Ohio Municipal League

Our Cities and Villages ★ Bringing Ohio to Life

Components of House Bill 5 that represent significant loss of local revenue while further eroding local control.

Eliminates local control by requiring municipalities to repeal their existing income tax ordinances and adopt "by reference" all of the provisions of ORC **Chapter 718**, making all local tax ordinances obsolete. The mandate would hand complete administrative control over to the state, leaving no discretion to municipalities as to the administration, enforcement or reporting that is appropriate for its community and taxpayers. *This is a clear roadmap to future centralized collection of municipal income tax revenues by the state.*

Expands the size and scope of state government by mandating a new layer of bureaucracy through the creation of the **Municipal Tax Policy Board (**MTPB). This super committee would be required to create all forms, policies, instructions, enforcement actions and publications for the new state administered municipal tax system. The state committee would be made up of statewide municipal officials who would meet quarterly and would not receive compensation. The new state committee would rule on all local tax issues, in addition to drafting all forms and publications used by all municipalities with an income tax. This new group would also hear cases challenging local uniform issues and would be a "gatekeeper" for issues that ultimately would be considered by JCARR.

Imposes upon all municipalities the mandate to allow a 5 year **Net Operating Loss (NOL) carry forward** policy. For the 174 municipalities in Ohio which currently offer no such business tax deferment policy, this unfunded mandate would represent a significant loss of revenue while an additional 64 cities and village who have less than a 5 year treatment, but more than zero, would also experience reduced cash flow by this mandate.

Extends the current **12 day occasional entrant** treatment rule, which is uniform statewide by lengthening this municipal tax deferment policy to nonresident workers to 20 days, before a municipality may impose a tax. The bill eliminates the ability of a municipality to go back and collect from day one, as is the current treatment, compensation due when a worker has been in a community for the full tracking period thus allowing communities to only collect on tax obligations after the 20th day.

Eliminates current **“throwback” provision** by redefining sales for purposes of net profit, prohibiting current ability of municipalities to apply their local tax to businesses that have income generated through off-site or internet sales. This would include communities that host businesses that have any catalogue sales, or commerce through electronic means including Accountants, Law Firms, Contractors and other professional organizations.

Taxpayers will not be considered a resident of any Ohio municipality for municipal income tax purposes if the taxpayer is a nonresident of the State of Ohio under the state’s **bright line residency test**. There are numerous court rulings that have determined for municipal tax purposes, taxation should be based on domicile, the location to which you intend to return. On the municipal level, individuals receive the benefit of police and fire services, utility, street and other services with regard to real and personal property while they are absent. This change in treatment would result in significant lost revenue.

Increases significantly administrative burdens on municipality’s ability to perform **auditing** and **assessment** procedures, a primary function of any taxing entity to insure equity and accountability for all taxpayers. The legislation would expand the list of administrative functions to be considered assessment notices and imposes mandates requiring municipalities to use certified mail to communicate with taxpayers, increasing administrative costs for all municipalities.

The legislation **neuters current enforcement** capabilities of municipalities by removing the ability of cities and villages to apply legal remedies through small claims, civil or criminal court proceedings to insure equal enforcement of tax laws. The bill would force municipalities to shift their assessment procedures from filing judicial liens to statutory liens which have proven ineffective in recovery of fines or payments due.

Requires **estimated payments** only from taxpayers whose estimated liability exceeds $200.00. This new requirement will result in significant cash flow problems for the majority of communities that have thresholds lower than $200.00.

Expands the size of local government by requiring communities to have a **“Problem Resolution Officer”** to over-see the actions of Tax Administrators. If unable to hire additional employee to meet the new mandate, a community must reassign a current staff member to perform the duties or hire a new employee.

Imposes on municipalities the **obligation to report** to the Auditor of State and the MTPB every year the amount of revenue collected for the preceding year. If the reporting requirements are not met, the offending community will be prohibited from collecting penalties on unpaid tax until it meets the state’s standards. The requirement to report annual revenues is already in Ohio statute and must be made to the Department of Taxation.

Exposes public servants working in Tax offices to personal legal exposure by allowing grievous taxpayers the ability to **sue a municipality or Tax Administrator** or both for certain acts or omissions.

The bill would allow **damages for attorney fees** to be assessed to cities and taxpayers at all levels of actions taken with any Board or Court. The revenue impact could be substantial depending upon future decisions by the State of Ohio Board of Tax Appeals or courts hearing these decisions.