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Budget Bite

Tax breaks in the House bill

New exemptions despite revenue crunch

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WHY ARE NEW TAX BREAKS INCLUDED IN THE BUDGET?

The Ohio General Assembly is straining to balance the state budget as each month revenue falls short of projections. But rather than reversing tax cuts that are costing Ohio $3 billion a year in annual revenue or even going along with the modest steps Governor Kasich proposed to rein in some tax exemptions, the House of Representatives added a number of special-interest tax breaks in the budget it approved last month. Many of them are small. Yet they illustrate that despite the General Assembly's approval of a law last year under which state tax breaks will be reviewed, legislators still are pushing new ones for narrow interests that reduce the funds available to allow more kids to go to preschool, make college more affordable or fight the drug epidemic. This brief goes over a number of those in the House bill.

Among them is a sales-tax exemption for songs or entertainment downloaded from a digital jukebox, arcade game or similar machine. Governor Kasich vetoed an identical provision approved last December, saying that, "Vending is a valued industry in Ohio, but there is no justification for granting a narrow subset of this industry – digital jukeboxes – a tax exemption." He noted that "this broadly drafted exemption could potentially have the unintended consequence of negating the state's tax on all digital products (i.e., downloaded books, movies, and music)." The Legislative Service Commission (LSC) estimated that the tax break would cause an "uncertain decrease in revenue from the sales and use tax."

Another tax break would exempt from the kilowatt hour tax electricity used in "a chlor-alkali manufacturing process" unless the electricity is distributed by a municipal or rural cooperative electric company. It defines chlor-alkali manufacturing process as "a process that uses electricity to produce chlorine and other chemicals through the electrolysis of a salt solution." As is usually the case, the beneficiaries are unnamed. The loss in revenue would be about half a million dollars a year, according to the Taxation Department.

A couple of provisions would allow existing special-interest breaks to be extended for longer. One would lengthen by another year the time that a data center has to make the necessary investment to qualify for a sales-tax exemption (LSC's estimate of the cost: A potential loss, probably less than $1 million a year). Another would allow the owners of a certificate for a historic preservation tax credit to claim it against the state's main business tax, the Commercial Activity Tax, in addition to other taxes the credit is applicable to. This authorization is good for another two years, and follows two previous such authorizations (Estimated cost: General Revenue Fund (GRF) revenue loss, "potentially in the millions").

The bill also would make changes in the Job Creation Tax Credit (JCTC), one of the state's main business tax incentives (the governor estimated in his budget bill that the state would forego $205 million over the two-year budget from this credit). Current law allows employers to receive the credit for certain home-based employees, with special conditions. Under the bill, a new category of "work-from-home" employees is created. They would not have to be paid at least 130 percent of the federal minimum wage, as other home-based workers covered by the credit must be. If they move to another residence or if the work moves to the location of the project, it won't trigger a provision requiring employers that get a JCTC to notify the impacted political subdivisions before relocating a substantial number of employment positions. Subsidized jobs should be good jobs. Requiring that they pay at least $9.43 an hour—130 percent of the current federal minimum—is a minimal condition. The LSC estimates revenue loss to the GRF from this change at less than $1 million a year.

Another provision would create a new sales-tax exemption for prescription optical aids, such as eyeglasses and contact lenses. The LSC estimated this would cost the General Revenue Fund $22.4 million; local governments and libraries would lose $800,000, while counties and transit authorities would lose an additional $6 million in local sales taxes. However, this provision would not take effect until July 2019, so the losses would only begin in Fiscal Year 2020, after the upcoming state budget. Rather than exempting new categories of products from sales taxation, the General Assembly should create a sales-tax credit that would specifically help low-income Ohioans, those most affected by sales taxes. That is a far more targeted way to protect those who pay the largest share of their income in sales tax than adding an exemption available to everyone, even those who don't need it.

The House bill also would put new restrictions on the state taxation department's enforcement authority. It would prohibit the tax commissioner from taking action to collect a tax unless he or she had explicitly signaled that a thing was taxable within three years of when a change in law first made it taxable. The bill would make it impossible for the tax department to collect tax that would have been due if the department hadn't provided some kind of guidance or made an attempt to enforce collection within three years. This provision would impose a major burden on the taxation department, forcing it to identify every item that might be taxable under a statute, when it couldn't possibly know how the world might change in the future. The LSC said that this provision could result in lower revenues, "potentially in the millions of dollars." The provision would not keep the department from collecting the tax in future periods.

In contrast to some existing tax breaks, like the one that covers business income, many of these tax changes won't cost a lot to the state treasury. However, they still are inappropriate when Ohio is insufficiently investing in K-12 education, more food aid is needed for hungry Ohioans and major cuts may loom for public transit agencies. Who is seeking these breaks and who would benefit from them? Too often, the answers to those questions are unknown. House Bill 9, the tax-break review bill approved last year, will require that any proposal for a new or modified tax break include a statement including the objectives and the sponsor's intent in proposing it. That standard should be applied to the budget bill as well; we don't even know which legislator is behind each of these proposals. Legislators must do better, so that new tax breaks can get the full vetting they need.