

COMMUNITY FOUNDATION TAX CREDIT

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Senate Bill 127 (H-1) as reported from House committee
Sponsor: Sen. Sam Singh
House Committee: Tax Policy
Senate Committee: Finance, Insurance, and Consumer Protection
Complete to 9-17-23

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

Senate Bill 127 would amend the Income Tax Act to create a nonrefundable individual income tax credit for donations or contributions to the endowment fund of a community foundation.

The bill would allow a taxpayer to claim, for tax years beginning on and after January 1, 2023, an income tax credit equal to 50% of the amount the taxpayer contributed during the tax year to the endowment fund of a *community foundation*.

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 of Treasury certifies for that tax year as meeting the requirements of a community foundation as provided in section 3 of the Michigan Community Foundation Act.¹ However, for purposes of the bill, the organization would only need to have assets of at least \$1.0 million to qualify for certification by the department.

The maximum credit allowed under the bill would be as follows:

- For a taxpayer other than a resident estate or trust, the credit 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 tax liability for the tax year before claiming any credits allowed by Part 1 of the act or \$5,000, whichever is less, and the amount used to calculate the credits could not have been deducted in arriving at federal taxable income.

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

To claim the credit, a taxpayer would be required to receive a gift acknowledgment from the community foundation indicating that the contribution was made to the endowment fund of the foundation.

¹ In section 3 of that act: <http://legislature.mi.gov/doc.aspx?mcl-123-903>

In addition, on or before July 1 of each year, the Department of Treasury would have to report to the House Committee on Tax Policy and the Senate Finance Committee the total amount of tax credits claimed under SB 127 for the immediately preceding year.

Proposed MCL 206.261

BACKGROUND:

The community foundation credit was repealed by 2011 PA 38 (HB 4361) as part of a bill package that replaced the Michigan Business Tax with the Corporate Income Tax and made general revisions to the personal income tax part of the Income Tax Act.² The repeal of the credits was effective beginning with the 2012 tax year. Senate Bill 127 would reinstate the credit with minor changes.

According to committee testimony, community foundations saw a decline in contributions and donations after the repeal of the credits in 2011. Supporters argue that the bills will help to encourage donations, particularly among first-time and younger donators who may become lifelong contributors.

Senate Bill 127 (H-1) is substantively identical to House Bill 4531 (H-1), as those bills were reported from House committee.

FISCAL IMPACT:

As written, the bill would reduce individual income tax revenue by approximately \$3.5 million. Before the credit was eliminated effective for the 2012 tax year, there were roughly 35,000 claimants and the revenue reduction amounted to about \$3.3 million. It is expected that the credit would reduce revenue by a similar or slightly larger amount. To the extent that the credit increases an existing refund, the full impact would be borne by the general fund. However, if the credit reduces a taxpayer's existing liability, the impact would affect both the School Aid Fund (approximately 25%) and the general fund (approximately 75%).

POSITIONS:

Representatives of the following entities testified in support of the bill (6-21-23):

- Council of Michigan Foundations
- Community Foundation for Southeast Michigan
- Capital Region Community Foundation
- Grand Traverse Regional Community Foundation
- Community Foundation of Greater Flint

The following entities indicated support for the bill:

- Michigan League for Public Policy (6-21-23)

² HFA analysis of 2011 PA 38: <http://www.legislature.mi.gov/documents/2011-2012/billanalysis/House/pdf/2011-HLA-4361-6.pdf>

- Kalamazoo Community Foundation (6-21-23)
- Michigan Nonprofit Association (6-21-23)
- Allegan County Community Foundation (6-21-23)
- Charlevoix County Community Foundation (6-21-23)
- Lapeer County Community Foundation (6-21-23)
- Lenawee Community Foundation (6-21-23)
- Community Foundation of Muskegon County (6-21-23)
- Battle Creek Community Foundation (6-21-23)
- Flint Center for Educational Excellence (9-13-23)

The Department of Treasury indicated a neutral position on the bill if funded. (6-21-23)

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