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Testimony before the Senate General Government and Agency Review
Subcommittee

Sub. House Bill 49 (State Biennial Budget)
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Chairman Jordan and Members of the Senate General Government and Agency Review Subcommittee, my name is Richard Donnelly and I am here today on behalf of Mayor Ike Stage who is currently out of town. I would like to share with you my perspective as the Tax Administrator of The City of Grove City on certain proposals in the executive budget regarding municipal taxes. Before beginning my career in municipal taxation, I headed the accounting department of a regional medical equipment supplier. Before that, I ran my own CPA practice. There are not many municipal tax administrators with my level of understanding and sympathy for business owners when it comes to municipal taxation.

Back when I was a CPA in private practice, one of my most important duties was evaluating business opportunities for my clients to make sure they understood the risks involved.

Ohio is considering eliminating the municipal “throwback” rule in the hope that businesses benefiting from the throwback’s elimination will use those tax savings to create more jobs in Ohio.

Let us look at the risks.

The first thing we must acknowledge is that state and local governments that find themselves faced with declining revenue do one of three things: raise taxes, cut expenses, or scale back on infrastructure investments.

Any municipality raising taxes in response to the revenue lost by the elimination of the throwback will, of course, be raising taxes on all businesses. This arguably erodes some of the benefit Ohio hopes to gain by eliminating the throwback. The elimination of the throwback makes Ohio more attractive to some types of businesses (manufacturers and warehouses), but raising taxes makes Ohio less attractive to all types of businesses except non-profits.

Thankfully, raising taxes is not the only response available to municipalities. Municipalities can cut expenses, but that means cutting existing Ohio jobs. As

you can imagine, most municipalities loathe cutting jobs. Our citizens and businesses still want the services they have come to expect from us, and delivering those services requires human beings. Someone has to drive the snowplow. Someone has to pick up the phone when a caller dials 911. The elimination of the throwback will make it a challenge for Grove City and many other municipalities to maintain our safety and service personnel.

In general, however, when faced with declining revenues many state and local governments scale back on infrastructure investments. It is the easy, invisible choice. A road that does not get built does not generate angry calls from businesses or residents about its potholes. But a road that does not get built does not spark development, and that missed opportunity for development means Ohio misses out on the private sector jobs that development would have brought.

Let us take a look at a real-life example of how municipal infrastructure spending affects Ohio private sector employment.

First I need to give you a point of reference. Elimination of the throwback rule should cost Grove City approximately \$870,000 per year in lost revenue. You may not think that is a lot of money. After all, the State of Ohio patches budget holes larger than Grove City's entire budget. A \$870,000 hit to Grove City's budget would be equivalent to a \$1.6 billion hit to the State's budget.

A few years back, Grove City spent \$2.3 million to build a new road. We ran some water and sewer lines at the same time.

To take advantage of private sector efficiencies, Grove City contracted the design and engineering of that road out to an Ohio based engineering company. Thus, our tax dollars supported private sector engineering jobs here in Ohio.

To take advantage of private sector efficiencies, Grove City contracted the building of the road out to an Ohio based construction company. Again, our tax dollars supported private sector construction jobs here in Ohio.

Once that road was built, over \$350 million dollars worth of private sector construction projects began along the new road. Approximately 400 private sector construction workers are currently working on private sector projects on that road. These are private sector construction jobs here in Ohio that would not have been possible without the tax dollars Grove City invested in publicly owned infrastructure.

This pattern of tax dollars being invested in infrastructure paying off with private sector jobs is repeated again and again by municipalities as we build and improve the public infrastructure that makes private development possible.

The logical and foreseeable risk that elimination of the throwback poses to Ohio is the curtailing of municipal investment in public infrastructure. The direct result of that curtailing of municipal investment in public infrastructure is the layoffs of construction workers here in Ohio as construction projects become scarcer.

The businesses that want the elimination of the throwback are telling you that eliminating the throwback will create jobs. We need to be asking if those new jobs will offset the Ohio jobs lost by eliminating the throwback.

You may not realize it, but we have an answer to that question. The Revised Code allows municipalities to offer job creation credits. A business can seek a jobs creation credit to offset the portion of their municipal tax liability caused by the throwback. These credits are normally negotiated prior to the job creation, and are contingent on the jobs being created here in Ohio.

Of course, the Ohio municipal job creation credits do not benefit a business planning on using the money saved by the elimination of the throwback to create jobs outside of Ohio.

So, our risk is that we will be eliminating private sector jobs here in Ohio that are supported initially or subsequently by municipal infrastructure spending to create jobs in other states. This is a risk we do not face with the municipal jobs creation credit under the current code.

The City of Grove City asks that the proposed elimination of the throwback be removed from HB49, so that municipalities can continue to grease the wheels of business through infrastructure investment that provides private sector jobs here in Ohio. Grove City is open to exploring better, targeted solutions to help businesses affected by the throwback who wish to create jobs here in Ohio.

Centralized Collection

I would also like to touch briefly on the Commissioner's proposal for "opt-in" administration and collection of municipal net profit tax return filings.

Grove City strongly objects to the Commissioner's revised proposal, and supports the version passed by the House.

I have personally trained ex-Department of Taxation employees to be municipal tax auditors. Those employees still required 12 to 18 months to get fully up to speed on municipal taxation. They had to learn new law, new court cases, new forms, and new concepts. Their experience at the Ohio Department of Taxation, while helpful, did not translate into the ability to be instant municipal tax experts.

I am unable to imagine how data available to the Ohio Department of Taxation that is not available to Ohio municipalities translates to the municipal tax level. Federal tax return data, sales tax return data, and CAT tax return data will not tell you in which Ohio municipalities a business has operations, or even how many locations that business has in Ohio. I am not sure what data the Commissioner keeps referencing, or how he will use that data for cross-checking municipal net profit tax returns to increase revenue for municipalities.

Those concerns aside, it appears that the Commissioner's goal is to solve the problem of the time and cost of dealing with the individual municipal tax authorities on their billing notices, audits, appeals and other administrative functions.

The Commissioner's proposed solution is not the only possible solution to alleviate many of the problems cited. For example, the Multistate Tax Commission has an audit program that could be used as a model and scaled down to the municipal level. Allowing municipalities to adopt such a model could allow a business facing an audit by Cleveland, Columbus, Toledo and 35 RITA municipalities to petition to have one municipal tax authority conduct the audit on behalf of all municipal tax authorities. The State could also authorize municipalities to create regional and statewide local boards of tax review in place of the individual boards the code forces us to create now. Such solutions have the advantage of not trading on home rule while accomplishing the Commissioner's goals.

Poorly drafted tax law is no one's friend. Solutions that respect home rule while alleviating the concerns raised by businesses to the Commissioner need to be carefully vetted and translated into clear and unambiguous code. This process cannot be accomplished before the Budget must be passed. Therefore, Grove City respectfully requests that in addition to leaving the throwback rule as it is under current law, the Senate accept the House's language on centralized collection to allow this topic to be further addressed in separate legislation.

Grove City welcomes the opportunity to sit down with our businesses to work on solutions.

Thank you for the opportunity to speak with you and I would be happy to answer any questions you may have.