Department of Finance and Administration

Legislative Impact Statement

Bill: HB1299
Bill Subtitle: TO CREATE A TAX CREDIT FOR CONTRIBUTIONS TO A PREGNANCY RESOURCE CENTER.

Basic Change :

Sponsors: Reps. Cooper, Bentley, S. Berry, John Carr, Crawford, Duffield, Evans, Haak, Lundstrum, Mayberry, McCollum, Pilkington, Ray, Rose, Rye, and Wooten; Sen. Dotson

Pregnancy Resource Centers:

HB1299 creates a nonrefundable tax credit for donations to a pregnancy resource center (PRC). A "pregnancy resource center" is defined as a nonresidential facility located in this state that:

- Is established and operated primarily to provide assistance to women with crisis pregnancies or unplanned pregnancies by offering pregnancy testing and emotional and material support to encourage and assist women in carrying their pregnancies to term;
- Is not a facility where childbirths are performed;
- Does not perform, induce, or provide referrals for abortions and does not hold itself out as performing, inducing, or providing referrals for abortions;
- Provides direct client services at the facility, as opposed to providing counseling or referral services by telephone;
- Provides services at no cost to its clients; and
- Is exempt from federal income tax.

A PRC is responsible for collecting information regarding a taxpayer's identity and amount of contribution. A PRC is then responsible for remitting that information to the Secretary of the Department of Finance and Administration (DFA).

Tax Credit for Donation to Pregnancy Resource Center:

A donation to a PRC may take the form of cash, stock, bonds, marketable securities, or real property.

The tax credit:

- Is available for contributions greater than $50 up to a maximum credit of $50,000 per year;
- Is limited to 50% of the taxpayer's total contributions to a PRC in a tax year;
- Is available to offset income tax, insurance premium tax, or franchise tax;
- Is nonrefundable; and
- May be carried forward for four years following the year in which the credit was earned.

Duties of Department of Human Services:

DHS is responsible for:

- Certifying that a facility qualifies as an eligible PRC for the tax credit;
- Providing a method of communicating that a facility qualifies as an eligible PRC; and
- Revocation of a facility’s classification if the facility submits a false certification or otherwise ceases to qualify as a PRC.

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Duties of Department of Finance and Administration:

DFA is responsible for

- Awarding the tax credits so that taxpayers may offset up to 100% of their tax liability in a given year;
- Limiting the tax credits to $2.5M per year; and
- Establishing a procedure to ensure that the credits equally apportion the tax credits among the PRCs in the state and reallocating unused credits.

HB1299 is effective for tax years beginning on or after January 1, 2023.

Revenue Impact :

FY2024 - $2.5 million General Revenue Reduction

Taxpayer Impact :

A taxpayer is eligible for an income tax credit for a donation to a pregnancy resource center to reduce their liability for income tax, insurance premium tax, or franchise tax. A taxpayer must document their eligible contributions and maintain records of contributions for six years.

Resources Required :

Computer programs, tax forms, and instructions would require update. Arkansas Integrated Revenue System (AIRS) programming would be required for a new income tax credit and is estimated to cost $16,000.

The Tax Credits/Special Refunds Section of DFA would require additional staff to review certifications and to determine limitation amounts. Anticipated personnel cost totaling $65,000 per year for one Tax Auditor to review documentation, track credit limits, and apportion credits to classified pregnancy resource centers.

Time Required :

Adequate time is provided for implementation.

Procedural Changes :

DFA and DHS staff will require retraining to implement the credit and maintain record-keeping obligations. DHS must develop a procedure that allows taxpayers to determine which facilities are eligible to accept contributions. DFA must establish a quarterly procedure for allocating the cumulative amount of tax credits available in equal portions among all qualified facilities.

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Other Comments :

None.

Legal Analysis :

HB1299 presents administrative concerns for DFA that may be clarified by possible amendment to the bill as follows:

- HB1299 is silent on whether an eligible donation to a PRC would also qualify for a charitable deduction for income tax purposes or if the credits under HB1299 would replace the charitable deduction.
- HB1299 does not provide guidance on the proper method for establishing the value of non-cash donations made to PRCs.
- HB1299 requires DFA to allocate the tax credits "equally" between the PRCs but does not provide guidance on whether "equally" is defined to mean strictly divided among the number of centers, divided among the centers by number of clients served or population served, or some other methodology.
- HB1299 is unclear on whether the amount of tax credit that may be redeemed in a year is equal to the amount of tax credit that may be issued in a year.
- HB1299 is effective for tax years beginning on January 1, 2023. HB1299 is silent on how contributions made prior to the effective date of the act would be counted towards the apportionment requirements.
- Credits are issued in the order of the receipt of contribution as opposed to being issued on a first come, first served basis.
- The credits authorized by HB1299 may be applied to a variety of taxes including taxes that are overseen by the Secretary of State and the Department of Commerce. HB1299 does not provide guidance on how tax credits would be claimed against franchise tax or insurance premium tax.