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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
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Legislative Budget
Office

S.B. 257
134th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Sen. Hoagland

Mackenzie Damon, Attorney

SUMMARY

- Authorizes a refundable income tax credit of up to \$5,000 per year for donations of cash, property, or services to townships.

DETAILED ANALYSIS

Income tax credit for township donations

The bill authorizes a refundable income tax credit for donations of cash, real property, goods, or services to a township for taxable years beginning in or after 2021. In order for a donation to qualify for the credit, a majority of the board of township trustees must first approve the donation. A board may establish its own approval process and criteria, but must require that the donor present a plan for the donation.

The amount of the credit equals the value of approved donations made by a taxpayer during the taxable year, up to \$5,000 per year. The value of a donation other than cash is the fair market value of the real property, goods, or services. For each year in which a taxpayer makes a donation, the township must provide the taxpayer with a receipt that includes a list of the donations, the value of each donation, and the date on which the donation is made. The Tax Commissioner may obtain these receipts upon request.

The credit is refundable, meaning that, if the credit exceeds the taxpayer's liability, the excess credit will be refunded to the taxpayer.¹

Township liability

The bill specifies that townships are not liable for the actions of volunteers who are donating services for purposes of claiming the credit allowed by the bill. Generally, townships

¹ R.C. 5747.77 and 5747.98; Section 3.

are not civilly liability “for injury, death, or loss to person or property allegedly caused by any act or omission of the political subdivision or an employee of the political subdivision in connection with a governmental or proprietary function.”² But, a township may be liable for certain actions of its employees (e.g., an employee negligently operates a vehicle).³ Courts have also found that a township can be liable for the actions of a volunteer, because the definition of a township employee includes persons “whether or not compensated,”⁴ so long as the person is authorized to act for the township and is acting within the scope of their employment.⁵

The bill specifically excludes volunteers who are donating services for purposes of claiming a tax credit from the definition of a township “employee.” Consequently, such volunteers will not be considered to be performing government or proprietary functions for which the township could be held liable.⁶

HISTORY

Action	Date
Introduced	10-27-21

ANSB0257IN-134/ts

² R.C. 2744.02(A)(1), not in the bill.

³ R.C. 2744.02(B), not in the bill.

⁴ R.C. 2744.01(B).

⁵ *Reyes v. Lochotzki*, 2006 Ohio App. LEXIS 1261 (6th Dist., 2006) (“For the purpose of Ohio’s sovereign immunity statute, an “employee” includes a volunteer fireman . . .,” at paragraph 9).

⁶ R.C. 2744.01(B).