



TESTIMONY BEFORE THE HOUSE WAYS AND MEANS COMMITTEE

OPPONENT TESTIMONY

Sub. HB 157

April 20, 2021

Chair Merrin, Vice Chair Riedel, Ranking Member Sobecki, and members of the House Ways and Means Committee, my name is Ashley Ringle and I am the Director of Communications for the Ohio Municipal League. Thank you for the opportunity to provide testimony on Sub. HB 157.

As currently amended, the legislation would retroactively change the original intent of Section 29 of HB 197, the provision imposing a temporary treatment for withholding of municipal income tax on nonresident workers due to the COVID-19 pandemic.

While we support the provision in Sub. HB 157 extending of the sunseting of this temporary provision until December 31, 2021, we oppose the remaining provisions in the substitute bill that attempt to rewrite the original intent of the temporary language.

Section 29 of HB 197 was unambiguous in its intention to preserve the status quo regarding withholding for municipalities and business. Both Attorney General Yost and the City of Columbus Auditor Kilgore filed legal briefs in the Buckeye Institute lawsuit against the City of Columbus affirming that Sec. 29 and HB 197 considered wages earned by employees temporarily working from home during the Governor's declaration emergency as taxable to the principal place of work.

In addition, the original Legislative Service Commission (LSC) analysis for the Section 29 of HB 197 (pg.6) states: *"For municipal income tax purposes, treats income earned by an employee required to work at a temporary worksite because of the emergency as being earned at the employee's principal place of work, potentially affecting the municipal income tax withholding and liability of the employee and the employer."*

The LSC analysis is clear that the intent of the bill is for employer withholding and liability for the employee to be taxable for the city where the principle place of work is located. This affirms

that the language in HB 197 is a continuation of the status quo on the existing treatment prescribed in ORC 718, the state code for the administration of the municipal income tax.

Not only will municipalities be impacted negatively, but businesses will suffer the additional administrative burden of having to certify each employee requesting a refund for the duration of the time they worked from home by tracking when and where every employee worked for both 2020 and 2021.

A handful of lawsuits have been filed on the issue of refunds. The League strongly believes that it is appropriate for the legal system to run its course and for the courts to decide the merits of each side of the case including the consideration of the issue of refund requests and that the legislature should not up-end the original intent of previous legislation.

Municipalities across the state have made budgetary decisions that are dependent upon the revenue stability granted to them by Sec. 29 of HB 197. Sub. HB 157 could cause cities to issue a substantial amount of refunds to employees working from home during the emergency. Issuing refunds for a closed tax year could be devastating to municipalities, who were protected by the language in Sec. 29 of HB 197, and could have long lasting negative consequences to the financial solvency of municipalities, existing economic development incentive agreements and decreased bond ratings, just to name a few.

This bill further undermines revenue stability for municipalities by allowing the employer to determine the principle place of work for each employee during the declaration of emergency, which could cause a further reduction in tax revenues. Sub. HB 157 also seeks to treat wages as taxable to the residential taxing jurisdiction for withholding purposes, but not as taxable or as creating a municipal return filing requirement in the resident employee's taxing jurisdiction.

We ask that the legislature respect the original intent of Sec. 29 of HB 197 and not entertain the retroactive treatment being proposed in Sub. HB 157. Thank you for your consideration of these concerns, and we urge your opposition to Sub. HB 157, in its current form. I would be happy to try to answer any questions you may have.