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Policy Matters Ohio comments on Job Creation Tax Credit and Job Retention Tax Credit Program Proposed Rules, Sections 122:7-1-01 and 122:16-1-01

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Chairman Niehaus, Vice Chairman Skindell and distinguished members of the Committee: My name is Hannah Halbert and I am the Policy Liaison with Policy Matters Ohio. Policy Matters Ohio is a nonprofit, nonpartisan research institute that provides analysis on economic issues that matter to low- and moderate-income families. Thank you for allowing me the opportunity to testify on the proposed changes to the Job Creation Tax Credit (JCTC) and the Job Retention Tax Credit (JRTC).

We believe the current proposal is not in line with the legislative intent of HB 1 and the recommendations of the state's Economic Development Incentive Study of May 2009. Further, the eligibility requirements of the incentive programs have been significantly broadened without a realistic fiscal analysis of the probable or estimated impact of implementing rules. These changes are a step in the wrong direction for Ohio's working families.

1. *The proposed changes to the JCTC and JRTC directly contradict the findings of the 2009 Incentive Study. The proposed changes to the JCTC also diverge from the Department of Development's own reading of HB 1, posted on its web site. We believe the rules diverge from the intent of the legislature and should be rewritten.*

HB 119 Sect. 701.10 of the 127th General Assembly authorized the Department of Development (ODOD) to study Ohio's Economic Incentive programs and make policy recommendations based on the findings. The study and the resulting recommendations were intended to make Ohio's incentives program more effective, less complex, faster to implement, and more transparent. The study found that the required average wage threshold in the current rule – 150% of the federal minimum wage – allowed businesses to receive a JCTC for creating relatively low-paying jobs. *One hundred and fifty percent of the Federal minimum wage provides for a minimum eligibility wage for JCTC purposes of $10.88 per hour, which equates to $435 per week, or $22,620 per year.* It is important to understand that the wage threshold is based on an average, so some workers at JCTC projects could earn less than $10.88 per hour if others earn more.

The incentive study found that an increase in the wage threshold for both the JCTC and the JRTC was needed to *accomplish the state's goal of increasing the incomes of Ohio's citizens faster than the national average. The incentive study recommended that the wage threshold be increased to 175% of the federal minimum wage, except for projects in counties where the per capita income is less than 175% of the federal minimum wage* (see, http://development.ohio.gov/cms/uploadedfiles/Development.ohio.gov/ Annual_Reports/IncentiveStudy(2).pdf). The Department has incorporated a 175% standard in its guidelines for the program, its current operation of the program, and in one element of its proposed rules.

ODOD uses a wage standard of 175% in the JCTC program guidelines posted on its website, though it allows exceptions based on the unemployment rate instead of per capita income. The 175% standard is the standard employed by the Department. (See, http://development.ohio.gov/cms/uploadedfiles/Strategic_Business_Investments_(SBID)/OTI/JCTC/JCTC%20Program%20Summary%20FINAL%20(2).pdf, p. 2). *The 150% wage threshold it now proposes is inconsistent with these eligibility guidelines, which should mirror the rules now under review.*

Furthermore, in the proposed rules, ODOD uses a 175% wage standard to calculate a minimum payroll amount that projects must generate to be eligible for the credits. (See, 122:7-1-05(A)(2)(b) and (3)(b)). This number was not a coincidence; while it does not yield the same mathematical impact as the wage standard recommended in the Economic Development Incentive Study, it echoes the incentive study recommendations and is a further indication that the Department itself understood that it was the General Assembly's intent to use a 175% standard.

Thus, failing to use a 175% standard directly contradicts the Department's public guidelines for the JCTC, the findings of the Incentive Study, and the legislative intent of HB 1 to implement those findings.

2. *The Department of Development has not provided a reasonable assessment of the fiscal impact to expanding eligibility requirements for the JCTC and the JRTC.*

HB 1 significantly broadened eligibility requirements for the JRTC. In fact, HB 1 sets a cap on the aggregate job retention tax credits that may be awarded each year, illustrating that there is a cost to this eligibility expansion. More projects will qualify than ever before, yet the fiscal analysis provided by ODOD for the estimated impact on the state budget says it will be zero.

The JCTC proposal also includes a loosening of rules, allowing companies to qualify using full-time equivalents instead of jobs. More companies may be able to qualify than did before since part-time workers now may be included. The income taxes withheld from their paychecks may add to the size of the tax credits awarded. The income taxes paid by part-timers were not included in the past incentives. Yet there was no recognition of any additional cost in the fiscal analysis.

Further, the proposed changes to the JCTC and JRTC eligibility requirements include additional, payroll-specific rules that have not been reviewed for their financial effect. Under the proposal, a company with 10 or more new employees must generate an additional annual payroll of an amount greater than or equal to 175% of the federal minimum wage multiplied by fifty-two thousand, which is about $660,000 in additional payroll. By comparison, the current rules allow for companies with less than 25 new employees to qualify only if they are paid an average of 400% of the federal minimum wage. These are significant changes to the eligibility requirements, yet there was no recognition of any change in cost in the fiscal analysis. We believe that the proposed rules for both the JCTC and the JRTC do not meet the test of the Joint Committee on Agency Rule Review for an accurate fiscal analysis.

The basic standard should mirror the recommendations of the Incentive Study, the legislative intent of HB 1, and the Department of Development's current guidelines; the Wage Standard Rule should be 175%, not 150%. While some exceptions to that Rule may be reasonable, that should be the general standard.

Thank you very much for your time and for the opportunity to comment on this issue. I am happy to take your questions.

COMMUNITY SHARES