

RESOLUTION NO. 20 -2013

Offered by All of Council

A RESOLUTION STRONGLY OPPOSING THE PASSAGE OF HOUSE BILL 5 BY THE OHIO GENERAL ASSEMBLY WHICH PROPOSES UNIFORMITY MEASURES FOR MUNICIPAL INCOME TAX IN THE FORM OF UNFUNDED MANDATES, IMPOSES UNNECESSARY ADMINISTRATIVE BURDENS, AND CONTINUES TO ENCROACH ON LOCAL CONTROL, AND DECLARING AN EMERGENCY

WHEREAS, this Council agrees that municipal income tax uniformity on issues that will ease compliance burdens for businesses in and potentially locating in Ohio would be of great benefit to all of Ohio; and

WHEREAS, this Council finds that H.B. 5 includes "unfunded mandates" which will further erode the Village's ability to provide basic services to its residents and resident businesses alike; and

WHEREAS, the State's recent reduction in the Local Government Fund has resulted in a loss of \$112,850 in revenue for the Village of Richfield; and

WHEREAS, the State's elimination of the Estate Tax will result in a loss of an estimated \$64,000 on average annually in revenue for the Village; and

WHEREAS, the accelerated phase-out of promised reimbursement for the loss of revenues due to the repeal of the Tangible Personal Property Tax has resulted in a loss to the Village in the amount of \$34,050; and

WHEREAS, H.B. 5 includes provisions that require State oversight of municipal income tax administration, administrative policies and procedures for municipal income tax collection and administration that hampers the ability to administer the tax in an effective manner; and

WHEREAS, key pieces of this legislation are clearly an attempt to reduce municipal income tax obligations for businesses by reducing tax liabilities for businesses, which does not change the complexity or add simplicity to the process of filing and paying municipal income tax; and

WHEREAS, municipalities in Ohio, with the support of the Ohio Municipal League, have supported and participated in discussions of uniformity for the past thirteen years, and worked to achieve uniformity in many areas of municipal income tax; and

WHEREAS, the State will not provide the personal service and assistance to its taxpayers in the preparation and filing of their tax reports and returns that the Village provides; and

WHEREAS, provisions in this bill hamper the Village's ability to audit and correct municipal income tax returns, to equitably enforce the municipal income tax laws, creates increased cost of administration due to burdensome notification requirements, reduces revenue due to "unfunded mandates" and elimination of compliance processes, and has been crafted as a vehicle to control the administrative process of municipal income tax to the benefit of specific taxpayer interests; and

WHEREAS, the Village must fight to protect its single largest revenue source, which provides essential municipal services, promoting a positive quality of life that residents and

3/27/13 - 9:15 a.m.

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NOW, THEREFORE, BE IT RESOLVED by the Council of the Village of Richfield, Summit County, State of Ohio;

SECTION 1. That this Council and Mayor join with countless cities across the state in urgency and confidence to drive back the State's efforts to invade municipalities' Home Rule.

SECTION 2. That this Council and Mayor do hereby declare their strong opposition to any effort by the Ohio General Assembly to pass legislation that creates "unfunded mandates", imposes unnecessary administrative burdens, and continues to encroach on local control under the guise of municipal income tax uniformity.

SECTION 3. That this Council and Mayor further resolve to assert the Village's rightful, responsible authority over the care and custody of its own revenues, and

SECTION 4. That the Ohio General Assembly focus on correcting the multitude of programming problems and customer service issues with the Ohio Business Gateway to make that tool less cumbersome, more useful and relevant to municipalities, businesses, and individuals as a simple, generic, one-stop method of filing local business income tax returns in one location.

SECTION 5. That members of the State Legislature engage in constructive dialogue with local officials to gain consensus on correction of the perceived issues of potential revenue-neutral commonality and uniformity in those few remaining differences in municipal income tax provisions.

SECTION 6. That the Clerk be, and hereby is, authorized and directed to forward a certified copy of this resolution to the State Legislature.

SECTION 7. That this resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public, health, safety and welfare of the residents and for the further reason that the Village must maintain revenue levels without threat of assault via legislation proposed by the Ohio General Assembly, and provided this Resolution receives the affirmative vote of two-thirds of the members of Council elected or appointed, it shall take effect and be in force immediately upon its passage and execution by the Mayor, otherwise from and after the earliest period allowed by law.

PASSED: April 16, 2013

Rick Hudak
President of Council

Balduino Beshara
Mayor

ATTEST:

Lisa Spraggins
Clerk of Council

Dated: 4-16-13

Components of House Bill 5 that hasten municipalities to their "Fiscal Cliffs" and impose unnecessary administrative burdens while continuing the assault on local control.

"HB 5 TALKING POINTS"

Imposes upon all municipalities the mandate to allow a 5 year **Net Operating Loss (NOL) carry forward** policy. For the 174 municipalities in Ohio which currently offer no such business tax deferment policy, this unfunded mandate would represent a significant loss of revenue while an additional 64 cities and village who have less than a 5 year treatment, but more than zero, would also experience reduced cash flow by this mandate.

Extends the current **12 day occasional entrant** treatment rule, which is uniform statewide by lengthening this municipal tax deferment policy to nonresident workers to 20 days, before a municipality may impose a tax. The bill also defines as when a day counts as the "majority" of the day spent in one community. The original agreement reached in negotiations was that a day would be defined as counting when a worker had spent the "preponderance" of a day; the difference in the definitions is significant and will result in less tax revenues by wage earners in communities and those that use municipal services.

Eliminates current "**throwback**" provision by redefining sales for purposes of net profit, prohibiting current ability of municipalities to apply their local tax to businesses that have income generated through off-site or internet sales. This would include communities that host businesses that have any catalogue sales, or commerce through electronic means including Accountants, Law Firms, Contractors and other professional organizations.

Taxpayers will not be considered a resident of any Ohio municipality for municipal income tax purposes if the taxpayer is a nonresident of the State of Ohio under the state's **bright line residency test**. There are numerous court rulings that have determined for municipal tax purposes, taxation should be based on domicile, the location to which you intend to return. On the municipal level, individuals receive the benefit of police and fire services, utility, street and other services with regard to real and personal property while they are absent. This change in treatment would result in significant lost revenue.

For the treatment of **Pass Through Entities (PTE)**, HB 5 uses the "paid on behalf" method of withholding local taxes on the taxation of partners, members, shareholders, and beneficiaries and allows municipalities to withhold on PTE income earned within each municipal taxing jurisdiction. PTEs are not considered a taxpayer under the bill and *only* taxpayers are required to declare and pay estimated tax which will result in lost revenue.

Increases significantly administrative burdens on municipality's ability to perform **auditing and assessment** procedures, a primary function of any taxing entity to insure equity and