

SENATE, No. 1893

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED FEBRUARY 15, 2018

Sponsored by:

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS

Authorizes municipality, county or school district to establish charitable funds for specific purposes; permits property tax credit for certain donations.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning local government charitable fund management
2 and property tax credits and supplementing Title 54 of the
3 Revised Statutes.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. As used in P.L. , c. (C.) (pending before the
9 Legislature as this bill):

10 “Annual donation cap” means the cap on the total value of local
11 charitable donations that are eligible for a tax credit, as established
12 pursuant to paragraph (1) of subsection d. of section 2 of P.L. ,
13 c. (C.) (pending before the Legislature as this bill).

14 “Charitable fund” means a fund established pursuant to section 2
15 of P.L. , c. (C.) (pending before the Legislature as this
16 bill).

17 “Director” means the Director of the Division of Local
18 Government Services in the Department of Community Affairs.

19 “Fund administrator” means the official or entity designated
20 pursuant to subsection b. of section 2 of P.L. , c. (C.)
21 (pending before the Legislature as this bill), to be responsible for
22 the collection, distribution, and administration of donations to
23 charitable funds.

24 “Local charitable donation” means a donation by, or on behalf of
25 a property owned by, a local property owner to a charitable fund
26 established by a local unit.

27 “Local property owner” means a person who owns property
28 within the county, municipality, or school district, to which the
29 person offers a local charitable donation.

30 “Local unit” means a municipality, county, or school district.

31 “Property tax credit” means the credit established pursuant to
32 section 4 of P.L. , c. (C.) (pending before the Legislature
33 as this bill).

34 “Qualified donation” means a local charitable donation that
35 qualifies the associated property for a tax credit established
36 pursuant to section 4 of P.L. , c. (C.) (pending before the
37 Legislature as this bill).

38 “Spillover fund” means a fund established, pursuant to
39 subsection e. of section 2 of P.L. , c. (C.) (pending before
40 the Legislature as this bill), to temporarily capture donations to
41 charitable funds that have reached their annual donation cap.

42
43 2. a. A local unit may establish by ordinance, or resolution, as
44 appropriate, one or more charitable funds for specific public
45 purposes of the local unit. A charitable fund shall be maintained in
46 one or more bank accounts, and kept separate from the other
47 accounts of the local unit. A charitable fund shall not be
48 administered jointly by more than one local unit. All moneys

1 deposited into a charitable fund shall be expended exclusively for
2 public purposes in accordance with subsection d. of section 3 of
3 P.L. , c. (C.) (pending before the Legislature as this bill),
4 and other applicable State law.

5 b. The ordinance or resolution establishing a charitable fund
6 shall designate a person or entity to serve as the fund administrator.
7 The fund administrator shall assume responsibility for the collection
8 and distribution of donations dedicated to the charitable fund, and
9 shall continually track the total of all qualified donations with
10 respect to a fiscal year.

11 c. A charitable fund shall have a specified public purpose. The
12 specified public purpose shall be materially narrower than the
13 general purposes of the local unit. The specified public purpose
14 shall be described in materials made publicly available to the local
15 community, and to any other person who may wish to donate to the
16 charitable fund.

17 d. (1) The ordinance or resolution establishing a charitable
18 fund shall establish an annual donation cap, which shall limit the
19 total amount of money donated through local charitable donations
20 to a particular charitable fund that may qualify for a tax credit. The
21 ordinance or resolution establishing a charitable fund shall establish
22 an initial annual donation cap, and shall set an initial annual limit
23 on tax credit funding that shall be available as a result of local
24 charitable donations to the particular charitable fund. The annual
25 limit on available tax credit funding shall equal 90 percent of the
26 annual donation cap, or a different percentage as determined
27 appropriate by the director. The ordinance or resolution
28 establishing a charitable fund may also limit the extent to which a
29 large local charitable donation on behalf of an individual property
30 may count against the annual donation cap. Both the maximum
31 amount of tax credit funding made available, and the annual
32 donation cap, shall be established in the ordinance or resolution
33 adopted to establish the charitable fund, but may be adjusted
34 through subsequent ordinances or resolutions, as applicable, of the
35 governing body of the local unit.

36 (2) The annual donation cap shall be established prior to the
37 beginning of each fiscal year. However, with regard to any fiscal
38 year that begins in calendar year 2018, the amount of tax credits
39 that may be awarded for the remainder of calendar year 2018 shall
40 be established no later than the date on which the charitable fund
41 begins to accept donations.

42 (3) The annual donation cap shall not be construed to limit all
43 donations. The annual donation cap shall only limit the donations
44 that are creditable in relation to property tax payments.

45 e. The ordinance or resolution establishing a charitable fund
46 may establish a spillover fund, which shall capture local charitable
47 donations contributed after the annual donation cap has been

1 reached, and local charitable donations that the local unit has
2 designated as too large to be fully creditable.

3

4 3. a. Anyone may donate to a charitable fund, regardless of
5 property ownership or location of residence. A donation to a
6 charitable fund may be made by or on behalf of a local property
7 owner by directing the payment to the appropriate fund
8 administrator of a charitable fund of a local unit in which the local
9 property owner resides.

10 b. If a local property owner intends to obtain a property tax
11 credit in association with a local charitable donation, the owner
12 shall indicate when making the donation which specific parcel of
13 property the donation shall apply to. A donation may be credited
14 across more than one parcel in a manner indicated by the local
15 property owner.

16 c. Following receipt of a local charitable donation, the fund
17 administrator shall:

18 (1) issue a receipt to the donor, confirming the amount of the
19 donation, and the size and anticipated timing of the associated
20 property tax credit;

21 (2) notify the donor in the event that the annual donation cap has
22 been reached, in order to inform the donor that the donation is
23 either being moved to the spillover fund or is otherwise being held
24 by the local unit, awaiting the donor's direction. Following such
25 notification, the fund administrator shall provide the donor with at
26 least 60 days to direct the fund administrator to allocate the
27 donation to another charitable fund established by the local unit, or
28 to rescind the donation; and

29 (3) notify the appropriate tax collector within five business days
30 of the amount of the donation and the size of the credit made
31 available as a result of the donation.

32 d. Charitable fund donations shall be used for the following
33 purposes:

34 (1) the payment of any fees that may be required by a tax
35 collector pursuant to subsection g. of section 4 of P.L. ,
36 c. (C.) (pending before the Legislature as this bill);

37 (2) the payment of administrative costs associated with the
38 establishment of the fund; and

39 (3) the remainder of the funds shall be used for purposes
40 consistent with the specified charitable purpose of the fund, as
41 designated pursuant to subsection c. of section 2 of P.L. ,
42 c. (C.) (pending before the Legislature as this bill).

43

44 4. a. For fiscal years beginning on or after January 1, 2018, the
45 tax collector shall allow a local property owner a credit to be
46 applied to property taxes as hereinafter set forth.

47 b. The credit shall be equal to 90 percent of the amount of local
48 charitable donations contributed on behalf of the owner's specified

1 parcel of property to a charitable fund within the local unit, or a
2 different percentage as determined appropriate by the director.

3 c. The tax collector shall apply the credit against the first
4 property tax bill with respect to the specified parcel of property that
5 is assessed on or after the fifth business day following receipt of the
6 notification sent pursuant to paragraph (3) of subsection c. section 3
7 of P.L. , c. (C.) (pending before the Legislature as this
8 bill).

9 d. If the total amount of all tax credits on a parcel of property
10 exceed the amount of property tax owed for the property to the local
11 unit associated with a charitable fund to which a local charitable
12 donation was made for the property, and the tax collector is unable
13 to apply all or a portion of a credit enabled under this section
14 against the bill, then the tax collector shall carry the remaining
15 portion of the credit forward to one or more future bills. However,
16 no tax credit established under this section shall be carried forward
17 for more than five years.

18 e. The tax collector shall indicate on a tax bill the value of the
19 tax credits that apply to the bill pursuant to this section, and the
20 value of tax credits that, pursuant to this section, shall be applied to
21 future bills.

22 f. The tax collector shall apply a tax credit awarded under this
23 section to a parcel of property, not to an individual person.

24 g. In association with each notification sent pursuant to
25 paragraph (3) of subsection c. of section 3 of P.L. c. (C.)
26 (pending before the Legislature as this bill), the tax collector may
27 require a fee to be paid by the fund administrator to be allocated
28 towards the tax collector's administrative expenses. The amount
29 collected by the tax collector through such fees shall not be greater
30 than necessary to compensate for reasonable expenses associated
31 with the tax collector's responsibilities under this section.

32

33 5. The provisions of P.L. , c. (C.) (pending before the
34 Legislature as this bill) shall not be construed to prohibit a
35 municipality or county from accepting bequests, legacies, or gifts
36 pursuant to N.J.S.40A:5-29, or prevent a local unit from accepting
37 charitable donations in accordance with any other legal authority.

38

39 6. Notwithstanding the provisions of the "Administrative
40 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the
41 contrary, the State Treasurer and the Director of the Division of
42 Local Government Services in the Department of Community
43 Affairs may adopt immediately upon filing with the Office of
44 Administrative Law such rules and regulations as the State
45 Treasurer or the director determine to be necessary to effectuate the
46 purposes of this act, which rules and regulations shall be effective
47 for a period not exceeding 360 days following the effective date of
48 this act and may thereafter be amended, adopted, or readopted by

1 the State Treasurer or the director in accordance with the
2 requirements of P.L.1968, c.410 (C.52:14B-1 et seq.).

3 a. The rules and regulations adopted by the director may include
4 provisions to: (1) protect local units against the loss of property tax
5 revenues that may apply to a local unit due to operation of the
6 property tax levy cap attributable to receipt of charitable donations;
7 (2) establish standard operating procedures for management of
8 charitable funds, and the establishment of appropriate timelines to
9 coordinate the various responsibilities of fund administrators and
10 tax collectors established under P.L. , c. (C.) (pending
11 before the Legislature as this bill); (3) provide guidance to tax
12 collectors on when a tax bill is deemed assessed for the purposes of
13 subsection c. of section 4 of P.L. , c. (C.) (pending before
14 the Legislature as this bill); (4) provide guidance for how
15 mortgagees who pay property taxes through escrow accounts shall
16 be notified of credits awarded under P.L. , c. (C.) (pending
17 before the Legislature as this bill); and (5) adjust the percentage of
18 the annual donation cap that may be credited against property tax
19 payments pursuant to paragraph (1) of subsection d. of section 2 of
20 P.L. , c. (C.) (pending before the Legislature as this bill), if
21 deemed appropriate.

22 b. The rules and regulations adopted by the State Treasurer may
23 include guidance on how qualified donations made pursuant to
24 P.L. , c. (C.) (pending before the Legislature as this bill)
25 shall impact payments allocated pursuant to the "Homestead
26 Property Tax Credit Act," P.L.1990, c.61 (C.54:4-8.57 et seq.), the
27 "Property Tax Deduction Act," P.L.1996, c.60 (C.54A:3A-15 et
28 seq.), and the homestead property tax reimbursement program,
29 P.L.1997, c.348 (C.54:4-8.67 et al.).

30
31 7. In addition to the information required by R.S.54:4-65, a
32 property tax bill shall have printed thereon the information required
33 pursuant to subsection e. of section 4 of P.L. , c. (C.)
34 (pending before the Legislature as this bill).

35
36 8. This act shall take effect immediately.

37 38 39 STATEMENT

40
41 This bill permits a local unit, consisting of a municipality, county
42 or school district, to establish one or more charitable funds, each for
43 a specific public purpose, and permits property tax credits in
44 association with certain donations.

45 Once a charitable fund is established, the bill would allow
46 anyone to donate to it. However, if a donation is made on behalf of
47 a real property within the jurisdiction of the local unit, the property

1 could be entitled to a property tax credit on the next property tax
2 bill assessed after the donation is processed.

3 A local unit that intends to establish a charitable fund would do
4 so by ordinance or resolution of the governing body, as appropriate.
5 A charitable fund ordinance or resolution would designate a fund
6 administrator to assume responsibility for the collection and
7 distribution of donations to the fund. The ordinance or resolution
8 also would establish an annual limit on tax credit funding that may
9 be made available as a result of local charitable donations, and an
10 annual donation cap, which would be updated prior to the beginning
11 of each fiscal year. The limit on tax credit funding would equal 90
12 percent of the annual donation cap, or a different percentage as
13 determined appropriate by the Director of the Division of Local
14 Government Services (“DLGS”) in the Department of Community
15 Affairs. The annual donation cap would not limit all donations,
16 only donations that could be creditable in relation to property tax
17 payments. A charitable fund ordinance could also limit the extent
18 to which a large charitable donation on behalf of an individual
19 property owner could count against the annual donation cap.

20 Under the bill, a donation to a charitable fund could be made by
21 or on behalf of a local property owner by directing the payment to
22 the appropriate fund administrator. If the donor intends to obtain a
23 property tax credit in association with the donation, the donor
24 would indicate to which parcel of property the donation should
25 apply. A donation could be credited across more than one parcel.

26 Following receipt of a local charitable donation, the fund
27 administrator would issue a receipt to the donor. The fund
28 administrator would also notify the donor in the event that the
29 annual donation cap has been reached, in order to provide notice
30 that the donation is either being moved to the spillover fund or is
31 otherwise held by the local unit, awaiting the donor’s direction.
32 Following this notification, the fund administrator would provide
33 the donor with at least 60 days to direct the fund administrator to
34 instead allocate the donation to another charitable fund or to rescind
35 the donation. Following donation receipt, the fund administrator
36 also would notify the appropriate tax collector within five business
37 days of the amount of the donation and the size of the credit made
38 available as a result of the donation.

39 Under the bill, charitable fund donations could be used for the
40 payment of fees that may be required by a tax collector for their
41 responsibilities under the bill, and the payment of administrative
42 costs associated with the establishment of the fund. Charitable
43 funds also would be used for purposes consistent with the specified
44 charitable purpose, as designated in the ordinance or resolution
45 establishing the fund.

46 The bill directs municipal tax collectors to allow a local property
47 owner a credit to be applied to property taxes in association with
48 certain charitable donations. A credit would be equal to 90 percent

1 of the amount of donations contributed on behalf of the owner's
2 specified parcel of property to a charitable fund within the local
3 unit, or a different percentage as determined appropriate by DLGS.

4 The tax collector would apply the credit against the first property
5 tax bill with respect to the specified parcel of property that is
6 assessed on or after the fifth business day following receipt of the
7 notification sent by the fund administrator. If the total amount of
8 all tax credits on a property exceed the amount of tax owed for the
9 property to the local unit associated with a charitable fund, and the
10 tax collector is unable to apply a full credit against the bill, then the
11 tax collector would carry the remaining portion of the credit
12 forward to one or more future bills. However, no tax credit would
13 be carried forward for more than five years. The tax collector
14 would indicate on a tax bill the value of the tax credits that apply to
15 the bill and the value that would be applied to future bills. In
16 association with each credit, the bill permits the tax collector to
17 require a fee from the fund administrator to be allocated towards the
18 tax collector's administrative expenses.

19 Notwithstanding the provisions of the "Administrative Procedure
20 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the bill
21 directs the State Treasurer and DLGS to adopt immediately such
22 rules and regulations as the State Treasurer or the Director of the
23 Division of Local Government Services determine to be necessary
24 to effectuate the purposes of the bill.