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PUBLIC CONTRIBUTION CREDIT: ADD HISTORICAL MUSEUMS

House Bill 4667 (Substitute H-1) First Analysis (12-6-01)

**Sponsor: Rep. Nancy Cassis
Committee: Tax Policy**

THE APPARENT PROBLEM:

Under Section 260 of the Income Tax Act, a taxpayer can claim a "public contribution" credit for up to 50 percent of the donations made to certain specified kinds of institutions and local governments. These include Michigan public broadcasting stations, Michigan colleges and universities, public libraries, the state archives, the state history museum, and the State Art in Public Places Fund. The list also includes a nonprofit corporation affiliated with both a municipality and an art institute located in the municipality. Money or artwork contributed to such an organization qualifies for the public contribution credit. The maximum credit that can be taken under Section 260 for all such contributions is \$100 for a single return and \$200 for a joint return. For a resident estate or trust, the maximum is 10 percent of tax liability or \$5,000, whichever is less. The credit is nonrefundable; that is, it cannot exceed a taxpayer's tax liability. (Other sections of the act provide other credits for contributions to different kinds of organizations, such as the community foundation credit and the food bank/homeless shelter credit.)

While the credit is available for donations to certain art institutes, as noted above, donations to similarly situated historical museums are not eligible for the credit. So, for example, as a representative of the Detroit Historical Society has pointed out, a person contributing to the Detroit Institute of Art could claim the credit but not a person contributing to the historical museum across the street. This seems inequitable. It appears only fair that historical museums across the state be treated in the same manner as art institutes and be included among eligible organizations for the Section 260 public contribution credit.

THE CONTENT OF THE BILL:

The bill would amend the Income Tax Act to treat historical museums in the same manner as art institutes for purposes of the public contribution credit. Specifically, the bill would permit a taxpayer to claim a

credit for up to 50 percent of money or historical artifacts donated to a nonprofit corporation affiliated with both a municipality and a historical museum located in the municipality.

The limit on the public contribution credit would continue to be 50 percent of the aggregate amount of contributions made to all eligible organizations, up to \$100 for a single return and \$200 for a joint return. For a resident estate or trust, the maximum is 10 percent of tax liability or \$5,000, whichever is less.

Currently, if a taxpayer donates artwork to an art institute or to a municipality (whether or not the artwork was created by the taxpayer), its fair market value must be determined at the time of the donation by independent appraisal. The bill would say that the value could be determined by independent appraisal or by the recipient. Under the bill, this provision would also apply to historical artifacts.

MCL 206.260

BACKGROUND INFORMATION:

A bill with the same provisions, House Bill 5821, passed the House in the 1999-2000 legislative session.

In discussions of House Bill 5821 last session, the Department of Treasury said it had developed a preliminary list of 47 historical museums and societies that possibly could qualify under the bill, based on 1997 federal income tax filings by nonprofit organizations. (However, it said it was possible not all of the organizations listed would qualify, and it is possible that there are others not on the list that would qualify.)

A useful source of information about museums in Michigan is the Michigan Historical Center web site at www.sos.state.mi.us/history/museum/explore/muselink.html.

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FISCAL IMPLICATIONS:

The House Fiscal Agency has estimated that the bill would reduce state revenues by less than \$2 million, although its analysis notes that it is not possible to determine the exact fiscal impact since it is not known how much would be donated to historical museums. The agency notes that the total of public contribution credits claimed in fiscal year 2001 is expected to be about \$23 million, with the vast majority from contributions to colleges and universities and public broadcasting. Only 6 percent of state income tax returns in 1997 (265,000 out of 4.4 million) claimed a public contribution credit, with one-quarter of those claiming the maximum credit. For the other claimants, the average credit claimed was \$63 for joint filers and \$40 for single filers. (HFA fiscal noted dated 12-3-01)

ARGUMENTS:**For:**

The bill would make contributions to historical museums eligible for a state income tax credit in the same way that contributions to art institutes already are. The two kinds of educational-cultural institutions are sufficiently similar to make this a matter of simple fairness. It would provide an additional incentive for people to donate to these valuable institutions, which preserve and interpret the state's history, with the possibility of profound effects on philanthropy at little cost to state revenues. There seems little reason not to put municipally connected historical museums on an equal footing with municipally connected art institutes. Contributions to the state museum and the state archives are already eligible for the credit, as are contributions to public broadcasting, colleges and universities, and public libraries.

Against:

History museums are valuable cultural institutions and probably do deserve to be treated in the same way as art institutes, but why stop there? There are other institutions that could make a similar claim, such as science and natural history museums, theater and dance companies, musical organizations, etc. And why should art institutes and history museums qualify only if they are affiliated in some way with a municipality? As introduced, for example, this bill would have applied to any nonprofit historical museum or historical society supporting a museum. Many worthy causes are deserving of special tax treatment; how does the state choose among them? Perhaps, rather than addressing the subject piecemeal, the legislature should take a

comprehensive approach to the issue of how to treat charitable giving under the state income tax.

Response:

As noted earlier, this bill intends to address a particular inequity between art institutes and history museums. It has become part of the legislature's job to make these decisions when specific problems are raised or requests made.

POSITIONS:

The Detroit Historical Society has indicated support for the bill. (12-5-01)

The Department of Treasury has indicated opposition to the bill. (12-5-01)

Analyst: C. Couch

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.