

Senate Fiscal Agency
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SFA



BILL ANALYSIS

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Senate Bill 705 (Substitute S-3 as passed by the Senate)
House Bill 4091 (Substitute S-2 as passed by the Senate)
Sponsor: Senator Joel D. Gougeon (S.B. 705)
Representative Candace Curtis (H.B. 4091)
Senate Committee: Finance
House Committee: Tax Policy (H.B. 4091)

Date Completed: 10-8-97

RATIONALE

In 1989 both the Income Tax Act and the Single Business Tax (SBT) Act were amended to allow taxpayers to claim partial credits against either one tax or the other (but not both) for contributions to community foundations. In 1992 both Acts were amended to allow a partial credit against either one tax or the other (but not both) for contributions to homeless shelters, food kitchens, food banks, or other entities whose primary purpose is to provide overnight accommodations or food to indigent persons. Both credits only were allowed for a limited number of years. The community foundation credit, in both the Income Tax Act and the SBT Act has been extended twice. The homeless shelter/food bank credit was extended, in both Acts, in 1994. Both credits under both Acts were scheduled to expire after the 1997 tax year; however, Public Act 484 of 1996 extended indefinitely both credits under the Income Tax Act. It has been suggested that both credits also should be extended indefinitely under the SBT Act.

CONTENT

The bills would amend the Single Business Tax (SBT) Act to extend indefinitely the community foundation credit (S.B. 705 (S-3)), and the homeless shelter/food bank credit (H.B. 4091 (S-2)). Senate Bill 705 (S-3) would delete current language that provides for the expiration of the credits after the 1997 tax year. Further, the bill would place additional qualification requirements on community foundations.

Currently, the SBT Act allows a taxpayer to claim 50% of the amount the taxpayer contributes during

a tax year, up to the lesser of \$5,000 or an amount that does not exceed 5% of the taxpayer's tax liability, for the community foundation credit. A taxpayer may claim the same amounts for contributions to a homeless shelter/food bank. A taxpayer may not claim the community foundation credit if the taxpayer claims a community foundation credit under the Income Tax Act; the taxpayer may not claim the homeless shelter/food bank credit if he or she claims that credit under the Income Tax Act.

Under the SBT Act, an entity must meet certain requirements in order for the Department of Treasury to certify it as a community foundation. Under Senate Bill 705 (S-3), a community foundation also would have to be incorporated or established as a trust at least six months before the beginning of the tax year for which a credit was claimed; have an endowment value of at least \$25,000 within six months after being incorporated or established; have an independent governing body that was not appointed by a single entity; give the Department evidence that the community foundation had at least one part-time or full-time paid employee; be subject to an annual independent financial review, and an independent financial audit every three years, and provide copies of the review and audit to the Department within three months after their completion; and, for a community foundation incorporated or established after the bill's effective date, operate in a county that was not served by a community foundation when the community foundation was incorporated or established, or operate as a geographic component of an existing certified community foundation.

Senate Bill 705 (S-3) also would delete from the Act language that allows for the homeless shelter/food bank credit. This language would be restored in House Bill 4091 (S-2). The bills are tie-barred to each other.

MCL 208.38c (S.B. 705)
Proposed MCL 208.38f (H.B. 4091)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bills would make permanent the SBT credits for contributions made by businesses to community foundations and to homeless shelter/food banks, rather than continue to extend the credits every few years. The credits are well established, and to keep extending them for limited time periods makes little sense.

Supporting Argument

Community foundations provide assistance to various charitable organizations active within many Michigan communities. Their funds have been used to pursue such varied and desirable efforts as crime reduction, the provision of affordable housing, educational assistance, and the promotion of economic development activities. Clearly, community foundations perform a valuable public service--a service that otherwise would be expected to be provided by the State. Further, community foundations offer unique opportunities for charitable giving because of their endowment nature. Contributions to a foundation can be thought of as a permanent gift to the community. Usually, funds spent by a foundation within a community come from the interest generated on the foundation's endowment fund. Annual contributions to a fund enlarge it, enabling the interest to grow and making more money available each year. Senate Bill 705 (S-3) would help to increase the visibility of community foundations, the amounts of contributions received by foundations, and the pool of contributors.

Supporting Argument

House Bill 4091 (S-2) would allow homeless shelters, food banks, and similar operations to continue receiving tax-deductible contributions indefinitely. These organizations do important work, similar to that done by community foundations, by generating local and area-wide support of hunger relief efforts and the provision of

shelter for the homeless. The credit has been widely popular with taxpayers. The bill, by extending the credit, would continue the program and further encourage private efforts to reduce hunger and homelessness.

Opposing Argument

The concept of allowing contributors to community foundations to claim a tax credit is troubling. It is not clear why such giving should be singled out for special benefit. Perhaps donations to the United Way, for example, or the Cancer Society, scouting, or many other groups should be allowed the same treatment.

Response: If all contributions that may be claimed as a deduction from Federal income tax also were allowed as a credit against State taxes, the tax credit program would be prohibitively expensive for the State.

Legislative Analyst: G. Towne

FISCAL IMPACT

Senate Bill 705 (S-1) and House Bill 4091 (S-1), which are tie-barred, would extend indefinitely the SBT credits for contributions to homeless shelters and food banks, and contributions to community foundations. Under current law, these credits are due to expire after the 1997 tax year. Under these bills, the SBT revenue currently being foregone due to these credits would continue to be foregone beyond the 1997 tax year. Currently, the credit for contributions to homeless shelters and food banks is reducing SBT revenue by about \$300,000 a year, and the credit for contributions to community foundations is reducing SBT revenue by \$500,000 a year.

Fiscal Analyst: J. Wortley

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.