



AMERICAN COUNCIL OF ENGINEERING COMPANIES
of Ohio

**Testimony of Donald L. Mader, Executive Director
American Council of Engineering Companies of Ohio
to the
Ohio House Finance & Appropriations Committee
regarding tax provisions in
House Bill 64
March 24, 2015**

Good afternoon Chairman Smith, Vice Chairman Schuring, Ranking Member Driehaus and members of the committee. I am Don Mader, Executive Director of the American Council of Engineering Companies of Ohio, a trade association of 120 companies that design all kinds of constructed facilities; everything from highways and bridges, to water and wastewater plants, to buildings and industrial and manufacturing facilities. When you see a major construction project in progress, one of my member companies probably had a hand in designing it.

Our member companies range in size from very small specialty engineering firms of only one or two people to some that employ hundreds. Our average size company employs 50 persons. In Ohio alone, our industry provides services worth more than \$1 billion annually.

Thank you for allowing us a few minutes today to express our concerns about the tax provisions in House Bill 64.

Speaking generally, it is encouraging that the General Assembly and the administration share the goal of growing Ohio's economy and creating more jobs. However, we do not believe that increasing the tax burden on Ohio's job producers, as is called for in House Bill 64, is the right strategy for accomplishing this goal. In fact, we believe the proposed increases in the Commercial Activity Tax and sales tax, and subjecting more services to the sales tax, would be counter-productive to that goal.

Specifically, we are very troubled by language in House Bill 64 that would authorize the state to collect the sales tax on "management consulting services."

Two years ago we appeared before this committee to explain how the engineering and architectural industries would have been devastated by a proposal to extend the state sales tax to all services, including ours. Thankfully, that proposal was eliminated from the budget bill passed by the committee and ultimately adopted by the General Assembly.

While House Bill 64 does not specifically single out engineering as a service that would be subject to the state sales tax, the definition of “management consulting service” is so astoundingly broad that it would no doubt result in the “back door” taxation of our services.

A quick bit of historical background. For more than a century, professional engineers in private practice have been known as “consulting engineers,” for a pretty obvious reason. While engineers design all kinds of construction projects, before they get to the design stage they sit down with folks who have a need or a problem and they “consult” with them.

Let’s say you own an industrial plant and you need to make changes in your manufacturing processes to reduce air emissions. Or you own a warehousing operation and you need to improve your material handling system so that you can store and ship more goods more efficiently. Or you are a retailer and you want to construct a new building so that you can expand your operations.

In every such case, the first thing your professional engineer is going to do is sit down with you and “consult” about the your needs and desires, problems and budgetary limitations. The engineer will develop alternatives for you to consider and only after the best technical solution is identified will the project enter the design phase, when plans are produced.

Given that the proposed definition of “management consulting” includes activities such as “manufacturing operations improvement,” “site selection,” “production planning and control” and “materials management and handling,” it does not strain credulity to imagine the Ohio Department of Taxation will aggressively seek to recover sales taxes on the types of services my members routinely provide – and which are at the very heart of what engineers do.

Assuming that this broad definition of “management consulting” would lead to the imposition of the sales tax on our services, this would immediately put us at a six or seven or eight percent competitive disadvantage with out-of-state engineering firms.

Add in the sales tax we would have to pay to “consult” with our attorneys, who review our contracts, and to our accountants, who “consult” with us to make sure we are in conformance with the latest government cost accounting regulations, and we will become far less competitive and far less able to hire those new engineers and support personnel.

Two years ago, this committee rejected a proposal to extend the state sales tax to all business services. However, if adopted, this astoundingly broad definition of “management consulting services” will allow the state to impose the sales tax on an extremely wide array of business services, just as if the General Assembly had approved the concept two years ago.

While further reduction of the state personal income tax might be a laudable objective, we question the benefit of doing that if it results in a significant increase in the business community’s tax burden – especially when we are still struggling to work our way out of the devastating recession of only a few years ago.

Since this budget proposal was introduced, I’ve had the opportunity to talk with many of my members about it, and not a single one has told me that a reduction in their personal income tax liability would prompt their company to hire even a single new employee. There simply is no correlation between an engineering company owner’s personal income tax rate and his or her company’s ability to hire staff.

A company’s ability to add staff is purely a function of the demand for the services that company provides, which is directly related to the strength of the state’s economy.

The way to make sure my engineering companies grow and add jobs – well-paying, high-tech jobs – is to help us remain competitive, not by adding to our tax burden and the tax burden of all those commercial and industrial enterprises that we serve.

Thank you for the opportunity to appear before you today. I would be happy to try to answer any questions you might have.