LLS NO. 20-1022.01 Esther van Mourik x4215

HOUSE BILL 20-1335

HOUSE SPONSORSHIP
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House Committees
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Appropriations

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A BILL FOR AN ACT

CONCERNING THE CREATION OF THE COLORADO HOMELESS PROJECT

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov.)

The bill repeals an existing income tax credit available to taxpayers who make contributions to enterprise zone administrators to promote temporary, emergency, or transitional housing programs for the homeless and replaces that income tax credit with one that is available in the entire state that is modeled after the enterprise zone credit that is being repealed. Instead of having the enterprise zone administrators and
the office of economic development manage the credit, the bill places that responsibility on the division of housing in the department of local affairs. The amount of the income tax credit remains the same for each contribution, except the new credit is capped at $750,000 in contributions to each project that the division approves and the new credit's availability is limited to 5 years.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, add 39-22-543 as follows:

39-22-543. Colorado homeless project contribution tax credit - legislative declaration - definitions - repeal. (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT THE PURPOSE OF THIS TAX EXPENDITURE IS TO LEVERAGE FINANCIAL CONTRIBUTIONS FROM COLORADO RESIDENTS AND BUSINESSES TO SUPPORT COMMUNITY-BASED NONPROFIT ORGANIZATIONS AND GOVERNMENTAL ENTITIES THAT PROVIDE APPROPRIATE HOUSING AND SERVICES TO ASSIST INDIVIDUALS OR FAMILIES EXPERIENCING HOMELESSNESS. THE TAX EXPENDITURE WILL CATALYZE AND STRENGTHEN STATEWIDE EFFORTS TO ADDRESS THE EFFECTS OF HOMELESSNESS THROUGH PRIVATE INVESTMENT AND CIVIC ENGAGEMENT IN COLORADO-BASED HOMELESS SERVICE PROVIDERS.

(2) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "APPROVED PROJECT" MEANS A PROJECT THAT HAS BEEN MONITORED, EVALUATED, REVIEWED, AND APPROVED BY THE DIVISION AS SPECIFIED IN SUBSECTION (5) OF THIS SECTION.

(b) "CAPITAL CAMPAIGN" MEANS A CAMPAIGN THAT ENCOURAGES PUBLIC AND PRIVATE PARTNERSHIPS AND IS FOCUSED ON RAISING FUNDS FOR A SPECIFIC CAPITAL PROJECT. THE CAPITAL PROJECT MUST INVOLVE
CONSTRUCTION AND IMPLEMENTATION THAT COMMENCES WITHIN THREE YEARS OF PROJECT CERTIFICATION AND MUST BE USED TO PROVIDE SERVICES OR HOUSING TO INDIVIDUALS OR FAMILIES EXPERIENCING HOMELESSNESS. "CAPITAL CAMPAIGN" INCLUDES SUPPORTIVE HOUSING FOR THE HOMELESS, COMMUNITY EMERGENCY OR DAY SHELTERS; FOR FACILITIES USED TO PROVIDE SERVICES TO INDIVIDUALS OR FAMILIES EXPERIENCING HOMELESSNESS INCLUDING FACILITIES THAT ARE NECESSARY TO PERFORM OPERATIONAL CAMPAIGNS; AND FOR FACILITIES NEEDED TO PROVIDE ADMINISTRATIVE SUPPORT FOR CERTIFIED PROJECTS.

(c) "COMMUNITY SUPPORT" MEANS APPROVAL BY THE NONPROFIT ORGANIZATION'S BOARD OF DIRECTORS, APPROVAL BY THE GOVERNMENTAL ENTITY, OR, IF APPROPRIATE, APPROVAL BY A PUBLIC OFFICIAL REPRESENTING THE GOVERNMENTAL ENTITY.

(d) "DIVISION OF HOUSING" OR "DIVISION" MEANS THE DIVISION OF HOUSING IN THE DEPARTMENT OF LOCAL AFFAIRS CREATED IN SECTION 24-32-704.

(e) "GOVERNMENTAL ENTITY" MEANS THE STATE OR ANY CITY, COUNTY, CITY AND COUNTY, MUNICIPALITY, TOWN, SPECIAL DISTRICT, OR OTHER UNIT OF LOCAL GOVERNMENT.


(g) "OPERATIONAL CAMPAIGN" MEANS A CAMPAIGN THAT
SUPPORTS:

(I) **Outreach Efforts to Engage or Provide Services to Unsheltered Individuals or Families Experiencing Homelessness;**

(II) **Safe Emergency, Temporary, or Transitional Shelters,** such as day shelters, that may include supportive services to individuals or families experiencing homelessness in order to facilitate transition to independent housing and employment;

(III) **Prevention Services that target individuals or families facing imminent risk of homelessness;**

(IV) **Supportive Housing for Individuals or Families Experiencing Homelessness or who would otherwise be homeless;**

(V) **Services designed to assist individuals or families experiencing homelessness to obtain an employment outcome,** including job placement services, services that help individuals become workforce ready, and services that lower an individual's barriers to employment;

(VI) **Case Management,** including establishing client goals for individuals or families experiencing homelessness and coordination of referrals to address health or mental health benefit procurement and procurement of other essential services for individuals or families experiencing homelessness;

(VII) **Shelters serving victims of domestic violence who are experiencing homelessness; and**

(VIII) **The implementation and operation of successor projects or other services for individuals or families experiencing homelessness that are identified by the division as emerging, promising, and providing best practices.**
(h) "PROJECT" MEANS A PROJECT ADMINISTERED BY A NONPROFIT ORGANIZATION OR A GOVERNMENTAL ENTITY WITH COMMUNITY SUPPORT THAT IMPLEMENTS ONE OR MORE OF THE QUALIFYING SERVICES. EITHER THE ENTIRE NONPROFIT ORGANIZATION OR A SPECIFIC PROJECT OF THE NONPROFIT ORGANIZATION OR GOVERNMENTAL ENTITY MAY QUALIFY AS A PROJECT.

(i) "QUALIFYING SERVICES" MEANS A CAPITAL CAMPAIGN OR AN OPERATIONAL CAMPAIGN BUT DOES NOT INCLUDE SOCIAL SERVICES THAT GENERALLY STRENGTHENS A COMMUNITY OR GENERALLY PROMOTES OPPORTUNITY FOR INDIVIDUALS OR FAMILIES EXPERIENCING HOMELESSNESS.

(j) "TAXPAYER" MEANS A RESIDENT INDIVIDUAL OR A DOMESTIC OR FOREIGN CORPORATION SUBJECT TO PART 3 OF THIS ARTICLE 22, A PARTNERSHIP, S CORPORATION, OR OTHER SIMILAR PASS-THROUGH ENTITY, ESTATE, OR TRUST THAT MAKES A CONTRIBUTION AS AN ENTITY, AND A PARTNER, MEMBER, AND SUBCHAPTER S SHAREHOLDER OF SUCH PASS-THROUGH ENTITY.

(3) (a) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2021, BUT BEFORE JANUARY 1, 2026, ANY TAXPAYER WHO MAKES A MONETARY OR IN-KIND CONTRIBUTION TO AN APPROVED PROJECT IS ALLOWED A CREDIT EQUAL TO TWENTY-FIVE PERCENT OF THE TOTAL VALUE OF THE CONTRIBUTION, SUBJECT TO THE LIMITATIONS SPECIFIED IN SUBSECTION (3)(b) OF THIS SECTION. THE NONPROFIT ORGANIZATION OR GOVERNMENTAL ENTITY ADMINISTERING THE APPROVED PROJECT THAT RECEIVES THE ALLOWABLE CONTRIBUTION SHALL ISSUE A TAX CREDIT CERTIFICATE TO EACH TAXPAYER THAT MAKES AN ALLOWABLE CONTRIBUTION. THE TAX CREDIT CERTIFICATE MUST STATE THE AMOUNT
OF THE ALLOWABLE CONTRIBUTION, THE TYPE OF THE CONTRIBUTION, AND
THE AMOUNT OF THE TAX CREDIT THAT IS AUTHORIZED FOR THAT
TAXPAYER; EXCEPT THAT THE NONPROFIT ORGANIZATION OR
GOVERNMENTAL ENTITY SHALL NOT ISSUE TAX CREDIT CERTIFICATES THAT
TOTAL MORE THAN SEVEN HUNDRED FIFTY THOUSAND DOLLARS PER
APPROVED PROJECT PER INCOME TAX YEAR. TAX CREDIT CERTIFICATES
SHALL BE ISSUED IN THE ORDER OF RECEIVED ALLOWABLE
CONTRIBUTIONS.

(b) (I) The credit allowed in subsection (3)(a) of this
section shall not exceed one hundred thousand dollars per
taxpayer. A credit is not allowed for an in-kind contribution
with a total value of less than five thousand dollars and a
credit is not allowed for a monetary contribution equaling less
than one hundred dollars.

(II) In no event is a credit allowed pursuant to this
section for contributions that directly benefit the taxpayer. If
a taxpayer receives a benefit for the contribution, the value of
the contribution is reduced by the value of the benefit received
by the taxpayer to arrive at the contribution that may be
certified for the income tax credit allowed in this section.

(III) If the amount of the allowed credit exceeds the
amount of income taxes otherwise due on the income of the
taxpayer in the income tax year for which the credit is being
claimed, the amount of the credit not used as an offset against
income taxes in said income tax year may be carried forward as
a credit against subsequent years' income tax liability for a
period not exceeding five years and must be applied first to the
EARLIEST INCOME TAX YEARS POSSIBLE. ANY CREDIT REMAINING AFTER
THE PERIOD MAY NOT BE REFUNDED OR CREDITED TO THE TAXPAYER.

(4) (a) On or before November 1, 2020, and November 1 of
each year thereafter, the Division of Housing shall develop and
post on the Division's website a list, including a description, of
all approved projects to which taxpayers may contribute during
the next calendar year for the purpose of receiving a tax credit
pursuant to this section. Any modifications to the list, including
proposed projects that are later approved, must be posted on the
Division's website no later than thirty days after the
modification is made. The Division shall review a proposed
project for eligibility and approval as described in subsection (5)
of this section.

(b) (I) If the work of the nonprofit organization as a
whole is an approved project, then contributions may be used for
general operations.

(II) If a specific activity within a nonprofit organization
or a governmental entity is an approved project, then only
contributions made to the specific activity outlined in the
project approval application will receive a tax credit
certificate. The Division shall decide what percent of the
nonprofit organization's or governmental entity's work is
related to the proposed project. This percentage can be used to
justify what portion of the nonprofit organization's or
governmental entity's revenue or donations are eligible to
receive contributions.

(5) (a) A nonprofit organization or governmental entity
SHALL APPLY TO THE DIVISION FOR APPROVAL OF A PROPOSED PROJECT. IF THE APPLICATION IS FILED BY A NONPROFIT ORGANIZATION, THEN THE APPLICATION MUST PROVIDE EVIDENCE THAT THE NONPROFIT ORGANIZATION IS IN GOOD STANDING WITH THE SECRETARY OF STATE. THE APPLICATION MUST:

(I) SET FORTH THE QUALIFYING SERVICES THAT THE PROPOSED PROJECT INTENDS TO IMPLEMENT;

(II) PROVIDE EVIDENCE THAT THE PROPOSED PROJECT HAS COMMUNITY SUPPORT; AND

(III) SPECIFY WHETHER THE ENTIRE NONPROFIT ORGANIZATION OR A SPECIFIC PROJECT OF THE NONPROFIT ORGANIZATION OR GOVERNMENTAL ENTITY IS INTENDED TO QUALIFY AS AN APPROVED PROJECT.

(b) THE DIVISION MUST REVIEW APPLICATIONS RECEIVED PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION SO THAT DECISIONS ARE MADE NO LATER THAN THE NOVEMBER BEFORE A PROPOSED PROJECT IS EXPECTED TO COMMENCE. THE DIVISION SHALL ISSUE A NOTICE OF APPROVAL OR DISAPPROVAL IN WRITING. A PROJECT MAY BE APPROVED FOR THREE YEARS OR LESS. A NONPROFIT ORGANIZATION OR GOVERNMENTAL ENTITY MAY APPLY FOR REAPPROVAL.

(c) THE DIVISION IS AUTHORIZED TO HOLD HEARINGS IN ORDER TO REVIEW ANY APPLICATIONS RECEIVED PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION, ANY REAPPROVAL APPLICATIONS, ANY MODIFICATIONS MADE BY A NONPROFIT ORGANIZATION OR GOVERNMENTAL ENTITY TO AN APPROVED PROJECT, AND ANY APPROVED PROJECT THAT THE DIVISION DETERMINES HAS MATERIALLY CHANGED.

(d) A NONPROFIT ORGANIZATION OR GOVERNMENTAL ENTITY MAY
REQUEST THE DIVISION RECONSIDER ITS DECISION REGARDING ANY PROJECT THAT IS NOT APPROVED WITHIN THIRTY DAYS AFTER THE DATE OF THE DISAPPROVAL NOTICE.

(e) ONCE A PROJECT IS APPROVED, THE NONPROFIT ORGANIZATION OR GOVERNMENTAL ENTITY SHALL MAINTAIN AN ACCOUNTING SYSTEM AND APPROPRIATE RECORDS TO TRACK CONTRIBUTIONS RECEIVED BY TAXPAYERS FOR WHICH A TAX CREDIT WAS ALLOWED UNDER THIS SECTION AND TO ACCURATELY ASSOCIATE THE USE OF SAID CONTRIBUTIONS WITH THE APPROVED PROJECT.

(f) THE DIVISION SHALL SPECIFY IN PROGRAM GUIDELINES WHAT INFORMATION REGARDING AN APPROVED PROJECT’S GOALS AND ACTIVITIES MUST BE REPORTED BY THE NONPROFIT ORGANIZATION OR GOVERNMENTAL ENTITY.

(g) (I) NO LATER THAN DECEMBER 15, THE DIVISION SHALL COMPLETE A REVIEW, BY MEETINGS, TELEPHONE CALLS, OR SURVEYS, OF APPROVED PROJECTS TO EVALUATE PERFORMANCE AND COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION. THE DIVISION MUST REVIEW ACTIVITIES CONDUCTED THROUGH THE APPROVED PROJECT AND DETERMINE HOW THESE ACTIVITIES ARE ADDRESSING CURRENT AND EMERGING NEEDS OF INDIVIDUALS AND FAMILIES EXPERIENCING HOMELESSNESS IN THE APPROVED PROJECT’S COMMUNITY.

(II) THE DIVISION HAS THE AUTHORITY TO MONITOR AND AUDIT APPROVED PROJECTS AND APPROVED PROJECT PERFORMANCE AND MAY DISAPPROVE AN APPROVED PROJECT IF THE APPROVED PROJECT IS NOT MEETING EXPECTATIONS OR IF THE APPROVED PROJECT IS OTHERWISE NOT IN COMPLIANCE WITH OBJECTIVES OUTLINED IN THE PROJECT PROPOSAL, THIS SECTION, OR PROGRAM GUIDELINES. THE DIVISION SHALL
IMMEDIATELY NOTIFY THE DEPARTMENT OF REVENUE IF AN APPROVED PROJECT IS DISAPPROVED AS A RESULT OF A REVIEW OR AUDIT IN ORDER TO ENSURE THAT CONTRIBUTIONS MADE BY TAXPAYERS ON OR AFTER THE DATE OF DISAPPROVAL ARE NO LONGER ELIGIBLE FOR THE TAX CREDIT ALLOWED IN THIS SECTION.

(h) When applying for reapproval, the nonprofit organization or governmental entity may add or remove eligible activities in the reapproval application. It is expected that a nonprofit organization or governmental entity will revise a previously approved project's goals, objectives, and expected outcomes to adjust to changes in community needs, emerging best practices, and feedback from the division.

(6) The division shall present an annual review of approved projects to the state housing board created in section 24-32-706. The annual review must include individual and collective outputs and outcomes of the program described in this section. The review must summarize contributions received and tax credit certificates issued for the reporting period, including an estimate of expected contributions for the upcoming calendar year.

(7) The division shall develop program guidelines, with stakeholder involvement, for the administration of this section.

(8) This section is repealed, effective December 31, 2030.

SECTION 2. In Colorado Revised Statutes, 39-30-103.5, amend (3)(a) introductory portion; and add (3)(c) as follows:

39-30-103.5. Credit against tax - contributions to enterprise zone administrators to implement economic development plans -
repeal. (3) (a) PRIOR TO JANUARY 1, 2021, monetary or in-kind contributions to promote temporary, emergency, or transitional housing programs for the homeless that offer or provide referrals to child care, job placement, and counseling services for the purpose of promoting employment for homeless persons in enterprise zones shall be deemed to be for the purpose of implementing the economic development plan for the enterprise zone and shall include but not be limited to the following types of contributions:

(c) THIS SUBSECTION (3) IS REPEALED, EFFECTIVE DECEMBER 31, 2024.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.