



# Ohio Legislative Service Commission

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## Bill Analysis

Sam Benham

### H.B. 128

131st General Assembly  
(As Introduced)

**Reps.** Sears and Amstutz, Duffey, Grossman, R. Smith, McColley, Rezabek, Hackett, Blessing, Sweeney, Schaffer

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### BILL SUMMARY

- Authorizes an income tax credit for donations to the permanent endowment fund of an eligible community foundation.
  - Limits total credits to \$20 million per year.
  - Requires the Department of Taxation to administer the credit.
  - Requires the Tax Commissioner to request information from donee community foundations about donations for which a tax credit may be claimed.
  - Requires the Tax Commissioner in each year from 2015 to 2020 to prepare an annual report disclosing the number and amount of donations made and tax credits received under the bill.
  - Requires the Director of Budget and Management to annually credit the Local Government Fund and Public Library Fund an amount to offset any reduction in the amount distributed from the GRF to those funds due to the tax credit.
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### CONTENT AND OPERATION

#### Endow Ohio tax credit

The bill authorizes a nonrefundable income tax credit for individuals that donate to the permanent endowment fund of an eligible community foundation. For total donations made during the taxpayer's taxable year of less than \$1,000, the credit equals 50% of the donations. For total donations during the taxpayer's taxable year of \$1,000 or

more, the credit equals 20% of the donations, but may not exceed \$10,000 for individual returns or \$20,000 for joint returns.

To qualify for the credit, a taxpayer must make the donation of cash or publicly traded securities to the eligible foundation in a taxable year beginning after 2014 but before 2020. A community foundation is "eligible" if it is exempt from federal income taxation, is accredited by the Community Foundations National Standards Board, and publishes an audited report of its fund balances, activities, and donors at least once a year. The foundation's permanent endowment fund must be held in perpetuity, be used for the benefit of charitable causes in Ohio, and have an annual spending rate of 5% or less.

Before receiving a credit, the taxpayer must receive approval for the donation from the Department of Taxation. The Department must approve the taxpayer's application if the annual total credit limit of \$20 million has not been reached. Once an application is approved, the taxpayer must make the donation within 60 days of receiving approval. A community foundation that does not receive an approved donation within that 60 days must notify the Department, and the Department must make the previously approved amount available to other taxpayers. The Department may charge a reasonable fee for processing credit applications.

If the amount of a credit exceeds the taxpayer's tax liability for the year in which the donation is made, the taxpayer may carry forward the excess credit for up to five taxable years.<sup>1</sup>

### **Community foundation report to the Tax Commissioner**

The bill requires the Tax Commissioner to request a report from each eligible community foundation receiving a donation for which the Commissioner approves an application for a tax credit. The report must include the total amount of all donations the foundation received in the preceding calendar or foundation fiscal year, categorized according to donations of less than \$500, \$500 to \$1,000, more than \$1,000 to \$2,500, more than \$2,500 to \$5,000, more than \$5,000 to \$10,000, and more than \$10,000.

The Commissioner may disapprove an application for a tax credit for donations to any eligible community foundation that fails to comply with the Commissioner's request within 90 days after the request is made.<sup>2</sup>

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<sup>1</sup> R.C. 5747.78 and 5747.98.

<sup>2</sup> R.C. 5747.78(E).



## Tax Commissioner report regarding community foundation donations

Not later than June 30 in each year from 2016 to 2020, the bill requires the Commissioner to prepare a report that includes the following:

- (1) For the 12-month period ending with the preceding April:
  - (a) The number of authorized donations for which a tax credit was claimed;
  - (b) The total amount of such donations; and
  - (c) The amount of credits granted for such donations.

(2) The information described in (1) above from each report made for the preceding years.

The Commissioner is required to submit copies of the report to the Governor, the Office of Budget and Management (OBM), the President and Minority Leader of the Senate, the Speaker and Minority Leader of the House of Representatives, and the chairpersons and ranking members of the standing committees primarily responsible for appropriations and for taxation.<sup>3</sup>

## Transfers to the Local Government Fund and Public Library Fund

The bill requires the Director of OBM, to make transfers to the Local Government Fund (LGF) and Public Library Fund (PLF) each year to ensure that the credit does not result in a net reduction in those funds – i.e., to hold those funds harmless from the credit. Each of those funds receives 1.66% of the monthly revenue credited to the GRF from various state tax sources, including the income tax. Since the credit would reduce GRF revenue by up to \$20 million per year while it is in effect, the bill requires an equivalent amount to be transferred from the GRF to offset the reduction in revenue resulting from the credit.<sup>4</sup>

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## HISTORY

ACTION	DATE
Introduced	03-19-15

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<sup>3</sup> R.C. 5747.78(F).

<sup>4</sup> R.C. 131.51.

