OHIO LEGISLATIVE SERVICE COMMISSION

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Office of Research and Drafting

Legislative Budget Office

H.B. 249
134th General Assembly

Fiscal Note & Local Impact Statement

Click here for H.B. 249's Bill Analysis

Version: As Introduced

Primary Sponsors: Reps. Powell and McClain

Local Impact Statement Procedure Required: Yes

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Highlights

Fund	FY 2024	FY 2025	Future Years
State General Revenue Fund			
Revenues	Loss of $107 million or more	Loss of $112 million or more	Losses to increase 2% to 3% per year
Local Government Fund and Public Library Fund (counties, municipalities, townships, public libraries)			
Revenues	Loss of $1.8 million or more, each fund	Loss of $1.9 million or more, each fund	Losses to increase 2% to 3% per year

Note: The state or school district fiscal year runs from July 1 through June 30 and is designated by the calendar year in which it ends. For other local governments, the fiscal year is identical to the calendar year.

- Allowing a nonrefundable income tax credit for taxpayer contributions to certified charitable organizations would reduce revenue to the GRF, Local Government Fund (LGF), and Public Library Fund (PLF). The maximum annual credit is capped at $500 for individuals and $1,000 for joint filers. The credit is allowed on contributions from calendar years 2023 through 2027, though any unused portions of the credit may be carried forward to the subsequent tax year. Revenue losses would decline substantially in FY 2029.
- The bill requires charitable organizations, including "community action agencies" and 501(c)(3) nonprofits, to register with the Ohio Department of Taxation (TAX) in order for contributors to be credit-eligible. There may be administrative costs for TAX to process applications.

Detailed Analysis

The bill provides a nonrefundable credit against a taxpayer's aggregate personal income tax (PIT) liability for donations to a 501(c)(3) charitable organization or community action agency. Only contributions to qualifying charitable organizations, as determined by the Ohio Department of Taxation (TAX), are eligible to count for the credit.[1] If the taxpayer is a pass-through entity, the credit may be allocated among the entity's equity owners in any amount as those owners mutually agree. The credit is equal to 50% of the taxpayer's contributions, with a maximum annual credit of $500 on individual returns and $1,000 on joint returns. The credit applies to contributions during calendar year (CY) 2023 and the four subsequent years. The credit is nonrefundable, meaning any credit amount in excess of the taxpayer's current year liability is not provided as a refund. However, unused portions of the credit do carry over to be taken in future fiscal years.

Fiscal impact

The nonrefundable credit authorized by H.B. 249 reduces total revenue from Ohio's PIT by an estimated $111 million in FY 2024, however LBO cannot rule out the fiscal effect being greater. LBO estimates the credit will decrease revenue to the GRF by $107.4 million in FY 2024 and by $112.4 million in FY 2025. Currently, the Local Government Fund (LGF) and Public Library Fund (PLF) are to each receive 1.66% of GRF PIT revenue during these fiscal years. As such, LBO estimates the bill will also decrease revenue to each of the LGF and PLF by about $1.8 million in FY 2024 and by $1.9 million in FY 2025.

LBO's estimate of the bill's fiscal impact is based on the dollar value of credits taken on a similar tax incentive in the state of Arizona.[2] To determine Ohioans likely participation in the credit, Arizona's reported credit amount was first adjusted by the ratio of individuals claiming an existing federal tax deduction on charitable donations in the two states.[3] Next, to derive fiscal totals likely for Ohio, LBO economists first adjusted Arizona's reported credit amount for differences in Ohio's bill and Arizona law, then adjusted the historic credit estimates by growth in national gross domestic product from 2018 to 2023.[4]

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[1] In the bill, "qualifying charitable organization" means an organization that is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code or is a designated community action agency that receives community services block grant program moneys pursuant to 42 United States Code (U.S.C.) Section 9901, provided the organization meets certain expenditure and service requirements. See LSC's bill analysis for more detailed information on eligibility.

[2] As reported by the Arizona Department of Revenue's Tax Expenditure Reports.

[3] Prior to tax year 2020, the federal PIT deduction was allowed only for taxpayers who itemized deductions. While this situation applied to only a fraction of taxpayers, the described adjustment is proper unless there is reason to think charitable giving or taxpayer behavior would differ in Ohio and Arizona. The estimate utilizes Internal Revenue Service Statistics of Income (SOI) state table 2 from tax year 2018. That year 309,980 Ohio taxpayers claimed $4.02 billion in charitable deductions on Schedule A.

[4] Gross domestic product projections are from IHS Markit's April 2021 baseline national data release. Data from CY 2018 through CY 2020 are official Bureau of Economic Analysis (BEA) estimates, while data after that period are IHS projections.

It is important to note certain distinctions between H.B. 249 and Arizona's charitable donations tax law. First, the maximum credit in H.B. 249 is 125% of the maximum allowed in Arizona. Second, Ohio's tax code currently does not contain a tax incentive of comparable scope; the state of Arizona offers a number of competing credits intended to boost participation in nonprofit finance. LBO has been able to address the first of these issues; however, directly relevant empirical data are not available to address the second concern. For this reason, LBO cannot rule out the possibility that the bill's credit will have a fiscal impact greater than estimated above, potentially by tens of millions of dollars.

Eligible contributions

To be eligible to receive the credit, taxpayer charitable contributions must be made to a certified charitable organization, meaning the nonprofit entity must receive certification from TAX and be either a "community action agency"[5] or a 501(c)(3) charitable organization meeting certain funding and service requirements.[6] Organizations that perform or promote nontherapeutic abortions are not eligible for classification as a certified charitable organization.

TAX would likely experience an increase in administrative costs from processing these applications. In order to qualify as a certified charitable organization, a nonprofit must verify with TAX that it meets the qualification requirements, provide a copy of the organization's financial statements during the prior operating year, and submit written statements that the nonprofit will continue to meet the eligibility requirements as set forth in R.C. 5747.77. Under the bill, the Tax Commissioner may request an organization undergo a recertification process, and is required to revoke an organization's certification should the organization at any time not meet the guidelines set forth by the certification process. The fiscal note assumes Ohio and Arizona have a similar composition of eligible nonprofits; to the extent this is untrue it will affect the credit's fiscal impact.

Taxpayers applying for the credit must file for the credit in the manner prescribed by the Tax Commissioner, and each credit is subject to audit by TAX. Business entities are also eligible to receive the credit, which may be allocated among the entity's equity owners in cases other than sole proprietorships and single-owner limited liability companies.

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[5] As defined in R.C. 122.66.

[6] See the LSC bill analysis for more information on the eligibility requirements of charitable organizations.