Policy Matters Ohio

TESTIMONY
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Tax & Budget

Testimony on SB 95 before the House Ways & Means Committee

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Good afternoon, Chairman Merrin, Ranking Member Rogers and members of the committee. My name is Wendy Patton and I am a senior project director of Policy Matters Ohio, a nonprofit, nonpartisan organization with the mission of creating a more prosperous, equitable, sustainable and inclusive Ohio. Thank you for the opportunity to testify.

Senate Bill 95 is a flawed, extreme measure that does not address the pressing needs of Ohioans in the global pandemic recession. This legislation would swell Ohio's $9.8 billion tax break budget for the most speculative type of project. Nearly 40% of workers in low-income households reported a job loss in March. Lawmakers need to focus on helping struggling Ohioans with the immediate crisis and helping communities keep garbage collected, emergency crews fully staffed and water plants operating. Instead of considering such lavish commitment of future taxpayer resources, the General Assembly should be conducting an intensive review of existing tax breaks.

Senate Bill 95 appears to have grown out of Wisconsin's huge incentive package for Foxconn, which has not met expectations. The state put significant investment into infrastructure, but the company has failed to meet job creation requirements to qualify for state incentives in the early years of the project. The product initially promised for the manufacturing project has changed to one with less potential for American manufacturing jobs in the future. The Foxconn experience is really good cause to avoid creating a similar, giant new incentive program in Ohio as what was enacted in Wisconsin.

Tax incentives fail to move the needle on most location deals anyway. Nathan Jensen, a professor and the co-author of "Incentives to Pander," reviewed research on incentives in the United States and several other countries. He found most studies reveal that approximately three-fourths of companies benefitting from special incentives make their decisions before securing tax breaks. This finding is corroborated by Timothy Bartik of the Upjohn Institute who reviewed 30 different studies and found that typical incentives probably tip between 2% and 25% of incented firms toward a decision in favor of the location providing the incentive. Researchers at the conservative Mercatus Center of George Mason University declared that the academic research is clear: "Targeted incentives do not benefit the communities that offer them." Here are 10 reasons why SB 95 is bad policy for Ohio.

1. Big incentive packages don't move the needle. General Motors closed down its Lordstown assembly plant despite tens of millions of dollars in incentives. Cleveland offered Amazon $3.5 billion in incentives for its second headquarters and didn't even make the final cut. Tax incentives are simply not the crucial factor in most location decisions, and cash incentive deals do not guarantee a strengthened community.

2. Thirty-year term is too long. Wisconsin admitted it will take 25 years to break even on its multi-billion dollar incentive package for Foxconn. Betting that a high-tech product will be here in 2050 is like betting on modems or beepers or MP3 players. Foxconn has scaled back plans to build the giant liquid crystal display panel screens for which glass panels must be manufactured on site at the Wisconsin site because of change in the global market; this has implications for the type and number of jobs it will create over time.

3. Supplier credit riddles CAT with loopholes. SB 95 would give a significant break in the Commercial Activity Tax (CAT) to Ohio-based suppliers of a mega project. Ohio is one of just six states without a corporate income tax. The commercial activity tax (CAT) was set at a very low rate with the understanding it would not be riddled with loopholes, like the old corporate franchise tax it replaced. In testimony to the 2020 Tax Policy Study Commission Mark Engel, attorney to the Ohio Manufacturers Association, stated: "The CAT was enacted as a tax on commercial activity. All enterprises engaged in such activity should be paying the CAT; in fact, equality in the burden of taxation demands that they all remain subject to the tax."

4. Wage requirement isn't strong enough. SB 95 establishes eligibility for the enormous tax breaks with average wages of 300% of the federal minimum wage. While that's a major improvement on the existing Job Creation Tax Credit, its means that on average, the plant would pay a worker $21.75 an hour, about $45,240 a year. That is less than the state household median wage. Because this is an average of all wages, not a median, this means actual wages to production workers could be much lower than $21.75 per hour, while a few top managers make lavish salaries.

5. Lack of connection. In parts of Ohio, affordable housing is hard to come by and workers are faced with transportation barriers. SB 95 contains no measures that address needs, including, but not limited to, housing, public transit, health care, social services, public safety, schools, water and sewer that would accompany any mega project, particularly if erected in a rural area.

6. A shifting of civic costs. The long-term and deep subsidies of SB 95 will drain state and local resources, leaving existing businesses and residents with new costs related to the mega project. No tax breaks or abatements should be given without a comprehensive cost/benefit study that identifies how the new development will impact local need for public services and the share of these costs that will be borne by the mega project.

7. Workforce protections. As written, SB 95 would not assure the right to collective bargaining as a condition of receiving incentives from the state. It should. Without this there is no guarantee labor laws would be respected. Foxconn has a long history of abusive labor practices in its overseas plants, including those used to supply Apple. This is a risk that would extend to locations in the United States. Any mega project should be contractually barred from unfair labor practices and agree to not to oppose worker efforts to unionize.

8. SB 95 will drain revenues from state funds for equitable education, affordable college, health care, senior services and a host of social needs of Ohio residents throughout the state. Incentives have been found to be associated with growing economic inequality. As national and subnational governments surrender valuable tax revenue in incentives, fiscal shortfalls are filled through regressive sales taxes, police fines and penalties, and cuts to public education. Upjohn Institute's Bartik, a long-time student of incentives, has concluded that there is a large price tag to long-term incentive dollars, which "do not have much effect on location or expansion decisions per dollar, but they undermine future local tax bases and public services."

9. No statement of sponsor intent. This bill does not comport with statutory requirements because it does not include a statement of sponsor intent. Under House Bill 9, unanimously approved during the 131st General Assembly, "Any bill introduced in the house of representatives or the senate that proposes to enact or modify one or more tax expenditures should include a statement explaining the objectives of the tax expenditure or its modification and the sponsor's intent in proposing the tax expenditure or its modification."

10. Lack of a cap could mean these costs escalate over the 30-year term of these incentives. Take the Commercial Activity Tax exemption for suppliers to big distribution centers that deliver most of their product outside Ohio. First enacted in 2006 and valued at $25.5 million in Fiscal Year 2008, the most recent Tax Expenditure Report estimated the cost in Fiscal 2020 at $169 million. The Legislative Service Commission says the costs of the bill are indeterminate. In its fiscal note, LSC said it "cannot rule out the possibility that GRF fiscal losses could be substantial." There is no cap on the amounts that can be paid out under this credit. Without such a cap, this bill is fiscally irresponsible.

This bill is one of many tax breaks that have been introduced in the 133d General Assembly. When we testified on this bill last year, we pointed out that the Tax Expenditure Review Committee (TERC) has yet to seriously tackle the job of examining the state's $9.8 billion in annual tax breaks, including the eight business incentive tax credits that, according to the budget bill, will result in $283 million in claims next fiscal year and outstanding credits of more than $1.2 billion by the end of Fiscal Year 2021. Before you adopt yet another new tax break for economic development, the TERC should thoroughly examine these claims on the state's future revenue and its implications for today, in the face of such economic crisis for so many Ohioans. You need to pass Representative Hoops's bill, House Bill 255, which would allow better scrutiny of local tax breaks as well as the state tax breaks. All lawmakers and the public need a full picture of the vast sums of taxpayer money spent on special interest, largely corporate tax breaks, and consider that as you look for resources to respond to the needs of struggling people and families, shore up our underfunded, unequal school funding formula, provide needed health care for Ohioans during a pandemic, and support local governments across the state.

The problem in the economy now is demand. National unemployment of up to 10% is forecast to linger through most of 2021. People are not buying things and companies are not expanding. Lawmakers need to turn to helping families and communities through this crisis, not consider lavish, speculative tax breaks. Thank you for this opportunity to testify.