Policy Matters Ohio

TESTIMONY
May 31, 2022

Revenue and Budget

Testimony on SB 225 before the House Ways and Means Committee

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Chair Merrin, Ranking Member Sobecki, and members of the House Ways and Means Committee, thank you for the opportunity to testify on Senate Bill 225. This bill proposes that you double the amount of money available for the Ohio Historic Preservation Tax Credit and the Opportunity Zone Tax Credit, increasing the tax expenditures on these two programs from a combined $170 million over the two-year budget period to $340 million.[1] I will limit my remarks today to the portion of the bill covering the Opportunity Zone Tax Credit. This program, which amounts to a giveaway to wealthy investors, provides very little benefit to low-income families and communities, and additional resources should not be devoted to it. We urge you to support amendments eliminating the bill's changes in the Opportunity Zone Tax Credit or vote against SB 225.

SB 225 proposes a particularly generous expansion of already-charitable tax expenditures, which are the expenditure of public resources through the tax code. Compared with other uses of state operating funds, tax expenditures are the second largest category of spending. They represent a larger share of spending than the state dollars spent in the General Revenue Fund on Medicaid and three times state expenditures on higher education.[2] However, last year's budget bill abolished the Tax Expenditure Review Committee, which was established on a unanimous, bicameral, bipartisan basis in 2016. Therefore, the expansions proposed in this bill are particularly irresponsible considering the lack of transparency and oversight.

Sweetening the Opportunity Zone Tax Credit

The "Opportunity Zone" economic development initiative, created as part of federal tax cut legislation in 2017, has a name that sounds generous and philanthropic, but it has not turned out that way. Analyses have shown, time and time again, that instead of helping long-time residents of the designated zones, the tax break is just another path for wealthy rent-seekers to get around their responsibilities to society.[3]

SB 225 doubles the state Opportunity Zone Tax Credit for the 2022-23 biennium. It would also expand eligibility from Ohio investors with state tax liability to any investor, including those who have no state liability, who can then sell or transfer that tax credit to other entities who wish to lower their Ohio state tax liability. However, the transfer of the tax break is "leaky": Value leaks out in payments to brokers in the transferrable tax credit market, as well as insurers and attorneys involved in the transaction.[4] The purchaser and ultimate beneficiary of the tax credit likely has no relation to the development project but wants to pay less Ohio taxes. In 2008, then-Tax Commissioner Rich Levin testified on transferable tax credits proposed

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[1] The Ohio Historic Preservation Tax Credit is presently capped at $60 million a year, so tax credits that may be allocated over the 2022-23 biennium equal $120 million. SB 225 could double this to $120 million a year, so over the 2022-23 biennium, $240 million could be allocated (plus unallocated tax credits from the prior year, as per O.R.C. 149.311). The Opportunity Zone Tax Credit is capped at $50 million per biennium. SB 225 would double that amount, so $100 million in total could be allocated over the 2022-23 biennium.

[2] In 2022 the state will spend $5.3 billion in state dollars in the General Revenue Fund on Medicaid and $2.8 billion in non-federal dollars for higher education. The Tax Department estimates the state will forego $9.2 billion in 2022 due to tax expenditures. See Patton, Wendy, "Public Money for Private Interests," Policy Matters Ohio, August 2021 at https://bit.ly/3oXS0md.

[3] See for example: David Wessel, "The Rich Have Found Another Way to Pay Less Tax," New York Times, 10/10/21 at https://nyti.ms/3lzqUXc.

[4] See Patton, Wendy, "Testimony on SB 39 before the House Economic and Workforce Development Committee," Policy Matters Ohio, October 30, 2019, at https://bit.ly/3lBNKXG.

under House Bill 196 of the 127th General Assembly: “The tax credits are being used to offset tax liabilities in Ohio that … have nothing to do with film production, the industry this proposal seeks to incentivize.” [5]

If the goal is to get $5 million into a development project, a direct grant is more efficient. There is no leakage of value, and state spending through the operating budget is scrutinized once every two years for effectiveness and efficiency — unlike spending through the tax code, which is neither transparent nor accountable, and now, with the abolition of the Tax Expenditure Review Committee, has no specific venue for accountability to the taxpayer.

Heretofore an Opportunity Zone Tax Credit has been available only to Ohio investors. Senators tried to change that in House Bill 110, but it did not make it through the conference committee.[6] With SB 225, you are being asked — again — to approve a change that has been rejected before.

Opportunity for whom?

The Opportunity Zone program offers tax benefits to those who accrue capital gains. In Ohio, almost two-thirds of capital gains (64%) belonged to the richest one percent of tax filers in 2018, who had an average annual income of $1.2 million.[7] SB 225 uses state resources to further sweeten the pot.

Opportunity zone investments may boost profits for wealthy people but have proven to do little for low-income families and communities. While noting that Opportunity Zone Funds provided a significant inflow of investment funds in northeastern Ohio, the regional economic development partnership, Fund for our Economic Future, pointed out that those investment funds did little for the low-income residents of targeted census tracts:

> *“[Opportunity zone funds] mostly went toward real estate development for market-rate housing and commercial properties—neither of which are significant job creators, and which likely would have happened anyway, judging by long-term development trends… Opportunity Zones may not be the best and most effective means to support our long-term vision of a growing economy creating good jobs and rising incomes for everyone.”*[8]

Proposed amendments

We support Amendment **3293**, which removes language concerning opportunity zones and Amendment **3294**, which eliminates the cap increase for the state’s Opportunity Zones program.

In Conclusion

In summary, we oppose SB 225 because it represents a lavish expansion of existing tax breaks for private developers, even as lawmakers refuse to commit to meeting critical needs of families and communities, like phasing in the Fair School Funding Plan. There are many other public service needs in the state which should take priority over this expansion of subsidy of private developers.

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[5] Testimony of Tax Commissioner Rich Levin on House Bill 196 to the House Ways and Means Committee, November 19, 2008.
[6] Comparison Document of the Ohio Legislative Budget Office at https://bit.ly/3awuMLB.
[7] Emailed information from the Institute on Taxation and Economic Policy, cited in Patton, Wendy and Michael Leonard, “Assessing Opportunity Zones in Ohio,” Policy Matters Ohio, September 19, 2018, at https://bit.ly/3mPFeDJ.
[8] Davy, Bradford, “What We Learned from Supporting Opportunity Zones,” Fund for our Economic Future, August 25, 2021, at https://www.thefundneo.org/our-blog/.