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Senate Bill 1424 (as passed by the Senate)
Sponsor: Senator Bill Schuette
Committee: Finance

Date Completed: 11-27-00

CONTENT

The bill would amend the Single Business Tax (SBT) Act to require a community foundation to meet additional criteria in order to maintain its certification and remain eligible to receive contributions for which a taxpayer may claim a partial credit against the tax; these criteria would include having an endowment value of at least \$100,000, employing at least one person, and being subject to certain audits.

Under the Act, a taxpayer with SBT liability may claim as a credit against the tax 50% of the amount the taxpayer contributes to an endowment fund of a community foundation. The credit may not exceed \$5,000 or 5% of the taxpayer's tax liability, whichever is less. A community foundation must meet a list of requirements to be certified by the Department of Treasury, and must apply for certification by April 1 each year. The bill provides that a community foundation would have to apply by May 15.

Currently, a community foundation must be incorporated or established as a trust before September 1 of the year immediately preceding the tax year for which a credit is claimed. The bill would delete this requirement, and instead require a community foundation to be incorporated or established as a trust at least six months before the beginning of the tax year for which the credit was claimed, and have an endowment value of at least \$100,000 within 18 months after it was incorporated or established. The bill would allow a taxpayer to claim a credit for contributions to a community foundation made before the expiration of the 18-month period. If the community foundation did not reach the required \$100,000 endowment value during that period, contributions made after the date on which the period expired could not be used to calculate the credit. At any time after the expiration of the 18-month period that the community foundation had an endowment value of \$100,000, it could apply to the Department for certification.

A community foundation that had an endowment value of \$1 million or more would have to demonstrate that it was subject to an annual independent financial audit, and provide copies of the audit to the Department within three months after the audit was completed. A community foundation that had an endowment value of less than \$1 million would be subject to an annual review and an audit every third year.

The Act requires a community foundation to be publicly supported, as defined by regulations of the U.S. Department of Treasury. Under the bill, to maintain certification, a community foundation would have to submit to the Michigan Department of Treasury each year documentation demonstrating that the community foundation was publicly supported, as defined by U.S. Treasury regulations.

The bill would require a community foundation to have an independent governing body representing the general public's interest, that was not appointed by a single outside entity. A community foundation also would have to give the Department evidence 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 employee.

In addition, a community foundation that was incorporated or established after the bill's effective date would have to operate in a county that was not served by a community foundation when it was incorporated or

established, or operate as a geographic component of an existing certified community foundation.

MCL 208.38c

Legislative Analyst: G. Towne

FISCAL IMPACT

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 for the 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.