

CHAPTER NO. 98

HOUSE BILL NO. 530

By Representatives Hackworth, Winningham, Pinion, Casada, Fitzhugh, Ulysses Jones, Moore, Towns, Hargrove, Briley, Coleman, Curtiss, Davidson, Armstrong, McMillan, Litz, Rinks, Yokley, Lois DeBerry, Shepard, Cooper, Harmon, Langster, Sherry Jones, Cobb, Mike Turner

Substituted for: Senate Bill No. 475

By Senators Crutchfield, McLeary, Burks, Williams

AN ACT to amend Tennessee Code Annotated, Title 67, Chapter 4, Part 20, relative to franchise and excise tax incentives for contributions to certain nonprofit corporations.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-4-2006(b)(2), is amended by adding a new subdivision thereto, as follows:

(Q)

(i) Seventy-five percent (75%) of the value of charitable donations, including those otherwise deductible under any other provision of this part, that are made to nonprofit corporations, associations and organizations which are exempt from federal income taxation under § 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. § 501(c)(3)), as amended, and to not-for-profit civic leagues or organizations which are exempt from federal income taxation under § 501(c)(4) of the Internal Revenue Code of 1954 (26 U.S.C. § 501(c)(4)), as amended, and associations and organizations which are exempt from federal income taxation under §§ 501(c)(5) and 501(c)(6) of the Internal Revenue Code of 1986 (26 U.S.C. §§ 501(c)(5) and (6)), as amended and meet all of the requirements of this subdivision;

(ii) The deduction provided by this subdivision shall apply only in the tax year in which the qualified nonprofit corporation, association or organization certifies to the taxpayer making the donation that it has spent the donation to purchase goods or services subject to the tax imposed by chapter 6 of this title and upon which such tax has actually been paid. The taxpayer making the donation must maintain a copy of such certification to establish entitlement to the deduction.

(iii) Donations pursuant to this subdivision must be monetary donations and not donations of goods and services.

(iv) The taxpayer making the donation shall not designate a specific purpose for the donation.

(v) Qualified nonprofit corporations, associations and organizations receiving such donations must maintain adequate records to prove

that the requirements of this subdivision have been met, including proof in the form of invoices or other documentation to establish that the donation was used to purchase goods or services subject to the tax imposed by chapter 6 of this title and that such tax was actually paid.

(vi) If the qualified nonprofit corporation, association or organization falsely certifies to the taxpayer making the donation that the donation has been spent and tax paid in the manner required by this subdivision, the qualified nonprofit corporation, association or organization shall be liable for the tax imposed by chapter 6 of this title, including applicable penalties and interest, as if the donation had been spent on items subject to the tax.

SECTION 2. The commissioner of revenue is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with the provisions of the Uniform Administrative Procedure Act, compiled in title 4, chapter 5.

SECTION 3. Seventy-five percent (75%) of the operating and implementation costs of this act from July 1, 2005, to June 30, 2006, shall be satisfied from any increase in local sales tax revenues pursuant to this act. The operating and implementation costs of this act from July 1, 2005, to June 30, 2006, that are to be satisfied by increases in local sales tax revenues shall be allocated only to counties implementing the provisions of this act.

SECTION 4. For purposes of promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2005, the public welfare requiring it, and shall apply to tax years beginning on or after July 1, 2005, the public welfare requiring it.

PASSED: April 7, 2005


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 22nd day of April 2005


PHIL BREDESEN, GOVERNOR