



CITY OF KENT, OHIO

April 20, 2021

Honorable Members of the Ohio House Ways & Means Committee,

The Mayor and I are writing on behalf of the City of Kent to urge your opposition to Sub. HB 157. This legislation would change the original intent of Section 29 of HB 197, the temporary provision instructing municipalities to continue withholding municipal income tax at a taxpayer's place of work, even if the taxpayer is currently working from home in a different local jurisdiction due to the COVID-19 pandemic.

While we support the provision in Sub. HB 157 extending of the sunset of Sec. 29 of HB 197 until December 31, 2021, we strongly oppose the remaining provisions in the substitute bill that attempt to rewrite the original intent of the temporary withholding provision.

Section 29 of HB 197 was unambiguous in its intention to preserve the status quo regarding withholding for municipalities and business. Both the Ohio Attorney General and City of Columbus Auditor 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 HB 197 states on page 6, "*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 analysis was clear that the intent of the bill was for employer withholding and liability for the employee to be taxable for the city where the principle place of work is located, since the employee would have been working at that location if it hadn't been for this pandemic.

Not only will municipalities be impacted, 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 City of Kent strongly believes that the courts will decide this issue regarding refunds and that the legislature should not up-end the original intent of the legislation. The City of Kent is made up of low-to moderate incomes with a 48% poverty rate. To offset the lower income levels of the residents, the city, depends heavily on businesses and on Kent State University, especially their withholding to obtain tax dollars to maintain employment and services at appropriate levels. It is estimated that the City of Kent's loss of income taxes receipts could be between \$750,000 to over \$2.2 million.

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.

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.

Respectfully,



Jerry T. Fiala
Mayor, City of Kent



Dave Ruller
City Manager, City of Kent

Cc: Honorable Members of Kent City Council
Hope Jones, Law Director
Rhonda Hall, Director of Budget and Finance
Amy Wilkens, City Clerk