



Tax overhaul threatens to reduce municipal revenue

House Bill 5 aims to simplify and standardize the rules and reduce the number of forms businesses need to file in more than 600 cities across Ohio.

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Construction crews work on the intersection of Walnut Avenue and 12th Street NE recently. House Bill 5, recently signed into law, will impact how transient workers, like those in the construction field, pay municipal income taxes, among other changes that aim to create more uniformity for businesses.

State lawmakers hope new legislation, four years in the making, will help businesses navigate a maze of municipal income-tax rules and forms.

Gov. John Kasich signed House Bill 5 into law last month. The measure, backed by the Ohio Chamber of Commerce, businesses and public accounting firms, aims to simplify and standardize the rules and reduce the number of forms businesses need to file in more than 600 cities across the state.

Ohio is one of only 10 states with both an individual and business municipal income tax, and many say that puts it at a competitive disadvantage.

Only Pennsylvania has more municipalities that levy taxes, according to the Tax Foundation, a tax-policy research organization.

However, mayors and city officials across the state, Democrats and Republicans alike, say the measure goes well beyond creating uniformity by potentially reducing revenue streams on which cities rely.

Canton Mayor William J. Healy II, a Democrat, and other leaders unsuccessfully called on the Republican governor to veto the bill, and they have hinted at possible legal challenges.

“We were fine with creating uniformity and consistency between cities on local taxes,” said Healy, who doubles as the president of the Ohio Municipal League, which led efforts to defeat the bill. “What we were concerned about were things that were not revenue-neutral, things that would create a loss in taxes.

“We’re obviously very frustrated, saddened and, quite frankly, not even sure why the Legislature continues to attack local governments, municipalities particularly,” he said.

The bill was supported in the Senate by Scott Oelslager, R-Jackson Township, and Frank LaRose, R-Copley, and in the Ohio House by Kirk Schuring, R-Jackson Township; Christina Hagan, R-Marlboro Township; and Stephen Slesnick, D-Canton. Slesnick crossed party lines to support the bill. Rep. Marilyn Slaby, R-Copley, was not in attendance for the concurrence vote, but supported earlier versions.

Dan Navin, an assistant vice president on tax and economic policy for the Ohio Chamber of Commerce, said businesses often spend more money for accountants and staff to file municipal income tax returns than the amount that’s owed. He said it costs an average of \$150 to file each tax return, and sometimes a business only owed \$15 to that city.

“The idea is to establish a single set of rules that all cities have to comply with,” said Navin. “This, in turn, will reduce the cost of compliance, the burden of tax compliance and save a lot of companies some money. ... No other state has this complicated and difficult and burdensome municipal income-tax system.”

OTHER PROVISIONS

In addition to standardizing forms, the law makes it less cumbersome for companies that do business in different locations, like construction companies. The so-called “occasional-entrant rule” allows these businesses to skip paying a city’s income tax if they work in that city for fewer than 20 days throughout the year. Currently, municipalities can collect taxes from the first day forward, but only if a person has worked in the city for at least 12 days.

Many of the provisions don’t take effect until 2016, including a five-year phase-in of the net operating loss carry forward provision, which was of the greatest concern for the Municipal League.

The provision mandates cities allow businesses to carry forward operating losses for five years to reduce or offset their tax liabilities.

Navin said tax codes often allow businesses to apply part of their losses to reduce tax bills in future years. The reason is a company that earns no profit each year in a 10-year period has the

same earnings as a company that earns \$1,000 every other year and loses \$1,000 every other year. Yet if a city lacks the carryover loss provision, the second company will pay more in taxes.

Navin said the Chamber repeatedly compromised on key provisions in the legislation, including a carryover loss provision of five years instead of 20 under the state and federal tax code. It agreed to phasing in the change until 2022 and dropped a proposal to require uniform tax forms.

Navin, however, noted that the state and federal government allow a 20-year carry forward.

Currently, about 230 cities, including Massillon, Alliance and Canal Fulton, allow businesses to carry forward losses for five years. However, 175 cities don't allow any losses to carry forward, as Kent Scarret, director of communications for the Ohio Municipal League, pointed out.

Canton and Louisville allow three years.

North Canton, which says it currently does not allow businesses to carry over their losses to future years to cut their tax bills, says it will lose \$300,000 to \$481,000 a year from that provision, said the city's Finance Director Karen Alger. Other provisions could cost the city up to \$21,000.

Laurie Arntz-Tournoux, the tax commissioner for Louisville, said the net operating loss provision and other changes such as increasing the threshold of taxing casual workers from 12 to 20 days and requiring that tax assessments be sent by certified mail could cost her city more than \$100,000 a year, possibly \$180,000 a year, in revenue. She said the exact amount is unknown.

"What you use that money for could have been an officer. It could have been two firemen. It could have been a vehicle you got," Arntz-Tournoux said. "Where are you going to replace it?"

IMPACT

Healy decried House Bill 5 and other moves by state lawmakers in recent years that will or have cut into cities' budgets, including the elimination of the inheritance and tangible personal property taxes and the reduction of the local government fund. Early estimates show that the bill will cost Canton up to \$750,000. Canton, on an annual basis, is operating with nearly \$6 million less than it once received from those revenue sources.

Innovation Ohio, a Columbus-based Democratic think tank, estimated a loss of \$82 million annually to local governments from House Bill 5 alone and \$495 million annually when paired with the other cuts. However, the report does not reflect changes made to the bill by the Senate before passage.

A proposed amendment would have provided reimbursement of up to \$500,000 to cities financially impacted by the bill, but it was defeated.

Louisville City Manager Tom Ault said he appreciates that the state is lightening the tax burden for some individuals, but it's doing so on the backs of local government.

“The state government has reduced taxes and taken credit for it by taking money away from local government ... rather than shouldering the burden themselves.”

Canal Fulton City Manager Mark Cozy said the measure is the latest state law to reduce cities’ revenue, even though he does not see Canal Fulton being impacted to the degree of other cities on House Bill 5.

“We’re called to plan, and we’re called to be fiscally responsible,” Cozy said. “And it seems like every time we come up with a long-range plan for fiscal solvency, the state throws a curve ball at us.”

North Canton Mayor David Held said he understands businesses’ calls for a uniform municipal income tax, and he supports a simpler tax code. He said he’s not calling for the repeal of the bill. But he would like the state to make up for the loss in revenue by undoing cuts to local government funding. The state, he said, is shifting the cost to residents through reduced services or higher local taxes. And the most costly services are police, fire and ambulance services. He said the layoff of police officers could occur if North Canton is unable to find another revenue stream.

LEGISLATORS

Three local legislators who backed the bill said Ohio is one of the only states that allows cities to adopt their own municipal income tax code.

“Ohio is by far the most complicated with over 600 municipalities doing it differently,” Schuring said.

“By simplifying our tax returns, this will make Ohio more competitive for job development,” Oelslager said. “The lack of uniformity is a deterrent for businesses to invest in Ohio. ... we were sensitive in the bill to local needs.”

Hagan said she comes from a family of plumbers, so she understands the hassles of filling out a tax return for every city in which her family members have worked.

“Reducing the overly burdensome regulatory framework ensures that we have an environment that’s conducive to creating jobs,” Hagan said.

Hagan said the projected amount of revenue cities will lose is speculative. Schuring called complaints by the Municipal League “highly exaggerated.”

LaRose said he pushed for an amendment to make up for any loss of revenue to cities as a result of the bill for 10 years. LaRose said most of his colleagues would not support the amendment because it wasn’t clear what the cost to the state would be. The cost could have been tens of millions of dollars. Oelslager said he would have supported a so-called ‘hold harmless’ amendment but for fewer than 10 years.

LaRose said city officials’ argument that the legislature is trying to take away their revenue is an “emotional argument.”

“What we have in front of us is the result of a lot of compromise,” he said. “This is something folks have been working on for years. Is it everything I want? Absolutely not.”

LaRose said while he recognized some cities would lose revenue it was essential to establish a more uniform municipal tax code for businesses.

He said a special review committee established by the bill will examine the impact on revenue as the net operating loss carryover is phased in. If there’s a larger-than-expected impact on revenue, the law can be adjusted.

HOME RULE

Healy said the Municipal League discussed a court challenge because the legislation trumps municipalities’ home rule authority.

“They’re using legislative actions to supersede constitutional rights,” Healy said. “We’re going to look at that from a legal standpoint and determine if that is an angle we want to pursue.”

In response to such an argument, LaRose said, “Is it in the interest of Ohioans to have a standardized set of road signs so a stop sign looks the same as in Canton as in Akron? We don’t want stop signs being a different color in Canton than a stop sign in Akron. There’s a point where home rule stops and the public good begins.”

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