

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE, No. 1893

with committee amendments

STATE OF NEW JERSEY

DATED: APRIL 5, 2018

The Assembly Appropriations Committee reports favorably Senate Bill No. 1893, with committee amendments.

As amended, this bill permits a local unit, consisting of a municipality, county or school district, to establish one or more charitable funds, each for specific public purposes, and permits property tax credits in association with certain donations.

Once a charitable fund is established, the bill would allow anyone to donate to it. However, if a donation is made on behalf of a real property within the jurisdiction of the local unit, the property could be entitled to a property tax credit on the next property tax bill assessed after the donation is processed.

A local unit that intends to establish a charitable fund would do so by ordinance or resolution of the governing body, as appropriate. As amended, a charitable fund ordinance or resolution would designate a local official serving as custodian of public funds to serve as the fund administrator, to assume responsibility for the collection and distribution of donations to the fund. As amended, the ordinance or resolution also would establish an annual limit on tax credit funding that may be made available as a result of local charitable donations, and an annual credit-eligible donation cap, which would be updated prior to the beginning of each fiscal year. The limit on tax credit funding would equal 90 percent of the annual credit-eligible donation cap, or a different percentage as determined appropriate by the Director of the Division of Local Government Services ("DLGS") in the Department of Community Affairs. The annual credit-eligible donation cap would not limit all donations, only donations that could be creditable in relation to property tax payments. A charitable fund ordinance could also limit the extent to which a large charitable donation on behalf of an individual property owner could count against the annual credit-eligible donation cap.

Under the bill, a donation to a charitable fund could be made by or on behalf of a local property owner by directing the payment to the appropriate fund administrator. If the donor intends to obtain a property tax credit in association with the donation, the donor

would indicate to which parcel of property the donation should apply. A donation could be credited across more than one parcel.

As amended, following receipt of a local charitable donation, the fund administrator would issue a receipt to the donor. The fund administrator would also notify the donor in the event that the annual credit-eligible donation cap has been reached, in order to provide notice that the donation is being held in escrow awaiting the donor's direction. Following this notification, the fund administrator would provide the donor with at least 60 days, or a lesser amount of time if so specified by the director, to direct the fund administrator to instead allocate the donation to another charitable fund or to rescind the donation. Following donation receipt, the fund administrator also would notify the municipal tax collector, and chief financial officer or business administrator of the local unit, within five business days of the amount of the donation and the size of the credit made available as a result of the donation. The tax collector would notify the donor of the amount of the available property tax credit.

Under the bill, as amended, charitable fund donations would be used for purposes consistent with the specified charitable purpose, as designated in the ordinance or resolution establishing the fund. Charitable funds, in accordance with applicable ordinances or resolutions of the local unit, could also be used for the payment of fees to a municipal tax collector and finance officer for their responsibilities under the bill, and the payment of administrative costs associated with the establishment of the fund. The bill directs municipal tax collectors to allow a local property owner a credit to be applied to property taxes in association with certain charitable donations. A credit would be equal to 90 percent of the amount of donations contributed on behalf of the owner's specified local real property to a charitable fund within the local unit, or a different percentage as determined appropriate by DLGS.

The tax collector would apply the credit against the first property tax bill with respect to the specified local real property that is assessed on or after the fifth business day following receipt of the notification sent by the fund administrator. If the total amount of all tax credits on a property exceed the amount of tax owed for the property to the local unit associated with a charitable fund, and the tax collector is unable to apply a full credit against the bill, then the tax collector would carry the remaining portion of the credit forward to one or more future bills. However, no tax credit would be carried forward for more than five years. The tax collector would indicate on a tax bill the value of the tax credits that apply to the bill and the value that would be applied to future bills. In association with each credit, the bill permits the municipality to require a fee from the fund administrator to be allocated towards the

administrative expenses of the tax collector and municipal finance officer.

As amended, a property tax credit obtained in accordance with this bill would not impact the property owner's ability to qualify for a homestead property tax reimbursement or credit, or a deduction from State income taxes in association with the amount credited for a local charitable donation.

As amended, the bill directs that no local property owner, or servicing organization may be held liable because a local property owner addresses his property tax obligation by means of a charitable donation.

As amended, notwithstanding the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the contrary, the bill directs the State Treasurer, DLGS, the Director of the Division of Taxation, the Commissioner of Banking and Insurance, and the Commissioner of Education to adopt immediately such rules and regulations as the State Treasurer or the Director of the Division of Local Government Services determine to be necessary to effectuate the purposes of the bill.

COMMITTEE AMENDMENTS

The committee amended seven sections of the bill, and added nine new supplementary and amendatory sections. Specifically, the amendments accomplish the following:

- In section 1, the definitions section, add definitions of "commissioner," "director of taxation," "mortgagee," and "servicing organization."
- Redefine the "annual donation cap" as the "annual credit-eligible donation cap" to clarify what the cap applies to.
- Clarify in the "fund administrator" definition that this individual is required to be an official serving as the custodian of public funds for the local unit establishing the charitable fund.
- In subsection a. of section 2, specify that money in charitable funds, spillover funds, and the deposits into such funds will be governed by the "Governmental Unit Deposit Protection Act," P.L.1970, c.236 (C.17:9-41 et seq.) to the same extent as the establishing local unit.
- Clarify, in subsection a. of section 2, that money in charitable funds will be equivalent to tax revenues for the purposes of state aid formulae, local unit revenue calculations, local unit bonding capacity and similar State or municipal computation, and will be immediately available to the establishing local unit upon request to the fund administrator for the payment of budgeted and emergency mandatory expenses, to include debt service.

- In subsection d. of section 2, specify that annual credit-eligible donation cap for a given year will be based upon the tax levy from the prior year, and that the annual credit-eligible donation cap established prior to the start of the year may not exceed 85 percent of the prior year budget, unless otherwise authorized by the Director of the Division of Local Government Services.
- In subsection e. of section 2, clarify that a spillover fund will be administered by the fund administrator, that moneys in the spillover fund shall only be used for the budget year corresponding to the year in which the taxpayer will receive the credit, and that the ordinance or resolution establishing the spillover fund shall designate its approved uses.
- In subsection b. of section 3, clarify that if a donation is credited to more than one real property, the local property owner shall indicate the amount of the donation intended to be applied to each real property.
- In subsection c. of section 3, require the municipal tax collector to notify the donor of the amount of the available local property tax credit.
- Add a new subsection e. to section 3 to specify that only local charitable donations made to a charitable fund established by a local unit pursuant to section 2 of this bill are eligible to be credited on the property tax bill.
- Specify in subsection b. of section 4 that no credit shall issue to any owner of local real property who owes local property tax or other delinquent municipal charges at the time the donation to the charitable fund is made.
- In subsection c. of section 4, clarify the municipality's authority to adjust the timeline for when donations must be made in order for credits to be issued.
- In subsection d. of section 4, clarify the application of the ability to carry forward a donation to future tax years, if the donation is too large to entirely be applied in one year.
- Add a new section 6 to the bill to specify that no servicing organization or mortgagee, meaning the holder of the mortgage loan, shall be entitled to hold a local property owner liable for electing to meet his or her obligations to a local unit by means of a charitable donation and resulting property tax credit.
- Also clarify through the new section 6 that no mortgagee shall be entitled to hold a servicing organization liable for complying with the election by a local property owner to meet their local real property tax due to a local unit by means of a charitable donation and resulting property tax credit.
- Renumber section 6 as section 7, and adjust its provisions to provide the Director of the Division of Taxation, the Commissioner of the Department of Banking and Insurance, and the Commissioner of Education authority to adopt

appropriate regulations in order to effectuate the provisions of the bill.

- Within the new section 7, direct the appropriate agencies to provide guidance as to how servicing organizations shall implement the election of a local property owner to meet his or her obligation to a local unit and obtain resulting local property tax credits in accordance with applicable mortgage escrow law.
- Within the new section 7, direct the appropriate agencies to establish standards for implementing local property tax credits for qualified charitable contributions toward a school district-established charitable fund where the municipality defers a portion of the school tax levy.
- Add a new section 9, to amend section 1 of the “Governmental Unit Deposit Protection Act” (“GUDPA”) P.L.1970, c.236 (C.17:9-41), to clarify that a “charitable fund,” established by the bill, is a type of “governmental unit,” and moneys maintained by the charitable fund are “public funds” for the purposes of the GUDPA.
- Add a new section 10 to amend section 2 of the "Homestead Property Tax Credit Act," P.L.1990, c.61 (C.54:4-8.58), to clarify that amounts granted in property tax credits under the bill shall fall within the definition of property taxes for purposes of qualifying for the homestead property tax credit.
- Add a new section 7 to amend section 1 of P.L.1997, c.348 (C.54:4-8.67), to clarify that amounts granted in property tax credits under the bill shall fall within the definition of property taxes for purposes of qualifying for a homestead property tax reimbursement.
- Add a new section 12 and 13 to amend R.S.54:4-66 and section 2 of P.L.1994, c.72 (C.54:4-66.1), to clarify the application of the bill to the timeline for property tax collection in municipalities operating under the calendar fiscal year, and the State fiscal year.
- Add a new section 14 to amend R.S.54:4-67, to clarify that a property owner shall not be categorized as delinquent in property tax payments as a result of their election to meet their local real property tax due to a local unit by means of a charitable donation and resulting property tax credit.
- Add new sections 15 and 16 to amend sections 3 and 5 of the “Property Tax Deduction Act,” P.L.1996, c.60 (C.54A:3A-17 and C.54A:3A-19) to clarify that a person may obtain a deduction from gross income for State income tax purposes for the amount of a property tax credit under the bill.
- Renumber section 8 as section 17, and amend the section to allow time to promulgate regulations prior to the bill taking effect.
- Make technical edits in various sections of the bill.

FISCAL IMPACT:

This bill is permissive in nature, so unless a county, municipality, or school district (local unit) chooses to adopt an ordinance or resolution to implement the bill's provisions, no local government fiscal impact will result from the bill.

To the extent that a local unit establishes charitable funds and receives charitable donations as authorized by the bill, the local unit may realize an increase in revenue because of the bill's limitation on property tax credits to 90 percent of any charitable received, or whatever lower percentage is determined by the Director of the Division of Local Government Services. In any local unit which establishes a charitable fund the amount by which revenue might increase (i.e., charitable donations in excess of the sum of property tax credits, tax collector fees, and fund administration costs) will be a function of charitable funds donation limits set by the local unit, actual donations received by the local unit, the property tax liabilities of the donors, and costs that will be assessed against donations. The Office of Legislative Services has no information upon which to base a forecast of any of those factors.

A local unit that establishes one or more charitable funds under the bill will incur costs of fund administration in indeterminate amounts. The tax collector of any municipality that creates a charitable fund, or is taxing district for any county or school district that creates a charitable fund, will incur a marginal increase in costs of tax bill and tax payment processing, also in indeterminate amounts. Tax collectors may charge fees to charitable fund administrators, to be paid from fund contributions, and fund administrators may also charge costs to fund contributions. These fees and charges should be equal, or nearly so, to actual costs incurred.

The OLS has insufficient information from which to conclude whether the Division of Local Government Services will incur marginal costs to promulgate rules and regulations as required by the bill, or can instead discharge that duty without a marginal increase in its current expenditure level.