

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 796 (Substitute S-2 as passed by the Senate)
Sponsor: Senator Bill Schuette
Committee: Finance

Date Completed: 10-21-99

RATIONALE

Under the Income Tax Act, since 1989 a taxpayer has been allowed to claim a credit against the income tax equal to 50% of the amount the taxpayer contributed during a tax year to community foundations. The maximum amount a taxpayer may claim is \$100 (\$200 for a joint return); a resident estate or trust may claim up to 10% of tax liability or \$5,000, whichever is less. The credit for foundations has been a useful tool for raising money for community causes, and has been used for various public services. According to the Michigan Department of Treasury, there were 61 certified community foundations and 36 geographic affiliate funds in the State for the 1998 tax year; the total assets of community foundation endowments were \$1.2 billion, which allowed community foundations to issue significant grants to local communities.

Under the Act, a community foundation must be certified by the Department as meeting certain criteria. For instance, it must qualify for exemption from the Federal income tax under Section 401(c)(3) of the Internal Revenue Code, support a broad range of charitable activities within a specific geographic area, and maintain a program to attract new endowment funds. It has been suggested that, to ensure that all community foundations are legitimate organizations and to strengthen their operation, additional qualification requirements should be placed on community foundations.

CONTENT

The bill would amend the Income Tax Act to expand the eligibility criteria that an entity must meet to be certified as a community foundation.

Currently, a community foundation must be incorporated or established as a trust before September 1 of the year preceding the tax year for which the credit is claimed. The bill instead would require incorporation or establishment at least six months before the beginning of the tax year for which the credit was claimed, and would require a community foundation to have an endowment value

of at least \$100,000 within six months after the foundation was incorporated or established. The bill also would require a community foundation to meet the following to qualify for certification:

- Have an independent governing body representing the general public's interest and that was not appointed by a single outside entity.
- Provide evidence to the Department that the community foundation had, within six months after it was incorporated or established, and maintained continually during the tax year for which the credit was claimed, at least one part-time or full-time paid employee.
- Be subject to an annual independent financial audit, and provide copies of that audit to the Department within three months after its completion.
- For a community foundation that was 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.

Currently, one of the criteria for certification requires a community foundation to be publicly supported, as defined by U.S. Department of Treasury regulations. The bill provides that to maintain certification, a community foundation each year would have to submit to the Michigan Department of Treasury documentation that demonstrated compliance with this requirement.

MCL 206.261

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

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 such as crime reduction, the provision of affordable housing, educational assistance, and the promotion of economic development activities. Community foundations perform a valuable public service that the State otherwise would be expected to provide. 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 make more money available each year.

By increasing the qualification requirements in the Act, the bill would help to ensure that all community foundations were valid and legitimate organizations, and were operated efficiently and properly. The additional criteria would reinforce the role of community foundations as permanent tools to help their communities grow, promote basic financial standards and accountability, and encourage communities to work together. Thus, the bill would further ensure that tax-exempt gifts to community foundations were going to benefit the communities in which the donations were made.

Legislative Analyst: N. Nagata

FISCAL IMPACT

Based on preliminary information, the changes proposed in this bill would not disqualify any of the community foundations currently certified for the community foundation credit. Therefore, this bill would have no fiscal implications on State or local governments.

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.