

2019 Regular Session

HOUSE BILL NO. 595

BY REPRESENTATIVE WRIGHT

TAX CREDITS: Establishes an income tax credit for contributions to certain foster care charitable organizations

1 AN ACT

2 To enact R.S. 47:6040, relative to income tax credits; to establish an income tax credit for
3 donations to certain foster care organizations; to provide for definitions; to provide
4 for the amount of the credit; to provide for the application for and granting of tax
5 credits; to provide for certain requirements; to authorize the promulgation of rules
6 and regulations; to provide for applicability; to provide for an effective date; and to
7 provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:6040 is hereby enacted to read as follows:

10 §6040. Credits; qualifying foster care charitable organizations

11 A.(1) There shall be allowed a nonrefundable income tax credit for donations
12 a taxpayer makes during a taxable year to qualifying foster care charitable
13 organizations, hereinafter "foster care organizations". In order to qualify for the
14 credit, the donation shall be made by a taxpayer who is required to file a Louisiana
15 income tax return. The amount of the credit shall be equal to the amount of the
16 donation used by the foster care organization to provide services to a qualified
17 individual, or one hundred thousand dollars, whichever is less. The total amount of
18 credits granted by the department pursuant to the provisions of this Section shall not
19 exceed one million dollars per calendar year. The granting of credits shall be on a
20 first-come, first-served basis. If the total amount of credits claimed in any particular

1 calendar year exceeds the amount of tax credits authorized for that year, the excess
2 shall be treated as having been applied for on the first day of the subsequent year. All
3 requests received on the same business day shall be treated as received at the same
4 time, and if the aggregate amount of the requests received on a single business day
5 exceeds the total amount of available tax credits, tax credits shall be approved on a
6 pro rata basis. The credit may be used in addition to any federal tax credit or
7 deduction earned for the same donation. However, a taxpayer shall not receive any
8 other state tax credit, exemption, exclusion, deduction, or any other tax benefit for
9 a donation in which the taxpayer has received a tax credit under this Section.

10 (2) In the event that the tax credit earned pursuant to this Section exceeds the
11 total tax liability of the taxpayer in the taxable year, the amount of the credit not used
12 as an offset against a taxpayer's tax liability in the taxable year may be carried
13 forward as a credit against subsequent income tax liabilities for a period not to
14 exceed five taxable years.

15 B. For purposes of this Section, the following words shall have the following
16 meanings unless the context clearly indicates otherwise:

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

18 (2) "Qualified individual" means a child in a foster care placement program
19 established by the Department of Children and Family Services.

20 (3) "Qualifying foster care charitable organization" or "foster care
21 organization" means a qualifying charitable organization that is exempt from federal
22 income tax under Section 501(c)(3) of the Internal Revenue Code that each operating
23 year provides services to at least twenty-five qualified individuals in this state and
24 spends at least seventy-five percent of its budget on services to qualified individuals
25 in this state. A foster care organization that does not spend at least seventy-five
26 percent of its overall budget in Louisiana may be a qualifying foster care charitable
27 organization for purposes of this Section if the organization spends at least seventy-
28 five percent of its state budget on services to qualified individuals in Louisiana and
29 the organization certifies to the department that one hundred percent of the donation

1 from Louisiana taxpayers will be spent on services for Louisiana residents. To
2 qualify, an organization shall apply to the department and provide the following:

3 (a) A statement, signed by an officer of the organization under penalty of
4 perjury, that the organization meets all criteria to qualify pursuant to this Paragraph.

5 (b) A copy of the exemption letter from the Internal Revenue Service
6 verifying the organization qualifies under Section 501(c)(3) of the Internal Revenue
7 Code.

8 (c) An operating budget for the organization's prior operating year and the
9 amount of the budget spent on services to qualified individuals of this state.

10 (d) A copy of prior years' federal income tax returns.

11 (e) A copy of prior years' financial statements and detailed schedule of
12 expenses.

13 (f) A copy of a detailed schedule of how services to qualified individuals of
14 this state were calculated.

15 (g) A statement that the foster care organization plans to continue spending
16 at least seventy-five percent of its budget on services to residents in this state who
17 are qualified individuals. A foster care organization that does not spend at least
18 seventy-five percent of its overall budget in Louisiana shall submit a statement that
19 it spends at least seventy-five percent of its state budget on services to qualified
20 individuals in this state and that one hundred percent of the donations it receives
21 from Louisiana taxpayers will be spent on services for Louisiana residents.

22 (h) Any other information that the department requires in order to administer
23 this Section.

24 (4) "Services" means cash assistance, medical care, child care, food,
25 clothing, shelter, job placement, and job-training services or any other assistance
26 reasonably necessary to meet immediate basic needs that are provided for a qualified
27 individual and used in this state.

28 C.(1) The tax credit shall be earned when the donation is made by the
29 taxpayer to the foster care organization. The foster care organization shall issue a

1 receipt to a taxpayer indicating the actual amount of the taxpayer's donation that is
2 used by the organization to provide services to a qualified individual.

3 (2) No later than the thirty-first day of January following the year in which
4 the donation is received by a qualifying foster care charitable organization, the foster
5 care organization shall annually certify to the department that the foster care
6 organization meets all of the requirements of this Section and shall annually submit
7 a report prepared by an independent certified public accountant who is not related
8 to either the donor or donee which contains the following:

9 (a) A list of all taxpayers who made donations to the qualifying foster care
10 charitable organization during the calendar year.

11 (b) The name, social security number, and address of each taxpayer donor,
12 as well as the Louisiana and federal taxpayer identification numbers of each taxpayer
13 donor.

14 (c) The amount of each donation.

15 (d) The qualifying amount of each donation utilized during the calendar year
16 and the service provided during the calendar year.

17 (e) Any other information or documentation required by the department.

18 D.(1) The department shall provide a standardized format for a receipt to be
19 issued by the foster care organization to the taxpayer. The department shall require
20 a taxpayer to provide a copy of the receipt when claiming the credit authorized by
21 this Section.

22 (2) The secretary of the department may promulgate rules and regulations
23 in accordance with the provisions of the Administrative Procedure Act to implement
24 the provisions of this Section.

25 Section 2. The provisions of this Act shall be applicable for donations made by
26 taxpayers to qualifying foster care charitable organizations on and after January 1, 2020.

27 Section 3. This Act shall become effective upon signature by the governor or, if not
28 signed by the governor, upon expiration of the time for bills to become law without signature
29 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

- 1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
2 effective on the day following such approval.
-

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 595 Re-Reengrossed

2019 Regular Session

Wright

Abstract: Authorizes a nonrefundable income tax credit for donations a taxpayer makes to a foster care organization equal to the actual amount of the donation used by the organization to provide services to a qualified individual, or \$100,000, whichever is less.

Proposed law authorizes a nonrefundable income tax credit for donations a taxpayer makes during a taxable year to qualifying foster care charitable organizations, hereinafter "foster care organizations". In order to qualify for the credit, the donation shall be made by a taxpayer who is required to file a La. income tax return.

Proposed law provides that the amount of the credit shall be equal to the amount of the donation used by the foster care organization to provide services to a qualified individual, or \$100,000, whichever is less. The total amount of credits granted pursuant to proposed law shall not exceed \$1,000,000 per calendar year.

Proposed law requires the credits to be granted on a first-come, first-served basis. If the total amount of credits claimed in a calendar year exceeds the amount of tax credits authorized for that year, the excess shall be treated as having been claimed on the first day of the subsequent year. All requests received on the same business day shall be treated as received at the same time, and if the aggregate amount of the requests received on a single business day exceeds the total amount of available tax credits, tax credits shall be approved on a pro rata basis.

Proposed law authorizes a taxpayer to carry forward the amount of the tax credit not used as an offset against the taxpayer's tax liability as a credit against subsequent income tax liabilities for a period not to exceed five taxable years.

Proposed law defines a "qualified individual" as a child in a foster care placement program established by the Dept. of Children and Family Services.

Proposed law defines a "foster care organization" as a charitable organization exempt from federal income tax under federal law that each operating year provides services to at least 25 qualified individuals in this state and spends at least 75% of its budget on services to qualified individuals in this state. Further provides that a foster care organization that does not spend at least 75% of its overall budget in La. is to be considered a foster care organization for purposes of proposed law if the organization spends at least 75% of its state budget on services to qualified individuals in La. and the organization certifies to the Dept. of Revenue (DOR) that 100% of the donations from La. taxpayers will be spent on services for La. residents.

Proposed law requires a foster care organization to annually certify to the DOR that the organization meets specific criteria in order to maintain its status as a foster care organization for purposes of the tax credit in proposed law.

Proposed law defines "services" as cash assistance, medical care, child care, food, clothing, shelter, job placement, and job-training services or any other assistance reasonably necessary to meet immediate basic needs that are provided for a qualified individual and used in La.

Proposed law requires the foster care organization to issue a receipt to a taxpayer indicating the actual amount of the taxpayer's donation that is used by the organization to provide services to a qualified individual and to annually certify, no later than Jan. 31, following the year in which the donation is received, to DOR that the foster care organization meets all of the requirements of proposed law.

Proposed law requires DOR to provide a standardized format for a receipt to be issued by the foster care organization to the taxpayer. Further requires DOR to require a taxpayer to provide a copy of the receipt when claiming the credit.

Proposed law requires a foster care organization to submit a report to DOR that is prepared by an independent CPA regarding the donor and the donation. Proposed law specifies the information which shall be included in the report.

Proposed law authorizes DOR to promulgate rules and regulations in accordance with the APA to implement the provisions of proposed law.

Effective Jan. 1, 2020 and applicable to donations made by a taxpayer to a qualifying foster care charitable organization on and after Jan. 1, 2020.

(Adds R.S. 47:6040)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Add provisions relative to the payment of tax credits on a first-come first-served basis.
2. Add requirement that the foster care charitable organization annually certify that it is in compliance with the provisions of proposed law no later than Jan. 31st following the year in which the donation was received by the organization.
3. Authorize, rather than require, DOR to promulgate rules and regulations to implement the provisions of proposed law.

The Committee Amendments Proposed by House Committee on Appropriations to the engrossed bill:

1. Specify the information that the foster care charitable organization must provide in order to qualify for the tax credit.
2. Require submission of a report prepared by an independent CPA to DOR that includes specific information regarding the donor and the donation.
3. Delete a child at significant risk of entering a foster care placement program from the definition of a "qualified individual".

The House Floor Amendments to the reengrossed bill:

1. Reduce the number of qualified individuals that a foster care organization must provide services to in order to be considered a qualifying foster care charitable organization for purposes of proposed law from 100 to 25.

2. Increase the amount a foster care organization must spend providing services to qualified individuals in order to be considered a qualifying foster care charitable organization for purposes of proposed law ~~from~~ 50% of its budget ~~to~~ 75% of its budget.
3. Make technical amendments.