



BEFORE THE SENATE WAYS AND MEANS COMMITTEE
TESTIMONY ON SENATE BILL 97
May 12, 2021

Good Morning Chairman Blessing, Vice Chair Roegner, Ranking member Williams, and members of the Senate Ways and Means Committee. My name is Tony Long, Director, Tax & Economic Policy for the Ohio Chamber of Commerce. On behalf of the members of the Ohio Chamber, I am testifying in support of Amended Senate Bill 97.

In March of 2020, the business community identified the complexity of municipal income tax withholding as an issue that needed to be addressed in light of the developing health pandemic. The legislature did hear the concern and added Section 29 (temporary language) to HB 197 while it was pending in the Senate during the 133rd General Assembly. This language was seen as a temporary solution tied to the duration of an executive order. At the time no one foresaw an executive order being in place for this length of time.

Fast forward 14 months and the pandemic is still with us and business community employers are just beginning to put in place new work arrangements for a post pandemic workforce. Amended SB 97 addresses three of the four priorities identified by the Ohio Chamber to make return to work as smooth as possible for employers as they navigate cumbersome local income tax statutes and regulations.

Amended SB 97 provides a firm stop date for Section 29 language. Without amended SB 97 the provisions in Section 29 of HB 197 are subject to an uncertain end-date. However, the executive order that sets in motion the end of the provisions in Section 29 may face a challenge once SB 22 becomes effective. Some commentators place the end of Section 29 provisions as early as August 2021. Amended SB 97 recognizes that to end tax reporting requirements in the middle of a tax reporting period creates confusion and unneeded administrative burden for tax professionals and sets an end-date of December 31, 2021.

Amended SB 97 also clarifies that workers sent home to work remotely during the pandemic does not create tax nexus for employers under the net profit provisions of Section 718 of the Ohio Revised Code (ORC).

Amended SB 97 also removes the employers from the tax filing decisions made by employees. Under current law many local jurisdictions require an employer to supply a form, affidavit or written statement to verify the work location of an employee when that employee files a refund application. This process is problematic in the current environment. Employees were simply told to work offsite during the pandemic. This remote work could take place at the employee home, a home of a relative, or anywhere an employee could plug-in, connect via Zoom or receive a signal to accomplish the work. Removing the employer verification requirement is necessary in this environment and allows the employee and the city officials to work directly on the refund application thereby reducing the administrative burden for both the employer and employee.

As this committee deliberates amended SB 97, the Ohio Chamber also asks that consideration be given to holding a conversation on finding long-term solutions for the shortcomings of ORC 718. Conversations that will bring all parties together to work through the complexity of the withholding statute and

also find solutions for other issues faced by the business community around municipal income tax compliance. These issues include apportionment of income for the net profits tax and how to address the compensation based economic development agreements put in place before the pandemic. Agreements built on assumptions that employees would exclusively work at the fixed location of the employer.

These conversations also need to include the topic of how best to fund the operations of Ohio's cities and townships. Ohio cities must remain vibrant and functional as Ohio transitions to a new work dynamic. It is unclear how many employers will go back to old routines; how many will shrink commercial footprints; or if the new normal will be a hybrid of remote working and sitting in the old office space a few days a week. These decisions will impact the income tax revenues relied on by many cities to fund government operations. Likewise, the remote working arrangements will place a strain on townships as the townships are required to meet the needs of citizens spending more time at home.

The Ohio Chamber is hopeful that these important conversations can start after the budget process closes in June. Until then, I want to thank Senator Roegner for sponsoring this bill and this committee for holding this hearing. Amended SB 97 is important legislation for Ohio's transition out of the pandemic and as employers and employees begin to forge a new work environment. These provisions will give the tax community clarity, reduce administrative burdens for employers and employees, and give the business community time to reset as the pandemic winds down.

Thank you again for the opportunity to testify on amended SB 97. I will try to answer any questions you may have for me.