SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. Senate Bill 74

PRINTER NO. 684

AMOUNT

FY 2021-22: Minimal Fiscal Impact
FY 2022-23: ($10,000,000)

FUND

General Fund

DATE INTRODUCED

March 10, 2021

PRIME SPONSOR

Senator Martin

DESCRIPTION AND PURPOSE OF BILL

Senate Bill 74 amends the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, by adding a new Article XVII-M entitled "Pediatric Cancer Research Tax Credit."

The legislation establishes a new $10 million tax credit program to be administered by the Pennsylvania Department of Revenue (department) that is designed to encourage private sector contributions to pediatric cancer research institutions located in the Commonwealth. Senate Bill 74 stipulates that contributions received by a pediatric cancer research institution must be used exclusively for pediatric cancer research. The legislation defines a "pediatric cancer research institution" as a hospital located within this Commonwealth which is equipped and actively conducting pediatric cancer research designated by the Secretary of Health to be eligible to receive contributions under this article.

Senate Bill 74 defines a "business firm" as an entity authorized to do business in this Commonwealth and subject to one of the taxes imposed under the following articles of the Tax Reform Code of 1971:

- Article III (personal income tax);
- Article IV (corporate net income tax);
- Article VII (bank and trust company shares tax);
- Article VIII (title insurance companies shares tax);
- Article IX (insurance premiums tax); or
- Article XV (mutual thrift institutions tax).

A business firm may submit an application to the department for a tax credit and may receive a tax credit if a pediatric cancer research institution receives a contribution of cash from a business firm within 30 days of approval. Applications are required to be filed by December 31st of each year, and tax credits are to be made available to business firms on a first-come, first-served basis. At the time of application, the department shall advise a business firm that it may choose to have its tax credit application for a contribution made to a particular pediatric cancer research institution be considered an application received by the department on the same date for a different institution if the business firm's preferred choice has already reached its annual cap.

The legislation provides that the total aggregate amount of all tax credits approved shall not exceed $10 million in a fiscal year, and tax credits approved for each pediatric cancer research institution are capped at $2.5 million per fiscal year.

Senate Bill 74 allows tax credits to be carried forward for three taxable years in the event that the tax credit cannot be used in the year of approval, but carrybacks and refunds are prohibited. The legislation includes operational provisions that allow business firms which are pass-through entities such as partnerships and S-corporations to transfer all or a portion of the tax credits to shareholders, members or partners of the business firm. In addition, upon approval by the department, a business firm may sell or assign a tax credit.

The legislation empowers the department to audit a business firm claiming a tax credit in order to ascertain the validity of the amount claimed, and the department may issue an assessment against a business firm for an improperly issued tax credit. Senate Bill 74 requires the department to develop written guidelines to administer the program, and the department must submit an annual report to specified committees of the General Assembly by October 2022, and each October thereafter, that details the names of the business firms receiving the tax credit and the amounts utilized or sold or assigned during the preceding year. The report must also include the amount of contributions received by each of the pediatric cancer research institutions in the prior fiscal year.

This act shall take effect in 60 days, and the tax credit shall apply to taxable years beginning after December 31, 2021.

FISCAL IMPACT:

Senate Bill 74 carries a potential cost of $10 million annually by reducing tax liabilities that otherwise would be paid to the General Fund. The tax credit applies to taxable years beginning after December 31, 2021, so it is likely that the vast majority of the fiscal impact will be realized in fiscal years 2022-23 and thereafter, beginning with the filing of calendar year 2022 tax returns in spring of 2023. Some fiscal impact could be realized in FY 2021-22 if taxpayers adjust their March and June 2022 quarterly estimated payments in anticipation of receiving a tax credit.

Because the legislation allows for the carryover of unused credits from prior years, it is possible that the revenue loss could exceed $10 million in a given year but only if preceding years' tax credits totaled less than $10 million.

The Pennsylvania Department of Revenue currently administers various other state tax credit programs. Although the department may incur administrative costs to implement the program and develop guidelines, its additional duties can be accommodated within current funding levels.