



Ohio Legislative Service Commission

Bill Analysis

Joseph D. Heller

Sub. H.B. 75

128th General Assembly

(As Reported by S. Ways and Means and Economic Development)

Reps. Chandler and Moran, Harwood, Harris, Fende, B. Williams, Dodd, Ujvagi, Evans, Okey, S. Williams, Newcomb, Gardner, Yates, Luckie, Yuko, Phillips, Patten, Stewart, Stebelton, Huffman, Hagan, Domenick, Skindell, Koziura, Brown, Gerberry, Lundy, Mallory, Sayre, Belcher, Daniels, J. Adams, Grossman, Hall, Hite, R. Adams, Bacon, Baker, Balderson, Beck, Blair, Blessing, Boose, Bulp, Carney, Celeste, Combs, DeBose, DeGeeter, Derickson, Dyer, Foley, Garland, Garrison, Hackett, Hottinger, Lehner, Letson, Maag, Mandel, Martin, Mecklenborg, Oelslager, Pillich, Pryor, Sears, Slesnick, Snitchler, Uecker, Winburn, Zehring

Sens. Schaffer, Schuring

BILL SUMMARY

- Creates an income tax refund "check-off" contribution for the benefit of the Ohio Historical Society.
- Creates an income tax refund check-off contribution for the American Red Cross to be used to prepare for and respond to disasters in Ohio.
- Authorizes the Tax Commissioner to refund commercial activity tax paid by a business that doesn't owe any tax (without a CAT liability) regardless of the business's registration status.
- Authorizes a taxpayer and the Tax Commissioner to agree to extend the four-year CAT assessment and refund statute of limitations.

CONTENT AND OPERATION

Income tax refund contribution for Ohio Historical Society and American Red Cross

(R.C. 149.308, 5502.23, and 5747.113)

The bill authorizes taxpayers who are due a refund of overpaid Ohio income tax to specify that all or a part of the refund be paid to the Ohio Historical Society or

American Red Cross Greater Columbus Chapter. Contributions are to be credited to the Ohio Historical Society Income Tax Contribution Fund or the American Red Cross Ohio Disaster Response Readiness and Preparedness Fund (hereinafter, "American Red Cross Fund"), funds that are created by the bill.

Currently, there are three income tax refund contributions or "check-offs": one for the benefit of the Natural Areas and Preserves Fund; one for the benefit of the Nongame and Endangered Wildlife Fund; and one for the benefit of the Military Injury Relief Fund. The Natural Areas and Preserves Fund and the Nongame and Endangered Wildlife Fund are administered by the Department of Natural Resources. The Military Injury Relief Fund is administered by the Department of Job and Family Services for the benefit of military personnel injured while serving under Operation Iraqi Freedom or Operating Enduring Freedom (Afghanistan).

As with the existing check-offs, the new check-offs would authorize taxpayers to direct that all or part of their refund be credited to the new funds. The designation is made on the annual income tax return. The designation may not be revoked once the designation is made and the return is filed.

Use of the Ohio Historical Society Fund

The Ohio Historical Society is a state-chartered, nonprofit corporation having the purpose of promoting knowledge of history and archeology, and of performing any other public functions. Money in the Ohio Historical Society Fund must be used to further those purposes and public functions as provided in R.C. 149.30 to 149.31 and other laws. Among the Society's prescribed functions are the following:

- Holding and maintaining state memorials and certain state-owned properties and making them available for the public, and holding and maintaining other sites;
- Administering state archives and preserving various historical documents;
- Administering the state historical museum;
- Publishing materials and conducting research about history, archeology, and natural sciences;
- Assisting local historical societies;
- Establishing criteria for the designation of historic and archeological sites.

Use of the American Red Cross Ohio Disaster Response Readiness and Preparedness Fund

(R.C. 5502.23)

The bill creates the fund in the state treasury, and specifies that the fund must consist of money transferred to it under the income tax contribution system and of contributions made directly to it. The bill provides that any person may contribute directly to the fund independently of the check-off procedure.

The bill requires the Executive Director of the state Emergency Management Agency (which is within the Department of Public Safety) to make at least one grant each year to the American Red Cross Greater Columbus Chapter using money appropriated from the fund, to be used by the Chapter for planning, for the implementation of programs to assist in disaster preparedness and response throughout Ohio, and for the costs of administering those programs. The Chapter must submit to the Executive Director its plan for the use of the grants within 60 days after the effective date of any law appropriating grant money from the fund.

If the American Red Cross Greater Columbus Chapter ceases to exist, the Executive Director must use money in the fund to make grants to the American Red Cross to be used for disaster preparedness, response, and planning throughout Ohio.

Report

The bill requires the Director of the Ohio Historical Society and the Executive Director of the state Emergency Management Agency each to submit a biennial report on the effectiveness of the respective check-offs to the General Assembly in January of every odd-numbered year. Each report must include information about how the money was spent and the amount of money contributed (including both the amount contributed through the refund check-off and the amount contributed directly). Each report must provide this information for each of the five preceding years.

Administrative expenses

The Department of Taxation is entitled to reimbursement for its costs of administering the check-offs. Reimbursement currently is paid from the three existing check-off funds in equal one-third shares. The total reimbursement may not exceed 2½% of the total amount contributed. Under the bill, the reimbursement would be divided in equal one-fifth shares among the two DNR funds, the Military Injury Relief Fund, the Ohio Historical Society Income Tax Contribution Fund, and the American Red Cross Fund. The reimbursement would continue to be limited to 2½% of contributions.

Application date

(Section 3)

Income tax refunds may be contributed to the Ohio Historical Society beginning with taxable years that begin in or after 2010.

Commercial activity tax (CAT)

Refunds

(R.C. 5751.08(E); Section 4)

The bill enables a business that paid the \$150 minimum CAT unnecessarily to receive a refund even if it failed to cancel its CAT registration on time. The bill authorizes refunds for such businesses for tax unnecessarily paid for 2007, 2008, and 2009. Under current law, if a business does not cancel its registration by May 10, the date the return is due, the Tax Commissioner is not authorized to issue a refund. Businesses with annual gross receipts of less than \$150,000 are not required to register for or pay commercial activity tax. Businesses with gross receipts between \$150,000 and \$1 million must pay the minimum tax of \$150.

Statute of limitations

(R.C. 5751.08(A) and 5751.09(F))

There is currently a four-year statute of limitations within which the Tax Commissioner must issue assessments or refunds for the CAT. (The limit does not apply if no return is filed or if a return is fraudulent.)

The bill expressly authorizes a taxpayer and the Tax Commissioner to agree to extend the four-year limitation period. Such agreements currently are authorized under other taxes such as the personal income, sales and use, and corporation franchise taxes.

HISTORY

ACTION	DATE
Introduced	03-17-09
Reported, H. State Government	11-24-09
Passed House (95-1)	12-17-09
Reported, S. Ways & Means & Economic Development	05-13-10

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