Policy Matters Ohio

TESTIMONY
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Tax & Budget

Testimony on Senate Bill 8 before the Senate Ways and Means Committee

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Good morning, Chair Terhar, Ranking Member Williams and members of the committee. My name is Wendy Patton and I am a senior project director at Policy Matters Ohio, a nonprofit, nonpartisan organization with the mission of creating a more prosperous, equitable, sustainable and inclusive Ohio. Thank you for the opportunity to testify. We oppose Senate Bill 8, which would add a state incentive to the deep federal subsidy for Opportunity Zone development. We oppose it because as currently structured, it is unlimited and could become a drain on state resources. We also oppose it because it does not address weaknesses of the federal Opportunity Zone program, which lacks accountability standards and could harm low-income residents of Opportunity Zone census tracts by driving up rents and driving out existing businesses.

There are other ways the state could help low-income residents: By increasing investment in public transit, quality childcare and early education and public health measures like lead abatement, for example. This would help residents of all of Ohio's low-income census tracts, which make up 43 percent of the tracts in Ohio. Sweetening the pot for federal Opportunity Zone investments will not help unless the state investment leverages projects designed to meet the needs of low-income residents of the Opportunity Zone census tracts. While Senate Bill 8 does include measures to ensure the state tax incentive results in enhanced state and local revenue, it does not address social impacts.

The Center on Budget and Policy Priorities, which for over 30 years has been the strongest national voice for programs that protect families of low and modest incomes, describes the problems of the Opportunity Zone program as follows:

- The central feature of the Opportunity Zone program is a package of capital gains tax breaks, which overwhelmingly benefit a small group of individuals who are already doing well. Almost two-thirds of capital gains income nationwide goes to the wealthiest one percent of households.
- Participants get the biggest tax break by targeting investments to areas where they expect to gain the greatest profits. This means that the program largely strengthens the incentive to invest in areas that already had strong growth prospects rather than guiding investments toward the communities with the greatest needs.
- The program does not include any protections to ensure that companies receiving tax benefits hire current residents of the struggling communities where they are located, or that they offer decent wages or benefits.

The way the federal incentive is structured, investors will get a modest return through deferral of initial capital gains taxes, but a potentially significant return with the forgiveness of any additional capital gains that result upon exit from the Opportunity Fund investment. This means investors will be incentivized to seek out the deals with the highest long-term yields, which are not likely to be the projects that bring about benefits for low-income communities.

If state legislators want to help low-wage workers and their families, they should first and foremost provide sufficient funding in the budget so people of low incomes living in places of concentrated poverty can get needed public transit, child care, affordable housing, student aid, food aid, and other essential public services. Choosing to forego tax revenues that could be used for such purposes and instead funding the tax incentive proposed in Senate Bill 8, is the wrong approach. We oppose the creation of such a new credit.

If legislators choose to proceed despite the reasons not to, here are some changes to the proposal that would strengthen it.

The incentive program should have an annual cap; it should require beneficiaries to ensure community benefits beyond local tax revenues; and it should include reporting requirements.

The proposed tax incentive is already limited to funds investing solely in Ohio. Lawmakers could further limit it to Opportunity Funds that have a stated purpose of benefitting the community, like providing affordable housing or health clinics in underserved areas. Such funds might capitalize businesses like cooperatives and employee-owned firms that pay a living wage and are owned in part by workers. Funds like this are under discussion and development in Ohio. State participation targeted in this way could deepen equity for projects that benefit the community but struggle to get conventional funding, need patient capital and do not yield a high return on investment. The state could also leverage the tax incentive to address the pressing issue of climate change, requiring projects with a state tax incentive to commit to improvements like Electric Vehicle Chargers, bike-docks, trees and green space, LED/energy efficient light posts, and achievement of Enterprise Green Community Standards or LEED Silver minimum.

Senator Schuring has proposed modifications to the motion picture tax credit in Senate Bill 37 that could be incorporated into the Senate Bill 8 proposal, including requirements around project timeline, application rounds and ranking for awards based on certain public interest impacts. For the movie credit, economic and workforce development impact is considered in the ranking. The Opportunity Zone tax incentive should consider changes in poverty, resident employment, job quality, building quality, service delivery, grocery access and other factors related to community need. Senate Bill 37 also authorizes the Director of Development Services to reduce the motion picture credit if the beneficiary fails to meet development goals. While Senate Bill 8 proposes to evaluate outcomes in terms of state and local tax revenues, it does not consider impact on low-income community residents, the ostensible goal of the federal program. It should, and it should have provisions to claw back state investment if performance promises are not kept.

Senate Bill 8 could also correct another weakness of the federal program by requiring reporting of projects and funds that receive state tax incentives. This would allow an annual report to the legislature about the return on the state investment of foregone tax revenues. The tax law that created the federal Opportunity Zone program did not require reporting, although the conference report that accompanied the federal law creating the program suggested a national report on the following:

1) An assessment of investments held by qualified opportunity funds,
2) The number of qualified opportunity funds,
3) The amount of assets held in qualified opportunity funds,
4) The composition of qualified opportunity fund investments by asset class, and
5) The percentage of qualified opportunity zone census tracts that have received qualified opportunity fund investments with a state tax incentive, and
6) An assessment of the impacts and outcomes of the investments in those areas on economic indicators including job creation, poverty reduction and new business starts that have benefitted local residents within the Opportunity Zone

Ohio already foregoes far too much revenue for tax breaks: $9.4 billion in 2019, more than the state spends on Medicaid, more than it spends on funding sent out to Ohio’s school districts. Spending on tax breaks grew, adjusted for inflation, by 18.3 percent between 2011 and 2018, while inflation-adjusted spending on childcare, higher education and non-Medicaid human services fell. Poverty in the state remained almost 15 percent higher in 2017 – the most recent year for which we have census data - than in 2006.

Tax breaks and tax cuts as a strategic policy have brought significant benefits for the wealthiest Ohioans, yet poverty in the state has not been reduced to pre-recession levels. Senate Bill 8 should not be enacted as it diverts resources from public purposes to private projects. If it is enacted, it should be required to have a direct impact of alleviating poverty and increasing opportunity for low-income residents of Ohio's Opportunity Zones.