



Ohio Legislative Service Commission

Bill Analysis

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H.B. 390

130th General Assembly
(As Introduced)

Reps. Brenner and Young, Becker, Derickson, Roegner, Hood, Buchy, Stebelton, Reece, Blessing, Burkley, Retherford, Grossman, Terhar

BILL SUMMARY

- Allows a nonrefundable credit against the income tax or certain business taxes for taxpayers who donate to a free clinic.
- Authorizes annual credits of up to \$1,000 for individuals and \$2,500 for joint filers if the individual or joint filer is not claiming the credit as a pass-through entity owner, and up to \$300,000 for other taxpayers.
- Limits the total amount of such credits to \$20 million in fiscal year 2014, and increases the credit ceiling each year by 20% over the previous year's ceiling if 80% of the previous year's ceiling is reached.
- Requires a free clinic to spend at least 90% of the donations it receives to provide health care services for free or for a minimal administrative fee to individuals with limited resources.
- Requires the Department of Health to authorize taxpayers' donations for purposes of receiving the credit, to certify free clinics, and to annually evaluate the activities of the clinics through reporting requirements.

CONTENT AND OPERATION

Credit for donations to free clinics

The bill authorizes a nonrefundable credit for individuals and some kinds of businesses that donate to a free clinic. The donor may claim the credit against the income tax, financial institutions tax, public utility excise tax, kilowatt-hour tax, natural

gas distribution tax, or insurance premiums tax on domestic or foreign insurance companies.¹

Credit application

Under the bill, a donor may receive a credit by making an authorized donation to a free clinic that is certified by the Department of Health. Before making the donation, the donor must first submit an application to the Department. Upon receiving the application and determining that the credit may be granted without exceeding the annual credit ceiling, the Department must approve the donation application and notify the donor and recipient free clinic of the amount of credit authorized. Applications are to be approved in the order in which they are received by the Department.²

Credit amount

The bill allows donors to receive a tax credit equal to the total donation amount, subject to a limit based on the donor's filing status. If an individual donates directly (i.e., not as the owner of a pass-through business that makes a donation), the maximum annual credit is \$1,000. If married individuals file joint income tax returns, the maximum is \$2,500. Businesses, estates, and trusts that make donations may receive a credit of up to \$300,000 per year against the applicable tax. Pass-through entity owners who are taxed on the basis of each owner's distributive share of the pass-through entity's income may claim a distributive or proportionate share of the credit.³

Credit carry-forward

Donors may claim an approved credit for the taxable year or calendar year in which the authorized donation is made. Donors who remit tax on a quarterly or other installment schedule must claim the credit in proportionate amounts against payments remaining to be paid for the year in which the donor makes a donation. If the amount of a credit exceeds the donor's tax liability in the year it is first claimed, the remaining amount of the credit may be carried forward for up to three years.⁴

¹ R.C. 3701.88(B).

² R.C. 3701.88(C).

³ R.C. 3701.88(B).

⁴ R.C. 3701.88(B).

Annual total credit ceiling

The bill authorizes the Department of Health to grant up to \$20 million of credits in fiscal year 2014. In every fiscal year after 2014, if 80% of the credit ceiling was reached in the preceding year, the credit limit for the current year increases by 20%.⁵

Qualifying free clinics

Under the bill, a "free clinic" is a clinic whose primary mission is to provide health care services for free or for a minimal administrative fee to individuals with limited resources. The clinic must operate as a 501(C)(3) nonprofit organization, or a program component of a nonprofit organization, and must deliver the health care services through the use of volunteer professionals or voluntary care networks. The clinic may not perform surgeries or other procedures that require anesthesia, and may not bill a patient for its services. If the clinic charges an administrative fee, the clinic cannot deny services to any individual because he or she is unable to pay the fee. In addition, the clinic may not receive more than 25% of its annual revenue from Medicaid, Medicare, or other third-party payers.⁶

Certification

To qualify for the tax credit, a donation must be made to a free clinic that is certified by the Department of Health. A free clinic may seek certification by applying to the Department and agreeing to do both of the following:

- (1) Spend no more than 10% of the donations it receives for administrative or other expenses other than providing health care services to individuals with limited resources;
- (2) Spend at least 90% of the amount of a donation received within three fiscal years.

The Department of Health must approve or deny a clinic's application for certification within 20 days. The Department also must publish a list of all certified free clinics in the state on its website and in paper form. The Department may charge a reasonable application and administrative fee.⁷

⁵ R.C. 3701.88(D).

⁶ R.C. 3701.88(A)(1).

⁷ R.C. 3701.88(E)(1)(a) and (b).



Revocation of certification

The bill allows the Department of Health to revoke a free clinic's certification if the clinic does not comply with annual reporting requirements or with any of the conditions for certification specified in the clinic's certification application.⁸

Reporting requirements

Under the bill, each free clinic must file an annual report with the Department of Health that states the total amount of donations received during the preceding year. The bill also requires that the Ohio Association of Free Clinics perform a financial audit of each certified clinic each year and provide to the Department an annual financial information report for each certified clinic. The latter report must be completed by a certified public accountant.

In addition, if a donor or the Tax Commissioner has reasonable suspicion that donated funds have been mishandled or misappropriated, the party may file a written request with the Auditor of State to audit the free clinic and file evidence supporting the party's suspicion. If the Auditor determines reasonable suspicion exists, the Auditor shall select an accountant to perform the audit, billing the free clinic for audit expenses. No more than one audit may be conducted in this manner of any single clinic per year.⁹

HISTORY

ACTION	DATE
Introduced	12-18-13

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⁸ R.C. 3701.88(E)(1)(c).

⁹ R.C. 3701.88(E)(2), (F), and (G).

