SUMMARY OF S-2411 (SARLO/OROHO) / A-11 (PRIETO)
updated 6/23/2016

S-2411 (Sarlo/Oroho) / A-11 (Prieto) is multi-faceted legislation that is part of a larger package which would increase gasoline taxes to fund the Transportation Trust Fund, phase out the estate tax, and increase the earned income tax credit, among other provisions. The bill was amended and reported out of the Senate Budget and Appropriations Committee and the Assembly Budget Committee on June 23, 2016. It goes to the full Senate and Assembly for a vote, and if it passes, to the Governor.

KEY PROVISIONS

Charitable Giving Deduction - The legislation would establish a New Jersey income tax deduction for monetary contributions of up to 50% of New Jersey taxable income, made to a “qualified charitable organization” or “qualified charitable fund-raising agency.” The allowable deduction would be equal to the amount allowed as a charitable deduction from federal adjusted gross income for the federal taxable year, or the amount that would have been allowable if the taxpayer had claimed that deduction on that taxpayer’s federal income tax return.

Under the bill, a “qualified charitable organization” or “qualified charitable fund raising agency” are those that meet the eligibility requirements of the New Jersey State Employees Charitable Campaign (NJSECC) pursuant to the Public Employee Charitable Fund Raising Act and applicable regulations. Specifically, S-2411/A-11 states:

- a “qualified charitable agency” means an agency that is a volunteer, not-for-profit organization that primarily provides health, welfare, or human care services to individuals in New Jersey that has been determined to meet the eligibility criteria pursuant to section 8 of P.L.1985, c.140 (C.52:14-15.9c8) to participate in a charitable fund raising campaign pursuant to the “Public Employee Charitable Fund-Raising Act,” P.L.1985, c.140 (C.52:14-15.9c1 et seq.), and the regulations as may be applicable thereunder, for the taxable year[…]
- “qualified charitable fund-raising organization” means a voluntary not-for-profit organization that receives voluntary charitable contributions and distributes those contributions primarily to qualified charitable agencies, and that has been determined to meet the eligibility criteria pursuant to section 7 of P.L.1985, c.140 (C.52:14-15.9c7) to participate in a charitable fund raising campaign pursuant to the “Public Employee Charitable Fund-Raising Act,” P.L.1985, c.140 (C.52:14-15.9c1 et seq.), and the regulations as may be applicable thereunder, for the taxable year[…]

Organizations that are “primarily affiliated” with higher education institutions would not be considered qualified charitable agencies or qualified charitable fundraising organizations under the bill.

Approximately 1,100 organizations currently participate in the NJSECC, but new charities could apply and, if accepted, be eligible for the state tax-deductible contributions under the bill. The deduction would be available to all taxpayers, not just government employees.

The bill would create an 8-member Charity Advisory Council in the Department of Treasury, which would annually advise the director of the Division of Taxation about the organizations that would qualify for deductions under the act; and confer as needed with the steering committee of the NJSECC. The Charity Advisory Council members would include the commissioners of the departments of Human...
Services; Children and Families; Health; and Community Affairs; along with four public members who are “individuals actively engaged in providing health, welfare, or human care services to individuals in New Jersey.” The Senate President, Senate minority leader, Assembly Speaker and Assembly minority leader would each be authorized to appoint one of the public members.

**Earned Income Tax Credit** - The bill would increase the Earned Income Tax Credit (EITC) to 40% of the federal tax benefit beginning in tax year 2016. The current level is 30%.

**Estate Tax** - The bill would phase out the estate tax by gradually raising the exemption threshold from the current $675,000 to $1,000,000 in 2017; $2,000,000 in 2018; $3,000,000 in 2019. The estate tax would be eliminated entirely for New Jersey as of January 1, 2020. In 2017, 2018 and 2019, the bill would impose a prorated tax on the estates of nonresidents with property in New Jersey.

**Retirement Income** - For taxpayers age 62 or older the bill would gradually increase the amount of pension and retirement income exempt from New Jersey income taxation over the next four years.

**Petroleum Taxes** - The bill would impose various increases in the petroleum products gross receipts tax, aviation fuel, and other fuels. Amendments adopted June 23 revised some of the provisions related to the gas and petroleum taxes.

**Three-Member Review Council** - The bill would create a three-member review council, composed of the State Treasurer, the Legislative Budget and Finance Officer, and a third public member selected by both. The council would report to the Governor and Legislature by January 15, 2020, a “consensus estimate” of the increase or decrease in State revenues caused by each section of this bill during the three prior fiscal years compared to the estimates at the time of enactment. The review council would also monitor ongoing implementation of the bill and any possible legislative actions that would interfere with implementation.

**CENTER FOR NON-PROFITS POSITION**

The Center’s position is focused on the charitable deduction component of the legislation. The Center has a long-standing position in **strong support of a state-level charitable giving incentive**, and **supports the charitable deduction provisions in this legislation**. Our recent survey report, New Jersey Non-Profits 2016: Trends and Outlook, has raised significant concerns about the ability of **chronically under-funded organizations** to meet ever-increasing community needs. Moreover, New Jersey is among the minority of states without any state-level giving incentive, and IRS data indicate that charitable giving, as measured by federal charitable tax deductions claimed by New Jersey households, was still below 2007 pre-recession levels in 2013. And unlike the federal income tax deduction, which is only available to taxpayers who itemize on their federal tax return, New Jersey’s deduction would be available to all taxpayers in the state who donate to qualified organizations.

Although we would prefer that the eligibility be broader so that the full spectrum of charities could benefit, we believe that this legislation is an important first step that would have a **significant, beneficial impact** on eligible organizations – many of which are still working to recover from the economic downturn. We will continue to seek subsequent opportunities to open the deduction to a broader array of groups.

For more information about this or any other charitable issue, contact the Center.