Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: Sub. H.B. 408 of the 130th G.A.

Date: March 4, 2014

Status: As Reported by House Finance and Appropriations

Sponsor: Reps. Sears and Amstutz

Local Impact Statement Procedure Required: Yes

Contents: Authorizes an income tax credit for donations to the permanent endowment fund of an eligible community foundation

State Fiscal Highlights

STATE FUND	FY 2014	FY 2015	FUTURE YEARS
General Revenue Fund			
Revenues	- 0 -	Loss of up to $20 million	Loss of about $20 million per year
Expenditures	- 0 -	- 0 -	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2014 is July 1, 2013 – June 30, 2014.

- Credits for authorized donations to eligible foundations in tax years 2014-2018 could reduce personal income tax revenue, with credits per year subject to a maximum of $20 million.
- Unused credits could be carried forward for up to five years, which might result in credits claimed against taxes otherwise due totaling less than $20 million in some years and more in other future years.
- The GRF would bear the loss. Revenue losses to the Local Government Fund (LGF, Fund 7069) and Public Library Fund (PLF, Fund 7065) that would otherwise occur would be offset by transfers.
- The Department of Taxation's costs to administer the program would be defrayed by application fees from taxpayers requesting authorization to claim the credit.
- The Department would incur costs to gather information from eligible community foundations and prepare a required annual report on the operation of the program.

Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.

Detailed Fiscal Analysis

The bill allows a credit against the personal income tax for an authorized donation of cash or publicly traded securities to a permanent endowment fund of an eligible community foundation. The donations may be made in a taxable year beginning on or after January 1, 2014, and before January 1, 2019. To claim the credit, a taxpayer must first receive authorization for the donation from the Department of Taxation. A community foundation is eligible if it is exempt from federal income taxation,[1] is accredited by the Community Foundations National Standards Board, and publishes at least annually and circulates widely within its community an audited report of its fund balances, activities, and donors.

Twenty-eight community foundations in Ohio were accredited by the Community Foundations National Standards Board as of March 3, 2014, based on information downloaded on that date from the organization's website. To be accredited by that organization, according to information on the website, a community foundation must be exempt from federal income tax. It must have an annual financial audit, or a financial review if assets total less than $5 million, that is made available to the public. It must keep private information on donors confidential to the fullest extent possible, according to the website. The 28 accredited community foundations in Ohio are located in various towns around the state. Potentially, some of them might not meet the requirements of the bill to receive an authorized donation, for example if one or more have a financial review performed rather than an audit.

An individual taxpayer may claim a credit for a percentage of the authorized donations during a year, up to a maximum of $10,000 for an individual return or $20,000 for a joint return. The percentage is 50% for total donations during a taxable year of less than $1,000, and 20% for total donations of $1,000 or more. The credit is nonrefundable but may be carried forward for up to five tax years. The total of all credits that the Department may authorize is limited to $20 million per calendar year, starting with taxable years beginning on or after January 1, 2014, through taxable years beginning before January 1, 2019 (i.e., $100 million total credits). Thus the bill could potentially affect state revenues starting in calendar year 2014, though most of the bill's effects would likely be delayed until 2015 and extending through 2023 including the five-year carryforward.

The credit may reduce GRF revenue by up to $20 million per year. Initially, some portion of the credits might be carried forward, so that the initial reduction in GRF revenue could be less than $20 million. In subsequent years, credits carried forward plus new credits might result in reductions of GRF revenue approaching or in excess of $20 million per year. No fiscal impact is likely before FY 2015.

[1] Under certain specified sections of the Internal Revenue Code.

Under current law, unchanged by the bill, 1.66% of GRF revenue is transferred to each of the Local Government Fund (LGF, Fund 7069) and the Public Library Fund (PLF, Fund 7065). A $20 million reduction in annual personal income tax revenue as a result of the bill would reduce distributions to these funds, except that the bill requires the Director of Budget and Management to credit to each of the funds an amount equal to the loss of revenue that would otherwise result. The Director is to credit these amounts by June 7 of each year for credits claimed in taxable years ending in the preceding year.

The bill authorizes the Department of Taxation to charge a reasonable application fee to defray its costs for administering the credit. In addition to costs to process applications for authorization of the donations, the Department would incur costs to prepare an annual report required by the bill. The Department is to collect information from eligible community foundations, and report on the operation of the program by the end of June in each year from 2015 through 2019.

Four other states currently offer similar credits, according to a presentation at a 2013 Federation of Tax Administrators meeting.[2] The range of tax credits as a percentage of the contribution in these other states is from 20% in Kentucky to 40% in North Dakota. The tax credit is not refundable in any of the states, but may be carried forward three to five years, except in Montana which does not allow the credit to be carried forward. Kentucky lets the taxpayer claim both the credit and an itemized deduction, according to the presentation.

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[2] Amy Harris and Jennifer Tilkes, Iowa Department of Revenue, "Endow Iowa Encouraging Charity through the Tax Code," presentation at the Federation of Tax Administrators Revenue Estimation & Tax Research Conference on October 8, 2013.