



Ohio Legislative Service Commission

Bill Analysis

Mackenzie Damon

S.B. 135

130th General Assembly
(As Introduced)

Sen. Tavares

BILL SUMMARY

- Allows a nonrefundable credit against the income tax or certain business taxes for taxpayers who donate to municipal corporations or nonprofit organizations engaged in certain community improvement projects.
- Authorizes municipal corporations to propose community improvement projects that may receive up to \$150,000 of tax credit-eligible donations per year.
- Allows municipal corporations to administer a proposed project or to designate a nonprofit organization to administer the project.
- Vests in the Department of Taxation the duty to certify qualifying community improvement projects proposed by a municipal corporation and to approve taxpayer donations to projects.
- Authorizes taxpayers to claim a credit equal to 60% of the donation amount, up to \$75,000 in credits per year.
- Limits the total amount of such credits awarded to all taxpayers to \$5 million per year.
- Requires nonprofit organizations that administer larger projects to comply with audit requirements.

CONTENT AND OPERATION

Tax credit for donations to community improvement projects

The bill authorizes a nonrefundable credit for individuals and businesses that donate to municipal corporations or nonprofit organizations engaged in certain types of community improvement projects. The donor may claim the credit against the income tax, commercial activity tax, financial institutions tax, public utility excise tax, kilowatt-hour tax, natural gas distribution tax, or insurance premiums taxes on domestic or foreign insurance companies.¹

Projects eligible to receive donations

Under the bill, municipal corporations may propose one or more projects to be funded with taxpayer donations made through the tax credit program. In order to receive a tax credit, a donor must make a donation to one of these municipal corporation-sponsored projects.² Each municipal corporation project must involve at least one of the following:

- (1) Job training or education services;
- (2) The provision of community services that involve counseling and advice, emergency assistance, alcoholism prevention and treatment, or medical care;
- (3) Crime prevention;
- (4) Energy conservation;
- (5) The construction or rehabilitation of housing for individuals who qualify as low- to moderate-income individuals under criteria designated by the Ohio Housing Finance Agency;
- (6) Funding open space acquisition by a local government or a nonprofit land conservation organization;
- (7) Neighborhood assistance – i.e., the provision of financial assistance, labor, material, or technical advice in support of the physical improvement or rehabilitation of a specific geographic area experiencing economic viability and stability issues.

¹ R.C. 715.58.

² R.C. 715.58(A).



Each project proposed by a municipal corporation may receive up to \$150,000 of tax credit-eligible donations per year.

Project administration

A municipal corporation that proposes a project may choose to administer the project directly or to designate a "neighborhood organization" to administer the project. The following organizations qualify as "neighborhood organizations" under the bill: a nonprofit organization exempt from the federal income tax, a community development corporation designated as such under Title VII of the federal Economic Opportunity Act of 1964, an organization eligible to hold a conservation or agricultural easement under Ohio law, or an organization that qualifies as a charitable corporation, charitable trust, community improvement corporation, or community redevelopment corporation under Ohio law.³

A neighborhood organization may administer multiple projects, but may not receive more than \$150,000 in tax credit-eligible donations per year for all projects. There is no limit on the amount of donations a municipal corporation may receive directly in a year.⁴

Project certification

On or before July 1 of each year, a municipal corporation that wishes to receive donations for projects through the tax credit program must submit a list of its proposed projects to the Tax Commissioner. The list must provide information on each project, including the reason for the project, the project's objective or mission, the estimated cost of the project, the neighborhood that will be served by the project, a project implementation plan, and a time frame for the project. The municipal corporation must also designate an agency that will oversee implementation of the project.⁵

Before submitting the list of projects to the Tax Commissioner, the legislative authority of the municipal corporation must hold at least one public hearing to discuss the proposed projects.

³ R.C. 715.58(A).

⁴ R.C. 715.58(F).

⁵ R.C. 715.58(C)(1).



Project database

On or before September 1 of each year, the Tax Commissioner must compile a list of the eligible projects submitted by all municipal corporations.⁶ The list must indicate the estimated cost of each project and be organized according to the municipal corporation that proposed the project. The Tax Commissioner must publish the list on the Department of Taxation's web site and in paper form. The Tax Commissioner is authorized to make adjustments to the list and to remove a project from the list if, at any time, the project fails to meet the bill's eligibility requirements.

Tax credit application

In order to receive a tax credit under the bill, a donor must apply to the Tax Commissioner to make a donation to one or more of the projects on the Department of Taxation's list. The Tax Commissioner must receive the application between September 15 and October 1. If a donor wishes to donate to a project that will last longer than one year, the application should specify the amount of the donation to be made to the project in each year.⁷

Upon receipt of an application, the Tax Commissioner must forward the application to the agency designated to administer the respective project. The agency must approve or deny the application within 30 days. Failure of an agency to act within the 30-day period constitutes a denial of the application.⁸

Once the designated agency approves a donation application, the agency must return the application to the Tax Commissioner, who must also review the application. The Tax Commissioner must approve an application if it was received on time and if the \$150,000 per-project limit has not been reached. If the applicant's donation would cause the total amount of donations to a project to exceed the per-project limit, the applicant may choose to donate a smaller amount to the project or to donate to a different project.

Within 20 days of making a determination on an application, the Tax Commissioner must notify the applicant of the approval or denial of the application.

⁶ R.C. 715.58(C)(2).

⁷ R.C. 715.58(C)(3) and (4).

⁸ R.C. 715.58(C)(3).



Supplemental contribution requirement

Under the bill, a donor may receive a tax credit only if, in the year the donor claims the credit, the amount the donor spent for charitable purposes and in support of organizations eligible for assistance under the bill was equal to or more than the amount the donor spent for those purposes in the previous year.⁹

Credit amount

The bill allows a donor to claim a credit equal to 60% of the approved donation amount, subject to a limit of \$75,000 in donations per year.¹⁰ If a donor pays a tax more frequently than once per year, the donor must claim the credit in equal installments for each of the tax payments due after the donation is made.

Credit carry-back

A donor may claim the credit for the taxable or calendar year in which the approved donation was made. If the amount of the credit exceeds the donor's tax liability in the year it is claimed, the taxpayer may apply the remaining amount to the donor's tax liability for the two preceding taxable or calendar years. (The taxpayer would need to file amended returns for those taxable or calendar years.) No carryforward to later years is authorized.

Total annual credit ceiling

The bill authorizes the Tax Commissioner to approve up to \$5 million of tax credits per year.¹¹ If, in any year, the amount of approved credits would exceed \$5 million, the Tax Commissioner must prorate each taxpayer's credit amount in proportion to the taxpayer's donation.

Neighborhood organization audit requirement

Under the bill, a neighborhood organization must comply with certain audit requirements if the organization administered a project that received over \$25,000 of tax credit-eligible donations in a year.¹² Upon completion of the project, the organization must hire an independent public accountant that will audit the organization's finances and complete an audit report. The report must attempt to verify that the organization's

⁹ R.C. 715.58(D).

¹⁰ R.C. 715.58(B).

¹¹ R.C. 715.58(E).

¹² R.C. 715.58(G).

expenditures were made in accordance with the project proposal as the proposal approved by the Tax Commissioner. The accountant must submit the report to the appropriate municipal corporation or the agency that oversaw the project, which must forward it to the Tax Commissioner.

After reviewing an audit report, the Tax Commissioner must report any evidence of fraud or embezzlement to the county prosecutor of the county in which the project was located. Similarly, if the Tax Commissioner finds evidence of unsound or irregular financial practices, the Tax Commissioner may declare that any projects that the organization is involved in are ineligible to receive tax credit-eligible donations in the future.

Transition rule

Because municipal corporations must submit their project proposals to the Tax Commissioner by July 1 each year, the bill prescribes a transition rule for the year in which the bill takes effect.¹³ If the bill takes effect before July 1 of any year, proposals must be submitted before July 1 of that year, and tax credit-eligible donations may be made between September 15 and October 1 of that year. If the bill takes effect on or after July 1 of any year, proposals must be submitted by the following July 1, and eligible donations may be made between September 15 and October 1 of that year.

HISTORY

ACTION	DATE
Introduced	05-21-13

S0135-I-130.docx/jc

¹³ Section 3 of the bill.

