OHIO LEGISLATIVE SERVICE COMMISSION

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Office of Research and Drafting

Legislative Budget Office

S.B. 124
134th General Assembly

Fiscal Note & Local Impact Statement

Click here for S.B. 124's Bill Analysis

Version: As Introduced

Primary Sponsor: Sen. Hoagland

Local Impact Statement Procedure Required: No

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Highlights

- The bill authorizes a refundable state income tax credit for a taxpayer who donates cash, property, or services to townships. Thus, the bill may result in gains to townships and losses to the state GRF that could be sizable, possibly ranging into the millions of dollars.

Detailed Analysis

The bill authorizes a refundable income tax credit for a taxpayer who donates cash, property, or services to townships. For a donation to qualify for the credit, the taxpayer must present a plan for the donation that is approved by a majority of the board of township trustees. The value of a qualifying donation other than cash is specified by the bill to equal the fair market value (FMV) of the property or services donated (FMV is not defined in the bill). The credit is limited to the lesser of $5,000 or the total qualifying donations made during the taxable year by the taxpayer to one or more townships. The credit must be claimed for the taxable year in which the qualifying donations are made, starting with 2021. The bill provides for the taxpayer to receive a receipt documenting the qualifying donations and their value, which may be required by the Department of Taxation in support of the claim for the credit along with any documentation relating to the fair market value of property or services.

The fiscal effect of the bill if enacted would depend on the behavior of taxpayers in seeking to donate to townships and of the townships in agreeing to accept the donations. The bill may result in administrative costs for townships to create processes for reviewing proposed donations and to administer the program, with any such costs incurred at the discretion of the townships. The bill creates an incentive for townships to enter into transactions involving donations since the state and not the township would pay for the value received by the township. Plausibly, enactment of such an incentive would encourage townships to act in this way, paying for needed work, property, or even cash by issuing receipts redeemable by taxpayers for state income tax refunds or reductions of up to $5,000 each. Such transactions would be constrained to value the labor or property at its fair market value.

If a taxpayer donates cash or property to a township and receives in return a refundable income tax credit of equal value, the taxpayer appears to be neither better nor worse off, apart from any loss associated with the time value of money between the date of the gift and the date of the income tax refund or smaller tax payment.

A gift of the taxpayer's services appears to differ from a donation of cash or property, in that it creates value equal to the fair market value of the services. The compensation for the services from the state GRF might be deemed taxable income for federal and state income tax purposes, and possibly also for school district and municipal income tax purposes depending on where the taxpayer resides. If the compensation is considered to be taxable income, state taxation of the income would offset a small portion of the loss to the state GRF. The bill does not require the taxpayer to reside in the township in order to donate to the township.

An example of a potential transaction under the new law that the bill would enact is a taxpayer who is a real estate developer making a gift of land in a new subdivision to the township for a park. In this example, the developer might perceive a gain from making lots or homes in the subdivision more salable because of the added amenity consisting of the township park. The $5,000 cap would limit the value of this benefit for an individual developer. The bill's provisions may permit a group of investors in a development company to gift land that they own collectively through the company, with each investor entitled to a tax credit for up to $5,000 if approved by the township.

A taxpayer might donate the taxpayer's labor to a township. The gift would be valued at its fair market value, but with payment for the donated labor in the form of a refundable state income tax credit. An example of such gifts is the work of volunteer firefighters. Many local fire departments rely on the labor of volunteers. Ohio fire departments that rely entirely on volunteer firefighters account for 61% of all departments in the state, and those that rely mostly on volunteers are another 21% of the total.[1] These 82% of Ohio fire departments appear to be mostly smaller departments, as the state's 10,238 volunteer firefighters are about one-fourth of all active firefighters.[2] LSC does not know how many of these volunteer firefighters work for township fire departments. Townships account for more than two-thirds of property tax levies to raise money for fire department purposes.[3]

Annual wages for the average firefighter in Ohio in 2020 were about $50,000.[4] This wage is based on a 40-hour week, which may be inappropriate for volunteer labor. If many of the

[1] National Fire Department Registry Summary, January 2021, www.usfa.fema.gov/downloads/pdf/registry-summary-2021.pdf.

[2] Ohio Department of Public Safety, Division of Emergency Medical Services, Active Certification Totals, February 2021, www.ems.ohio.gov/links/ems_cert_total.pdf.

[3] 2,022 of 2,893 levies for tax year 2020, based on data from the Department of Taxation.

[4] U.S. Bureau of Labor Statistics, Occupational Employment Statistics, wages only, excludes benefits, excludes supervisors, presumably excludes volunteers from the average: www.bls.gov/oes/#data.

volunteer firefighters claimed a donation of $5,000 fair market value of their labor, the cost to the state GRF could range into the tens of millions of dollars.

Losses of GRF tax revenue reduce revenue sharing through the Local Government Fund (LGF, Fund 7069) and the Public Library Fund (PLF, Fund 7065). GRF taxes include the state income tax as well as several other taxes. In codified law, each of the LGF and PLF receive 1.66% of GRF tax revenue. State revenue losses because of donations to townships as permitted by the bill would result in reduced revenue sharing with units of local government and libraries.

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