

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4001-01
Bill No.: HB 1554
Subject: Taxation and Revenue - Income; Tax Credits; Charities
Type: Original
Date: February 5, 2008

Bill Summary: This proposal authorizes an income tax credit for contributions to nonprofit special needs education support organizations.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
General Revenue	(\$66,162)	(\$78,800 - \$2,102,072)	(\$81,165 - \$2,116,927)
Total Estimated Net Effect on General Revenue Fund*	(\$66,162)	(\$78,800 to \$2,102,072)	(\$81,165 to \$2,116,927)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Total Estimated Net Effect on <u>Other</u> State Funds*	\$0	\$0	\$0

* The fiscal impact could be divided between the General Revenue Fund and the County Foreign Insurance Fund (which ultimately goes to local school districts) if some of the tax credits are utilized against insurance premium taxes.

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
General Revenue	1 FTE	1 - 2 FTEs	1 - 2 FTEs
Total Estimated Net Effect on FTE	1 FTE	1 - 2 FTEs	1 - 2 FTEs

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☒ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Local Government*	\$0	\$0	\$0

*** The fiscal impact could be divided between the General Revenue Fund and the County Foreign Insurance Fund (which ultimately goes to local school districts) if some of the tax credits are utilized against insurance premium taxes.**

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Elementary and Secondary Education (DESE)** state the proposal would allow a taxpayer to claim a tax credit equal to 50% of the amount contributed to a nonprofit special needs education support organization. The cumulative amount of tax credits claimed by all taxpayers under this program shall not exceed \$2 million in any one fiscal year.

The proposal requires the commissioner to determine, at least annually, which organizations in this state may be classified as nonprofit special needs education support organizations and requires the commissioner to establish a procedure by which a taxpayer can determine if an organization has been classified as a nonprofit special needs education support organization. In addition, the commissioner shall establish a procedure by which, from the beginning of the fiscal year until some point in time later in the fiscal year to be determined by the commissioner, the cumulative amount of tax credits are equally apportioned among all facilities classified as nonprofit special needs education support organizations.

DESE assumes they would require an FTE Director position (at \$57,504 annually plus fringe) to handle the additional duties required by this proposal. DESE assumes an annual cost for this FTE of roughly \$95,000 per year.

Officials from the **Office of the Secretary of State (SOS)** state that many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The Secretary of State's office recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, we also recognize that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what our office can sustain with our core budget. Therefore, we reserve the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** state it is unknown how many insurance companies will choose to participate in this program and take advantage of the tax credits. DIFP estimates that from \$0 - \$2 million per year could be lost in premium tax revenue as a result of tax credits. Premium tax revenue is split 50/50 between General Revenue and County Foreign Insurance Fund except for domestic Stock Property and Casualty Companies who pay premium tax to the County Stock Fund. The County Foreign Insurance Fund is later distributed to school districts through-out the

ASSUMPTION (continued)

state. County Stock Funds are later distributed to the school district and county treasurer of the county in which the principal office of the insurer is located. It is unknown how each of these funds may be impacted by tax credits each year.

DIFP will require minimal contract computer programming to add this new tax credit to the premium tax database and can do so under the existing appropriation. However, should multiple bills pass that would require additional updates to the premium tax database, the department may need to request more expense and equipment appropriation through the budget process.

Officials from the **Department of Revenue (DOR)** assume their Personal Tax section would require 1 Tax Processing Technician I for every 6,000 credits claimed. DOR assumes the need for one additional FTE, at a cost of roughly \$40,000 annually.

Due to the Statewide Information Technology Consolidation, DOR's response to the proposal will now also reflect the cost estimates prepared by OA-IT for impact to the various systems. As a result, the impact shown may not be the same as previous fiscal notes submitted. In addition, if the legislation is Truly Agreed To and Finally Passed the OA-IT costs shown will be requested through appropriations by OA-IT.

Office of Administration Information Technology (ITSD DOR) estimates the IT portion of this request can be accomplished within existing resources; however, if priorities shift, additional FTE/overtime would be needed to implement. The Office of Administration Information Technology (ITSD DOR) estimates that this legislation could be implemented by utilizing 2 existing CIT IIIs for 2 months for modifications to MINITS and 3 existing CIT IIIs for 1 month for modifications to the corporate income tax systems. The estimated cost is \$29,302.

Oversight assumes that tax returns utilizing the new credit would not be filed with the Department of Revenue until January, 2010; therefore, Oversight will estimate the cost of the additional FTE for DOR for only six months in FY 2010 and for a full year in FY 2011. Oversight is unsure if enough credits will be filed with tax returns to warrant the additional FTE for DOR, therefore, Oversight will range the cost of the DOR FTE from \$0 to the estimated cost.

Officials from the **Office of Administration - Budget and Planning** did not respond to our request for fiscal impact.

Neither the **Department of Elementary and Secondary Education** or the **Department of Mental Health** could estimate the number of nonprofit special needs education support organizations currently exist in the state.

ASSUMPTION (continued)

Oversight has, for fiscal note purposes only, changed the starting salary for the additional positions to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees for a six month period and the policy of the Oversight Subcommittee of the Joint Committee on Legislative Research. Oversight assumes the additional FTE would be required beginning in FY 2009.

Oversight compared the total tax credit issuances relative to the total tax credit redemptions for the previous three years in order to determine a relationship between the two. Oversight discovered that the annual redemptions ranged from 79 percent to 86 percent of the annual issuances. Depending on the program, the redeemed credits may have been issued several years prior and carried forward to the years studied; however, Oversight will utilize an estimated redemption total of 83 percent of tax credits issued. Assuming \$2 million in annual issuance from this program, Oversight would assume roughly \$1.66 million would be redeemed annually.

Oversight will range the fiscal impact of the new program and the expansion of the existing programs from \$0 (no additional tax credits will be issued) to the annual limit of \$2,000,000.

Oversight assumes there would be some positive economic benefit to the state as a result of the changes in this proposal; however, Oversight considers these benefits to be indirect and therefore have not reflected them in the fiscal note.

This proposal could reduce Total State Revenues.

<u>FISCAL IMPACT - State Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
GENERAL REVENUE			
<u>Costs - Department of Elementary and Secondary Education (DESE)</u>			
Personal Service (1 FTE)	(\$40,922)	(\$50,579)	(\$52,097)
Fringe Benefits	(\$18,096)	(\$22,366)	(\$23,037)
Expense and Equipment	<u>(\$7,144)</u>	<u>(\$5,855)</u>	<u>(\$6,031)</u>
<u>Total Costs - DESE</u>	(\$66,162)	(\$78,800)	(\$81,165)
FTE Change - DESE	1 FTE	1 FTE	1 FTE

<u>FISCAL IMPACT - State Government</u> (continued)	FY 2009 (10 Mo.)	FY 2010	FY 2011
<u>Costs - Department of Revenue (DOR)</u>			
Personal Service (0 - 1 FTE)	\$0	\$0 to (\$11,681)	\$0 to (\$24,062)
Fringe Benefits	\$0	\$0 to (\$5,165)	\$0 to (\$10,640)
Expense and Equipment	<u>\$0</u>	<u>\$0 to (\$6,426)</u>	<u>\$0 to (\$1,060)</u>
<u>Total Costs - DOR</u>	\$0	\$0 to (\$23,272)	\$0 to (\$35,762)
FTE Change - DOR	0 FTE	0 - 1 FTE	0 - 1 FTE
<u>Loss - Tax credit for contributions to nonprofit special needs education support organizations</u>	<u>\$0</u>	\$0 to <u>(\$2,000,000)</u>	\$0 to <u>(\$2,000,000)</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>(\$66,162)</u>	<u>(\$78,800 - \$2,102,072)</u>	<u>(\$81,165 - \$2,116,927)</u>
Estimated Net FTE Change for General Revenue Fund	1 FTE	1 - 2 FTEs	1 - 2 FTEs

Note: The fiscal note does not reflect the possibility that some of the tax credits could be utilized by insurance companies against insurance premium taxes. If this occurs, the loss in tax revenue would be split between the General Revenue Fund and the County Foreign Insurance Fund, which ultimately goes to local school districts.

<u>FISCAL IMPACT - Local Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

Beginning January 1, 2009, this bill authorizes an income tax credit equal to 50% of the amount of a contribution to a nonprofit special needs education support organization. The contribution must be at least \$100, and the maximum amount of the tax credit will be \$50,000 per taxpayer annually. The cumulative amount of tax credits cannot exceed \$2 million. The Director of the Department of Elementary and Secondary Education will determine which organizations may be classified as eligible organizations for this credit. The tax credit may be taken against individual and corporate income tax, corporate franchise tax, financial institution tax, and express company tax liability. The tax credit is not refundable, but can be carried forward and claimed for up to four taxable years.

The provisions of the bill will expire December 31, six years from the effective date.

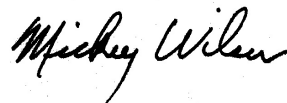
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Elementary and Secondary Education
Department of Revenue
Department of Insurance, Financial Institutions and Professional Registration
Office of the Secretary of State
Department of Mental Health

NOT RESPONDING:

Office of Administration - Budget and Planning



Mickey Wilson, CPA
Director
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