Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 55 (as introduced 1-23-19)
Sponsor: Senator Jim Runestad
Committee: Finance

Date Completed: 2-20-19

CONTENT

The bill would amend Part 1 of the Income Tax Act to do the following:

- **Allow a taxpayer to claim a credit against the income tax for tax years beginning after January 1, 2019, for donations of cash and food to a homeless shelter, food bank, food kitchen, or other similar entity.**
- **Allow a taxpayer to claim an additional credit for 50% of the amount contributed during the tax year to a community foundation.**
- **Limit each credit to $100 for an individual or $200 for a joint return; or, for a resident estate or trust, 10% of tax liability before credits or $5,000, whichever was less.**

(Part 1 of the Act imposes a tax on the income of individuals and noncorporate entities.)

Specifically, for tax years beginning on and after January 1, 2019, and subject to the applicable limitations in the bill, a taxpayer could credit against the income tax an amount equal to 50% of the sum of the cash amount and, if food items were contributed in conjunction with a program in which a vendor makes a matching contribution of similar items, the value of those food items the taxpayer contributed during the tax year to a shelter for homeless people, food kitchen, food bank, or other entity located in Michigan, whose primary purpose is to provide overnight accommodation, food, or meals to indigent people, if a contribution to that entity were tax deductible for the donor under the Internal Revenue Code.

The maximum allowed under this credit for total contributions made, including the value of food items contributed in conjunction with a program in which a vendor made a matching contribution of similar items in the tax year to shelters for homeless people, food kitchens, food banks, and, except for community foundations, other entities, would be as follows:

- For a taxpayer other than a resident estate or trust, $100, or $200 for a joint return.
- For a resident estate or trust, 10% of the taxpayer's tax liability for the tax year before claiming any credits allowed by Part 1 of the Act or $5,000, whichever was less.

For tax years beginning on and after January 1, 2019, a taxpayer could claim an additional credit for an amount, subject to applicable limitations, equal to 50% of the amount contributed during the tax year to a community foundation. For a taxpayer other than a resident estate or trust, the credit for a contribution to a community foundation could not exceed $100, or $200 for a joint return. For a resident estate or trust, the credit could not exceed 10% of the taxpayer's liability for the tax year before claiming any credits allowed by Part 1 or $5,000, whichever was less. For a resident estate or trust, the amount used to calculate the proposed credit could not have been deducted in arriving at Federal taxable income.

If the amount of the credits allowed under the bill exceeded the tax liability of the taxpayer for the tax year, the excess portion could not be refunded.

An entity other than a community foundation could request that the Department of Treasury determine if a contribution to that entity qualified for the proposed credit. The Department would be required to make a determination and respond to a request within 30 days after it received the request.

A taxpayer could claim a credit under the bill for contributions to a community foundation made within an 18-month period after a community foundation was incorporated or established. During that 18-month period, the community foundation would have to build an endowment value of $100,000. If the community foundation did not reach the required endowment value during that period, contributions to the community foundation made after the date on which the 18-month period expired could not be used to calculate a credit under the bill. If the community foundation had an endowment value of $100,000 at any time after the 18-month period expired, the foundation could apply to the Department for certification.

By July 1 of each year, the Department would be required to report to the House Committee on Tax Policy and the Senate Finance Committee the total amount of tax credits claimed under the bill for the immediately preceding tax year.

"Community foundation" would mean an organization that applies for certification on or before May 15 of the tax year for which the taxpayer is claiming the credit, and that the Department certifies for that tax year as meeting all of the following requirements:

-- Qualifies for exemption from Federal income taxation under Section 501(c)(3) of the Internal Revenue Code (which generally applies to nonprofit, charitable organizations).
-- Supports a broad range of charitable activities within the specific geographic area of Michigan that it serves, such as a municipality or county.
-- Maintains an ongoing program to attract new endowment funds by seeking gifts and bequests from a wide range of potential donors in the community or area served.
-- Is publicly supported as defined by the regulations of the U.S. Department of Treasury, and annually submits to the Michigan Department of Treasury documentation demonstrating compliance with this requirement.
-- Is not a supporting organization as described in Section 509(a)(3) of the Internal Revenue Code and U.S. Department of Treasury regulations (i.e., a charity that carries out its exempt purposes by supporting other exempt organizations, usually other public charities).
-- Meets the requirements for treatment as a single entity contained in regulations of the U.S. Department of Treasury.
-- Is incorporated or established as a trust at least six months before the beginning of the tax year for which the proposed credit is claimed and has an endowment value of at least $100,000 within 18 months after the community foundation is incorporated or established, except as provided in the bill.
-- Has an independent governing body representing the general public's interest that is not appointed by a single outside entity.
-- Gives the Michigan Department of Treasury evidence that the community foundation has, within six months after it is created, and maintains continually during the tax year for which the proposed credit is claimed, at least one part-time or full-time employee.

Also, a community foundation having an endowment value of $1.0 million or more would be subject to an annual independent financial audit and would have to provide copies of that audit to the Department within three months after its completion. A community foundation with an endowment value of less than $1.0 million would be subject to an annual review and an audit every third year.

In addition to all other criteria listed in the bill, a community foundation that was incorporated or established after June 22, 2000, would have to operate in a Michigan county that was not served by a community foundation when the community foundation was incorporated or established or would have to operate as a geographic component of an existing certified community foundation.

Proposed MCL 206.261 Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bill would reduce General Fund revenue by approximately $22.0 million per year. Between tax years 2006 and 2011, the number of returns claiming the credit for contributions to homeless shelters and food banks remained relative stable, at approximately 234,500 each year, as did the number of returns claiming the community foundation credit, at approximately 38,900. Similarly, the total amount claimed each year under each credit remained stable, at approximately $18.7 million for the homeless shelter/food bank credit and approximately $3.3 million for the community foundation credit. Although the School Aid Fund receives revenue from the income tax under Part 1 of the Act, credits are applied against the portion received by the General Fund. As a result, all of the reduction in revenue under the bill would lower General Fund revenue.

Fiscal Analyst: David Zin

SAS\S1920\s55sa