SB22

JJC9YYN-1

By Senator Allen

RFD: Finance and Taxation Education

First Read: 06-Feb-24

PFD: 01-Feb-24

SYNOPSIS:

This bill would provide a state income tax credit to individuals and businesses that make voluntary cash contributions to an eligible pregnancy center or residential maternity facility.

A BILL

TO BE ENTITLED

AN ACT

Relating to income tax; to enact the Pregnancy Resource Act; Relating to income tax; to provide a state income tax credit to individuals and businesses that make contributions to eligible charitable organizations that operate as a pregnancy center or residential maternity facility; and to specify the obligations of the Department of Revenue in implementing the act.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. (a) This section shall be known and may be cited as the "Pregnancy Resource Act."

(b) For the purposes of this section, the following words and phrases have the meanings ascribed in this section unless the context clearly indicates otherwise:

(1) "Department" means the Department of Revenue.

(2) "Eligible charitable organization" means an organization that is all of the following:

a. Exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code;

b. An Alabama nonprofit formed under Title 10A, Chapter 3, Code of Alabama 1975; and

c. A pregnancy center or residential maternity facility that:

1. Regularly answers a dedicated phone number for clients; and

2. Maintains in this state its primary physical office, clinic, or residential home, which is open for clients for a minimum of 20 hours a week, excluding state holidays; and

3. Offers services, at no cost to the client, for the express purpose of providing assistance to women in order to carry their pregnancy to term, encourage parenting or adoption, prevent abortion, and promote healthy childbirth; and

4. Utilizes trained and licensed medical professionals to perform any available medical procedures.

(c)(1) The tax credit authorized in this section shall be available to:

a. A taxpayer who is an individual taxpayer, except that a husband and wife who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the tax credit that would have been allowed for a joint return.

b. A taxpayer who is a business enterprise engaged in

commercial, industrial, or professional activities and operating as a corporation, limited liability company, partnership, or sole proprietorship.

(2) Except as otherwise provided in this section, a credit is allowed against the state income tax imposed by Section 40-18-2, Code of Alabama 1975, for voluntary cash contributions made by a taxpayer during the taxable year to an eligible charitable organization. The amount of credit that may be claimed by a taxpayer in a taxable year shall not exceed 50 percent of the total state income tax liability of the taxpayer. Any tax credit claimed under this section, but not used in any taxable year, may be carried forward for five consecutive years from the close of the tax year in which the credits were earned.

(3) A contribution for which a credit is claimed under this section may not be used as a deduction by the taxpayer for state income tax purposes.

(4) No tax credit provided by this section may be transferred to another taxpayer.

(d) Taxpayers taking a credit authorized by this section shall provide the name of the eligible charitable organization and the amount of the contribution to the department on forms provided by the department.

(e)(1) An eligible charitable organization shall provide the department with a written certification that it meets all criteria to be considered an eligible charitable organization. The organization shall also notify the department within 60 days of any changes that may affect

eligibility under this section.

(2) The eligible charitable organization's written certification must be signed by an officer of the organization under penalty of perjury. The written certification shall include all of the following:

a. Verification of the organization's status under Section 501(c)(3) of the Internal Revenue Code;

b. A statement that the organization does not provide, pay for, refer for, promote, or provide coverage of drug induced or surgical abortions and does not financially or otherwise support, partner with, or affiliate with any other entity that provides, pays for, refers for, promotes, or provides coverage of abortions, including nonsurgical abortions and abortifacients; and

c. A statement that the organization maintains its principal office or presence in this state and that at least 50 percent of its clients claim to be residents of this state.

(f) The department shall review each written certification and determine whether the organization meets all the criteria to be considered an eligible charitable organization and notify the organization of its determination. The department may also periodically request recertification from the organization. The department shall compile and make available to the public a list of eligible charitable organizations.

(g) Tax credits authorized by this section that are earned by a partnership, limited liability company, S corporation, or other similar pass-through entity, shall be

allocated among all partners, members, or shareholders, respectively, either in proportion to their ownership interest in such entity or as the partners, members, or shareholders mutually agree as provided in an executed document.

(h) A taxpayer shall apply for credits with the department on forms prescribed by the department. In the application the taxpayer shall certify to the department the dollar amount of the contributions made or to be made during the calendar year. Within 30 days after the receipt of an application, the department shall allocate credits based on the dollar amount of contributions as certified in the application. However, if the department cannot allocate the full amount of credits certified in the application due to the limit on the aggregate amount of credits that may be awarded under this section in a calendar year, the department shall so notify the applicant within 30 days with the amount of credits, if any, that may be allocated to the applicant in the calendar year. Once the department has allocated credits to a taxpayer, if the contribution for which a credit is allocated has not been made as of the date of the allocation, then the contribution must be made not later than 90 days from the date of the allocation. If the contribution is not made within such time period, the allocation shall be cancelled and returned to the department for reallocation. Upon final documentation of the contributions, if the actual dollar amount of the contributions is lower than the amount estimated, the department shall adjust the tax credit allowed under this section.

(i) The aggregate amount of tax credits that may be allocated by the department under this section during a calendar year shall not exceed ten million dollars ($10,000,000). No more than 50 percent of the total amount of credits provided for by this section may be allocated for contributions to a single eligible charitable organization during a calendar year.

(j) The department may enact rules as necessary to implement and administer the provisions of this section.

(k) The tax credits allowed under this section shall be effective January 1, 2025, for the 2025 taxable year and shall continue through the 2029 tax year, unless extended by act of the Legislature.

Section 2. This act shall become effective on October 1, 2024.