, a neighborhood assistance project is any of the following:

(1) An "affordable housing project," which means a project for the construction or rehabilitation of housing for transfer to or use by low-income families (defined as having an income equal to or less than 80% of the median income of county residents, as determined each year by the Department of Development) through a sale, lease, or land installment contract;

(2) A "community economic development project," which is a project for the acquisition, construction, rehabilitation, improvement, furnishing, or equipping of buildings and real property in distressed areas (see **COMMENT 1** for "distressed area" definition) of Ohio or for low-income families, and includes development of child care or recreational facilities, brownfield redevelopment, storefront development, or industrial or commercial development;

(3) A "community service project," which means a project that provides services to residents of a distressed area, or to low-income families, including literacy initiatives, high school equivalence diploma classes, individual development account programs, homeless services, job training, neighborhood planning, housing counseling, emergency housing assistance, management of rental housing, marketing of neighborhoods, community organizing, community development training and technical assistance workshops, nonprofit microenterprise programs, or crime prevention.

Applying for certification of a project--who may apply

(R.C. 122.86(A) and (B))

Not later than January 15 each year, a nonprofit organization may apply to the Director of Development for certification of any neighborhood assistance project it is operating. An organization is a "nonprofit organization" if it is organized and operated exclusively for charitable purposes under Internal Revenue Code section 501(c)(3) and is exempt from federal income taxation, it has been exempt from such taxation for two years prior to filing the application for certification, and it is operating a neighborhood assistance project (see **COMMENT 2**). The application for certification must contain the following information:

(1) The name and address of the nonprofit organization;

(2) The purpose of the neighborhood assistance project and the type of project (whether it is an affordable housing project, a community economic development project, or a community service project);

(3) The cost of the project;

(4) The total dollar amount of tax credits for which certification is requested;

(5) Any other information required by rule of the Director.

The Director determines whether the applicant is a nonprofit organization that meets the bill's requirements and whether its neighborhood assistance project should be certified. The Director must consider the information in the application, the need for the project in relation to other projects proposed for the calendar year, and the geographic distribution of each project. Not later than April 1 each year, the Director must notify each applicant in writing whether its project is certified, and if so, the dollar amount of the tax credit certificate that may be issued for contributions to the project.

Taxpayers eligible for the credit

(R.C. 122.86(A) and (C))

A taxpayer that makes a contribution to a nonprofit organization for a certified neighborhood assistance project may receive a nonrefundable credit, if the Director issues a certificate to the taxpayer. Those eligible for the credit are public utilities subject to the public utility excise tax, corporations subject to the corporation franchise tax, persons subject to the income tax, and pass-through entities (a partnership, S corporation, limited liability company, or sole proprietorship not taxed as a corporation) subject to the income tax.

Computation of the credit

(R.C. 122.86(A) and (C))

The minimum contribution for which a neighborhood assistance project tax credit may be granted is \$500. If the project benefits an urban area, the tax credit equals 50% of the contribution made. If the project benefits a rural area, the credit equals 70% of the contribution made. The bill defines an "urban area" as any area of Ohio located in a municipal corporation defined by the United States Office of Management and Budget as a central city or a metropolitan statistical area; a municipal corporation that has a population of 50,000 or more; or an urban county. An "urban county" is a county within a metropolitan statistical area that has a population of 200,000 or more, excluding the population of municipalities therein,

or a county that has a population in excess of 100,000, a population density of at least 5,000 persons per square mile, and contains within its boundaries no incorporated places as defined by the United States Census Bureau. An area is a "rural area" if it does not meet the definition of an urban area.

No tax credit granted under the bill to a taxpayer can exceed \$250,000 in any fiscal year. Moreover, the maximum annual amount of credits the Director may grant for all certified neighborhood assistance projects in any fiscal year cannot exceed \$20 million.

Claiming the credit

(R.C. 5727.40, 5733.46, 5733.98, 5747.75, and 5747.98)

A taxpayer that receives a certificate from the Director may claim as a credit the amount indicated on the certificate. If the taxpayer receives more than one certificate, it may aggregate the amount of the credits.

If the taxpayer is a natural gas company or combined company, it must claim the credit by submitting the certificate with its quarterly or annual return filed under existing law (some smaller natural gas companies are only required to file once a year). The other public utilities must claim the credit by submitting the certificate with their annual statements. The credit must be claimed for the taxable quarter or year in which the contribution was made, except if the credit exceeds total taxes due, the Tax Commissioner must credit the excess against any taxes due for not more than 20 succeeding quarters, or for not more than five succeeding tax years, until the full amount of the credit is used.

Taxpayers that pay the corporation franchise tax must claim the credit for the tax year immediately following the calendar year in which the taxpayer makes the contribution, and must submit the certificate with the annual report filed under existing law.

A taxpayer that pays the income tax must claim the credit for each taxable year in which the taxpayer makes the contribution, and must submit the certificate with its annual return. If a contribution is made by a pass-through entity, a taxpayer claims its distributive or proportionate share of the credit distributed by the entity.

Under the bill, a credit claimed under the corporate franchise tax or income tax must be claimed in approximately the same order existing law prescribes for claiming nonrefundable credits that may be carried forward. Any credit amount in excess of the corporation franchise or income tax due, after allowing for any other credits preceding it in that order, may be carried forward for five tax or taxable

years (depending on which tax the credit is claimed against), but the amount of the excess credit allowed in any such year must be deducted from the balance carried forward to the next year.

Additional duties of the Director of Development

(R.C. 122.86(C)(1) and (D))

In addition to certifying neighborhood assistance projects and issuing tax credit certificates, not later than January 1, 2002, the Director must adopt rules under the Administrative Procedure Act necessary to implement the bill, including rules prescribing forms for administering the tax credit program. Further, if a contribution is in non-monetary form, for example, the taxpayer contributes technical assistance to the project, the Director, with the assistance of the taxpayer, must determine the monetary value of the contribution.

COMMENT

1. A "distressed area" means either a municipal corporation that has a population of at least 50,000, or a county, that meets at least two of the following criteria of economic distress:

(a) Its average rate of unemployment, during the most recent five-year period for which data are available, is equal to at least 125% of the average rate of unemployment for the United States for the same period.

(b) It has a per capita income equal to or below 80% of the United States median county per capita income as determined by the most recently available figures from the United States Census Bureau.

(c) In the case of a municipal corporation, at least 20% of the residents have a total income for the most recent census year that is below the official poverty line. In the case of a county, in intercensal years, the county has a ratio of transfer payment income to total county income equal to or greater than 25%.

2. The type of nonprofit organizations described in Internal Revenue Code section 501(c)(3) include corporations, community chests, funds, or foundations, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or education purposes, to foster national or international amateur sports competition, or for the prevention of cruelty to children or animals. No part of the net earnings of the organization may inure to the benefit of any individual or private shareholder. No substantial part of the organization's activities may be carrying on propaganda, or otherwise attempting, to influence

legislation, and the organizations may not participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office.

HISTORY

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Introduced	04-04-01	p. 273

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